

## Variation of ESP Water's appointment to include Halifax Road, Penistone

On 25 July 2022, Ofwat began a [consultation](#) on a proposal to vary ESP Water Limited's ("ESP Water") appointment to become the water services provider for a development in Yorkshire Water Services Limited's ("Yorkshire Water") water supply area called Halifax Road, Penistone ("the Site"). Details of the application and our assessment of it were set out in the consultation document.

The consultation ended on 22 August 2022. During the consultation period, we received representations from three organisations, which are summarised in Section 1 of this document.

We will only make an appointment or variation if our assessment concludes that the application meets the criterion it has been made under; that customers or future customers on the Site will be no worse off than if the Site had been served by the existing appointee; and if the applicant will be able to finance the proper carrying out of its functions as a water and/or sewerage company. As set out in our consultation we are satisfied this is the case. The responses we have received to the consultation have not changed that view.

Having assessed ESP Water's application and having taken account of the responses we received to our consultation, we decided to grant a variation to ESP Water's area of appointment to allow it to serve the Site for water services. This appointment became effective on 4 October 2022.

The Site Map for the variation can be found in Section 2 of this document.

The Variation Notice legally making the variation can be found in Section 3 of this document.

## 1. Responses received to the consultation

We received responses to our consultation from three organisations: the Consumer Council for Water (“**CCW**”), Drinking Water Inspectorate (“**DWI**”) and Environment Agency. We considered these responses before making the decision to vary ESP Water's appointment.

The DWI and the Environment Agency had no comments to make with regard to this consultation and did not have any objections. Details of CCW's response are set out below.

### **CCW**

CCW stated that in general it expects new appointments and variation appointees to match or ideally better the incumbent's prices, service levels and service guarantees. This is particularly true for developments that include domestic housing, as household customers do not currently have the ability to choose or switch supplier like business customers can.

CCW noted that ESP Water proposes to charge customers on the same basis as Yorkshire Water can and it is disappointed that there will be no formal financial benefit to customers being served by ESP Water. CCW considers that under these arrangements customers will be no worse off in terms of the amount that they will pay.

CCW noted that, due to the relatively small size of its customer base, ESP Water does not currently offer its financially vulnerable customers a social tariff in the way that Yorkshire Water does. However, CCW recognised that ESP Water will offer the standard WaterSure tariff for qualifying customers. CCW considers that until ESP Water can provide a formal social tariff, it is appropriate that it tailors some of the services it provides. CCW expects ESP Water to offer appropriate flexible support to any individual in financial difficulty, who would otherwise benefit from a social tariff. It noted that this should not be at the expense of its other customers. CCW said that it recognises that by matching Yorkshire Water's charges, ESP Water already benefits from the cross-subsidy that Yorkshire Water's customers pay to support its social tariffs.

CCW said that it notes that ESP Water generally matches or exceeds Yorkshire Water's relevant levels of service, therefore, overall, it supports this application. CCW noted our assessment that customers on the Site, will not be any worse off in terms of the level of service they receive from ESP Water, then if they were served by Yorkshire Water and said it is satisfied that this is potentially the case. CCW notes that ESP has committed to match an incumbent's level of compensation for service failures if this exceeds the amount that ESP Water has set in its Code of Practice. CCW stated that it would like ESP to guarantee to match, at least, any higher level of compensation as this will help ensure its customers are no worse off than those of the incumbent in the event of a service failure.

CCW recognised that we calculated potential increase of £0.01 on the annual water bill existing Yorkshire Water customers. CCW said whilst it appreciates this is a negligible

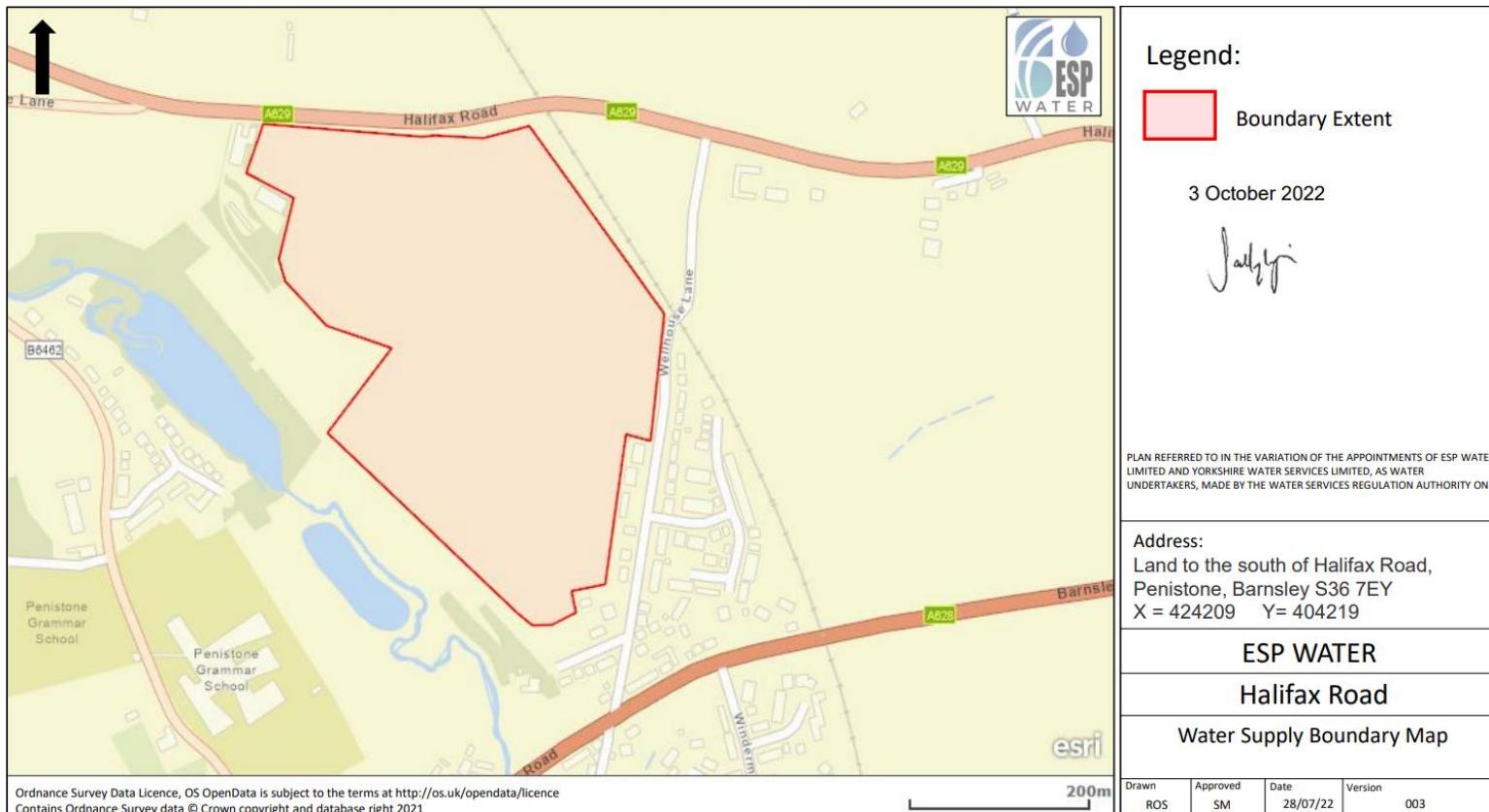
increase, it is unclear if there are any significant benefits for Yorkshire Water's customers from this arrangement. CCW states its questions the value of a NAV regime if it cannot deliver benefits to all customers.

### **Our response**

One of our key policies when considering NAV applications, is that customers should be no worse off if a new appointment and variation 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.

## 2. Site Map



### 3. Variation Notice

**WATER SERVICES REGULATION AUTHORITY  
WATER INDUSTRY ACT 1991, SECTIONS 6 TO 9**

**Variation of the Appointments ESP Water Limited and Yorkshire Water Services  
Limited as Water Undertakers**

Made on 3 October 2022

Coming into effect on 4 October 2022

1. ESP Water Limited ("ESP Water") and Yorkshire Water Services Limited ("Yorkshire Water") hold Appointments as water undertakers for their respective areas ("the Appointments").<sup>1</sup> The areas to which the Appointments of ESP Water and Yorkshire Water as water undertakers relate ("Water Supply Area") are set out in their Instruments of Appointment.
2. The site called in Halifax Road in Penistone, which is shown edged in red on the plan attached to this variation, ("the Site") is within Yorkshire Water's Water Supply Area. The Site is being developed by BDW Trading Limited.
3. ESP Water has applied under section 7(4)(b) of the Water Industry Act 1991 ("the Act") for a variation of its Appointment as a water undertaker to include the Site and for a consequential variation of Yorkshire Water's Appointment 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 ESP Water's application.
5. Therefore, as provided by sections 7(2) and 7(4)(b) of the Act, and with the agreement of BDW Trading Limited, the Water Services Regulation Authority **varies**–
  - (a) the Appointment of ESP Water as a water undertaker, so that the Site is included in ESP Water's Water Supply Area; and

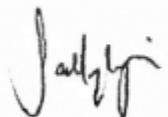
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<sup>1</sup> Yorkshire Water's original Appointment as a water undertaker was made by the Secretary of State for the Environment under sections 11 and 14 of the Water Act 1989, now replaced by sections 6 and 11 of the Water Industry Act 1991. ESP Water's original appointment as a water undertaker 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 Yorkshire Water as a water undertaker, so that the Site is excluded from Yorkshire Water's Water Supply Area.

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



**Sally Irgin**  
**Director of Enforcement**