

## About this document

# Variation of Independent Water Networks Limited appointment to include Arthurs Lane, Hambleton, Poulton-Le-Fylde, North Yorkshire

On 30 September 2021, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water and sewerage services provider for a development in United Utilities Water Limited's ("**United Utilities**") water supply area and sewerage services area called Arthurs Lane, Hambleton in Poulton-Le-Fylde, North Yorkshire ("**the Site**").

The consultation ended on 28 October 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 16 September 2022, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water and sewerage services to the site.

This notice gives our reasons for making this variation.

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## 1. Introduction

The new appointment and variation mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company as the provider of water and/or sewerage services for a specific area. This mechanism can be used by new companies to enter the market and by existing companies to expand into areas where they are not the appointed company. In this case, Independent Water Networks applied to replace United Utilities to become the appointed water and sewerage company for the Site.

A company may apply for a new appointment (or a variation of its existing appointment to serve an additional site) if any of the following three criteria are met:

- None of the premises in the proposed area of appointment is served by the existing appointed company at the time the appointment is made (the “**unserved criterion**”);
- Each premises is likely to be supplied with at least 50 mega litres per year (in England) or at least 250 mega litres per year (in Wales) and the customer in relation to each premises consents (“**the large user criterion**”);
- The existing water and sewerage supplier in the area consents to the appointment (“**the consent criterion**”).

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we seek to ensure that the future customers on the site – who do not have a choice of supplier – are adequately protected. When assessing applications for new appointments and variations, the two key policy principles we apply are:

1. Customers, or future customers, should be no worse off than if they had been supplied by the existing appointee; and
2. We must be satisfied that an applicant will be able to finance the proper carrying out of its functions as a water and/or sewerage company.

Entry and expansion (and even the threat of such by potential competitors) can lead to benefits for different customers (such as household and business customers and developers of new housing sites). Benefits can include price discounts, better services, environmental improvements and innovation in the way services are delivered.

Benefits can also accrue to customers who remain with the existing appointee, because when the existing appointee faces a challenge to its business, that challenge can act as a spur for it to improve its services. We believe the wider benefits of competition through the

new appointments and variations mechanism can offset any potential disbenefits for existing customers that might arise. We consider these potential disbenefits in more detail below.

## 2. The application

Independent Water Networks applied to be the water and sewerage services appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“WIA91”). Independent Water Networks will serve the Site by way of bulk supply and discharge agreement with United Utilities.

### 2.1 Unserved status of the Site

To qualify under the unserved criterion, an applicant must show that at the time the appointment is made, none of the premises in the proposed area of appointment is served by the existing appointee.

United Utilities provided a letter, dated 23 July 2021, confirming that, in its view, the Site is unserved. The Site is greenfield with no properties in existence. The aerial maps confirm the Site is vacant. United Utilities confirmed that it does not supply the area for water or sewerage services. On 6 September 2022, IWN confirmed that the Site remains unserved.

Given the information provided by Independent Water Networks and United Utilities Water, we are satisfied that the Site is unserved.

### 2.2 Financial viability of the proposal

We will only make an appointment if we are satisfied that the proposal poses a low risk of being financially non-viable. We assess the risk of financial viability on a site-by-site basis and also consider the financial position of the company as a whole.

Based on the information available to us, we concluded the site demonstrates sufficient financial viability, and Independent Water Networks has satisfied us that it can finance its functions and that it is able to properly carry them out.

### 2.3 Assessment of ‘no worse off’

Independent Water Networks will offer a 2.5% discount against the charges set by United Utilities to customers on the Site, to be reviewed annually. There are also savings to those opting to pay by Direct Debit or via ebilling.

With regard to service levels, we have reviewed Independent Water Networks' Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of United Utilities. Based on this review, we are satisfied that customers will be offered an appropriate level of service by Independent Water Networks and that overall customers will be 'no worse off' being served by Independent Water Networks instead of by United Utilities.

## **2.4 Effect of appointment of United Utilities' customers**

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that United Utilities' existing customer base may face.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect on customers of United Utilities. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try and quantify the possible effect in an easily understandable way. Broadly, we have assessed the potential magnitude of this impact by comparing how much United Utilities might have expected to receive in revenue from serving the Site directly, were they to serve the Site, with the revenues they might expect from the proposed arrangement with Independent Water Networks.

In this case, we have calculated that if we grant the Site to Independent Water Networks, there be no impact on the bills of United Utilities' existing customers.

This impact does not take into account the potential spillover benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win new sites.

## **2.5 Developer choice**

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Wainhomes Limited, said that it wanted Independent Water Networks to be the water and sewerage company for the site.

### 3. Responses received to the consultation

We received three responses to our consultation; from the Drinking Water Inspectorate (“DWI”), the Environment Agency, and the Consumer Council for Water (“CCW”). We considered these responses before making the decision to vary Independent Water Networks' appointment. The points raised in the response are set out below.

The Environment Agency and DWI had no comments to make with regard to this consultation and did not have any objections.

#### 3.1 CCW

CCW states that in general it expects NAV appointees to exceed or at least match the incumbent's prices, service levels and service guarantees. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier.

CCW is disappointed that there is no direct financial benefit to customers from having Independent Water Networks as their provider of water and sewerage services, as Independent Water Networks intends to match United Utilities' charges. However, CCW notes that Independent Water Networks offers discounts to those customers who are able to and opt to take up e-billing or pay by direct debit.

CCW recognised that Independent Water Networks generally matches or exceeds the relevant service levels of United Utilities, so overall CCW supports the application. For example, Independent Water Networks offers greater compensation for low water pressure or failing to read a meter once a year and a free leak repair service on customers' external supply pipes.

CCW noted that Independent Water Networks will not be able to offer a social tariff to financially vulnerable customers in the way the incumbents do but will offer the standard WaterSure tariff for qualifying customers. CCW states that given its relatively small size and customer base, it may be appropriate for Independent Water Networks to tailor some of the services that it provides. CCW set out its expectation that Independent Water Networks would offer appropriate and flexible support to any customer in financial difficulty, who would otherwise have benefitted from a social tariff, and that this should not be at the expense of its other customers. CCW expects Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW noted our conclusion that United Utilities' existing customers would not see an increase in their water or sewerage bills as a result of the variation. Whilst CCW appreciate there will

be no increase in bills, it noted that it was unclear whether there will be any significant benefits arising from the arrangement for these customers and questioned the value of the NAV regime if it cannot deliver benefits to customers.

## **Our Response**

One of our key policies when considering NAV applications is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents.

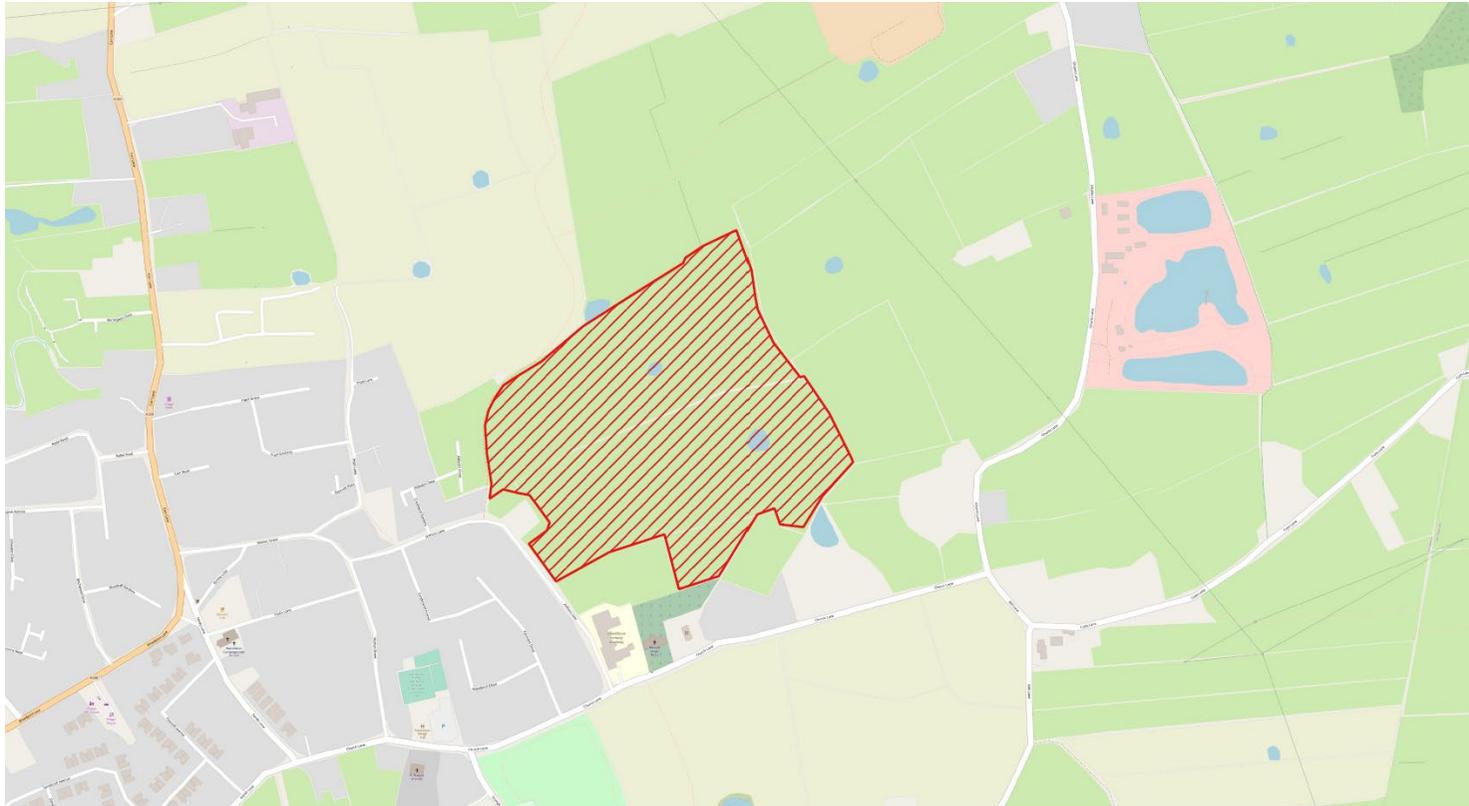
Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social tariff, it should ensure customers will be no worse off.

## 4. Conclusion

Having assessed Independent Water Networks' application and having taken account of the responses we received to our consultation, we decided to grant a variation to Independent Water Networks' area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 20 September 2022.

## Appendix 1: Site Maps

### Water boundary



PLAN REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND UNITED UTILITIES WATER LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON ...  
20 September 2022

ADDRESS: ARTHURS LANE, HAMBLETON, FY6 9AT  
OS GRID REFERENCE: E: 337913 N: 442757  
SCALE: 1:10000  
DRAWN BY: LR  
DATE: 04/05/2022

*LR*

0 100 200 m

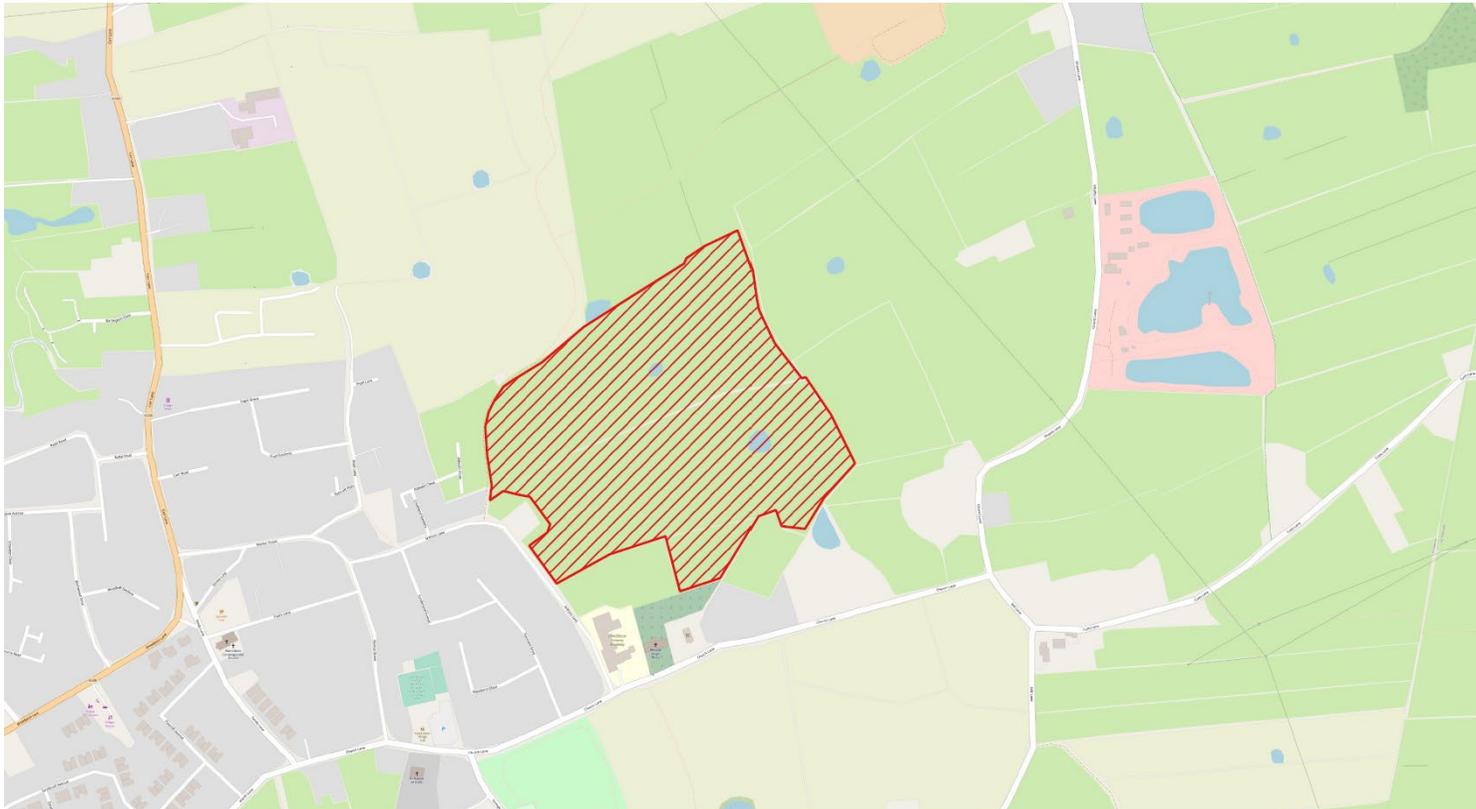


**ARTHURS LANE  
WATER SUPPLY  
INSET MAP 2**

**PROJECT: N0022548**



## Sewerage boundary



PLAN REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND UNITED UTILITIES WATER LIMITED, AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON ...  
20 September 2022

ADDRESS: ARTHURS LANE, HAMBLETON, FY6 9AT  
OS GRID REFERENCE: E: 337913 N: 442757  
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0 100 200 m



**ARTHURS LANE  
SEWERAGE SUPPLY  
INSET MAP 2**

**PROJECT: N0022548**



## Appendix 2: Variation Notice

### WATER SERVICES REGULATION AUTHORITY

### WATER INDUSTRY ACT 1991, SECTIONS 6 TO 9

#### Variation of the Appointments of Independent Water Networks Limited and United Utilities Water Limited as Water and Sewerage Undertakers

Made on 16 September 2022

Coming into effect on 20 September 2022

1. Independent Water Networks Limited ("Independent Water Networks") and United Utilities Water Limited ("United Utilities") hold Appointments as water and sewerage undertakers for their respective areas ("the Appointments").<sup>1</sup> The areas to which the Appointments of Independent Water Networks and United Utilities as water and sewerage undertakers relate ("Water Supply Area" and "Sewerage Services Area") are set out in their Instruments of Appointment.
2. The site called Arthurs Lane, Hambleton, Poulton-Le-Fylde, which is shown edged in red on the plan attached to this variation ("the Site") is within United Utilities' Water Supply Area and Sewerage Services Area. The Site is being developed by Wainhomes Limited.
3. Independent Water Networks has applied under section 7(4)(b) of the Water Industry Act 1991 ("the Act") for a variation of its Appointment as a water and sewerage undertaker to include the Site and for a consequential variation of United Utilities' Appointments to exclude the Site.
4. On 27 June 1995, the Secretary of State for the Environment and the Secretary of State for Wales acting jointly and pursuant to sections 6(1) and 7(2) of the Act authorised the Director General of Water Services<sup>2</sup> to make variations such as those contained in paragraph 5 below. After public consultation, as required by section 8 of the Act, the Water Services Regulation Authority has decided that it should grant Independent Water Networks' application.
5. Therefore, as provided by sections 7(2) and 7(4)(b) of the Act, and with the agreement of Wainhomes Limited, the Water Services Regulation Authority **varies**–
  - (a) the Appointment of Independent Water Networks as a water and sewerage undertaker so that the Site is included in Independent Water Networks' Water Supply Area and Sewerage Services Area; and

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<sup>1</sup> United Utilities' original Appointments as water and sewerage undertakers were made by the Secretary of State for the Environment under sections 11 and 14 of the Water Act 1989, now replaced by sections 6 and 11 of the Water Industry Act 1991. Independent Water Networks' original Appointment was made by the Water Services Regulation Authority under sections 6 and 11 of the Water Industry Act 1991.

<sup>2</sup> With effect from 1 April 2006 the functions of the Director General of Water Services were transferred to the Water Services Regulation Authority in accordance with section 36 of, and Schedule 3 to, the Water Act 2003.

(b) the Appointment of United Utilities as a water undertaker and as a sewerage undertaker so that the Site is excluded from United Utilities' Water Supply Area and Sewerage Services Area.

**Signed for and on behalf of the Water Services Regulation Authority**



**Emma Kelso**  
Senior Director, Markets and Enforcement