

## Variation of Leep Networks (Water) Limited's appointment to include Viadux, Manchester

On 23 March 2022, Ofwat began a [consultation](#) on a proposal to vary Leep Networks (Water) Limited's ("**Leep Water**") 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 Viadux, Manchester ("**the Site**"). Details of the application and our assessment of it were set out in the consultation document.

The consultation ended on 21 April 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 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 Leep Water's application and having taken account of the responses we received to our consultation, we decided to grant a variation to Leep Water's area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 21 November 2022.

The Site Maps 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. Change to application criterion – consent criterion

The applicant originally applied for the Site under the unserved criterion, which requires that an applicant must show that at the time the appointment is made the Site is unserved.

Leep Water notified us in an email of 13 June 2022 (after our public consultation had closed) that United Utilities had changed its position on whether the Site was served and had since informed it that the Site sits on top of a Victorian viaduct and is therefore served for a surface water connection. Since there was no change to the other particulars of the application for the Site, and our assessment of them, we did not consider we needed to reconsult.

We asked Leep Water to confirm whether there were any customers associated with the surface water connection who should be informed of the proposal and from whom consent should be obtained before proceeding. Leep Water told us that the Site was previously part of a car park for an adjacent conference centre and United Utilities has confirmed that:

- the Site developer is now responsible for the water and wastewater services for the Site and therefore there is now no customer to consent; and
- the account associated with the surface water connection to the viaduct is in the process of being updated to reflect the reduced surface area of the car park following the sale of the land for development.

To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the application and consenting to the variation of its area of appointment corresponding to the applicant's application. United Utilities provided a letter dated 19 May 2022, confirming that it consents to the variation of Leep Water's area of appointment to include the Site. We are therefore satisfied that the application meets the consent criterion.

## 2. Business retail market

On 1 April 2017, the business retail market was opened to competition. United Utilities chose to exit the non-household retail market. Under the [Water and Sewerage Undertakers \(Exit from Non household Retail Market\) Regulations 2016](#) ("the Retail Exit Regulations"), once a water or sewerage company exits the business retail market, its area of appointment becomes a 'retail exit area'. In a retail exit area, business customers must be supplied by a company holding a retail licence (a retailer), and water and sewerage companies are prohibited from providing retail services directly to those customers.

The Retail Exit Regulations make an exception to this prohibition if a variation is granted in respect of a site where there are no served premises (that is under the unserved criterion).

Where a variation is in respect of a served site (that is under the consent or large user criteria), the site will remain a retail exit area and business customers must be served by a retailer rather than the appointee.

The Site therefore remains a retail exit area and Leep Water is prohibited from providing retail services to any current or future business customers on the Site for water and sewerage services.

Leep Water has confirmed to Ofwat that it understands the restrictions on its ability to supply business customers on the Site in light of the Retail Exit Regulations, that is, it cannot provide retail water and sewerage services to business customers on the Site. Leep Water confirmed that it will not be supplying retail water and sewerage services to business customers on this Site.

### 3. 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 Leep 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. The points raised in the response from CCW are set out below.

#### CCW

CCW states that in general it expects applicants for a new appointment and/or variation (“**NAV**”) to provide customers with prices, levels of service and service guarantees that match or, ideally, better those of the incumbent. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier.

CCW is disappointed that there will be no direct financial benefit to customers from having Leep Water as their provider of water services, as Leep Water intends to match United Utilities' charges. However, CCW considers that Leep Water generally matches or exceeds the levels of service of United Utilities, so overall CCW supports the application. Where it exceeds service levels, Leep Water generally does so by offering greater compensation for not meeting a particular standard.

CCW notes that, due to the relatively small size of its customer base, Leep Water does not currently offer a social tariff to financially vulnerable customers in the way the incumbent does, but will offer the standard WaterSure tariff for qualifying customers. CCW is pleased to acknowledge the commitment Leep Water now gives in its Household Charges Scheme that ‘where a customer requests that we consider their particular financial circumstances, we will seek to match the level of service provided by the relevant incumbent water and / or sewerage company’. CCW sets out its expectation that Leep Water would offer appropriate, 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 considers that by matching the incumbent's charges Leep Water already benefits from the cross-subsidy the incumbent's customers pay to support its social tariff.

CCW notes our conclusion that, as a result of the variation, United Utilities' existing customers would see no increase on their annual water bills and a potential £0.01 annual increase on their sewerage bills. CCW appreciates this but is unclear whether there will be any significant benefits to the existing customers of United Utilities. It questions the value of the 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 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. Site Maps

### Water boundary

VIADUX, ALBION STREET, MANCHESTER M1 5NZ – SJ 83580 97625



PLAN REFERRED TO IN THE VARIATION OF THE APPOINTMENTS OF LEEP NETWORKS (WATER) LTD AND UNITED UTILITIES WATER LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON:.....

18 November 2022 

Sewerage boundary

VIADUX, ALBION STREET, MANCHESTER M1 5NZ – SJ 83580 97625



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18 November 2022

## 5. Variation Notice

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

**Variation of the Appointments of Leep Networks (Water) Limited and United Utilities Water Limited as Water and Sewerage Undertakers**

Made on 18 November 2022

Coming into effect on 21 November 2022

1. Leep Networks (Water) Limited ("Leep Water") 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 Leep Water 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 Viadux, Albion Street, Manchester, 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 Domis Construction Limited.
3. Leep Water has applied under section 7(4)(a) 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' 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 Leep Water's application.
5. Therefore, as provided by sections 7(2) and 7(4)(a) of the Act, and with the agreement of Domis Construction Limited, the Water Services Regulation Authority **varies**—

(a) the Appointment of Leep Water as a water and sewerage undertaker so that the Site is included in Leep Water's Water Supply Area and Sewerage Services Area; and

(b) the Appointment of United Utilities as a water and 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



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

<sup>1</sup> United Utilities' original Appointment as a water and sewerage 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. Leep Water's 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.