

NORTH LINCOLNSHIRE COUNCIL

**HIGHWAYS & NEIGHBOURHOODS
CABINET MEMBER**

TRANSFER OF PRIVATE SEWERS

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To advise on the transfer of responsibility for private sewers to Water Authorities.
- 1.2 The key points in this report are:-
- Explain the background to the transfer, the likely impact and the implementation date – 1 October 2011.
 - Advise on the partnership approach to working with the water and sewerage companies.

2. BACKGROUND INFORMATION

2.1 Drainage may be defined as:

- a lateral drain is a pipe that serves a single property and flows from the property into a private or public sewer and is the sole responsibility of the property owner;
- a private sewer is where lateral drains from two or more properties join and flow from the properties into a public sewer and is the combined responsibility of the property owners;
- a public sewer is where lateral drains and private sewers join and flow from the properties into a sewerage treatment works and is the responsibility of the water and sewerage companies.

2.2 Private sewers are those sewers that have not been adopted by a water and sewerage company. Presently such companies only have a statutory responsibility to maintain public sewers that they have adopted. Homeowners with unadopted (private) sewers are responsible for their maintenance and associated costs. It is estimated that nearly half of all domestic properties are served by a private sewer. However, many homeowners are unaware of their liability until a problem develops, e.g. a blockage.

2.3 North Lincolnshire is served by Severn Trent and Anglian Water. These two water and sewerage companies cover an extensive area and consideration should be given both to their activities and functions in North Lincolnshire and regionally with neighbouring local authorities.

- 2.4 Adopted public sewers mainly include those that water and sewerage companies took over from the public water authorities in 1989 at privatisation. Generally, water and sewerage companies only adopted the main public sewers running underneath the middle of roads with the connecting pipe-work (private sewers and drains) serving individual homes and businesses not being adopted and remaining the responsibility of property owners (see appendix 1).
- 2.5 Many homeowners and businesses are unaware that they, often jointly with others, face the costs of private sewer and drain maintenance, including blockages, collapses, invasion of tree roots etc. Land searches, undertaken at the time of purchase of a property, and property deeds give the status of the private sewers and drains serving any property. However these are rarely, if ever, considered or acted upon.
- 2.6 Homeowners and businesses can apply to water and sewerage companies to adopt private sewers serving their property. This does not include drains. This rarely happens and water and sewerage companies may refuse to adopt a private sewer if it has not been built to an appropriate standard, including the method of construction, access thereto and state of repair.
- 2.7 Independent research published by Ofwat in 2002 confirmed the widespread ignorance of homeowners and businesses with regard to their responsibilities for the pipe-work serving their property, including private sewers and drains. This is also the experience of the council as each year, on average, a private sewer or drain enquiry or complaint is taken each working day. This may involve a single property or an entire community and often requires a significant input of council resources to resolve what is technically a private matter either by clearing a blockage or undertaking surveys and formal proceedings to remedy defects etc. (see appendix 2).
- 2.8 The council does not offer or provide a public drain clearing service and property owners are required to use the private sector in this regard. However, the council will investigate the cause(s) of a blockage to private sewers and drains in the interests of public health. Often, during investigations, officers are able to remove blockages by 'hand rodding' and offer advice, free of charge. The most common reasons for blockages are misuse by the flushing of wipes (none toilet tissue), fats, oil and grease with physical defects being the least common.
- 2.9 Where officers cannot affect a clearance without specialist 'jetting' equipment and homeowners and businesses are unable or, more likely, unwilling to employ a contractor the regrettable recourse is to law. There are a number of pieces of legislation available to the council which involves the service of a time bound legal notice on all homeowners and businesses affected by any blockage or defect to a private sewer or drain. This may involve a single property or an entire community and is resource intensive and time consuming. Any notice not complied with within the specified time period generally requires for the council to undertake works in default and to recover the costs in so doing as an equal proportion from each homeowner and business.

- 2.10 The average cost of clearing a blocked private drain or sewer is £60 with major repairs amounting to £1,000's. On average, each year, the council spends £1,300 on external contractors undertaking works in default (mostly on blockages resulting from none tissue wipes) of which the majority is none recoverable due to sundry debts below £50 being deemed uneconomic to recover, e.g. £60 divided by 10 properties.
- 2.11 After a number of consultations the previous Government announced that approximately 300,000 kilometers of privately owned sewers in England would be transferred to water and sewerage companies from 1 October 2011. It also announced the introduction of a mandatory build standard for new sewers and that these would automatically become the responsibility of water and sewer companies.
- 2.12 The present Coalition Government decided to continue with the transfer and the necessary regulations came into force on 1 July 2011. Private sewers will therefore, subject to parliamentary approval, be transferred from 1 October 2011.
- 2.13 The transfer provides a solution to a range of private sewer and drain problems affecting householders and businesses. These include a lack of awareness of responsibilities and unwillingness or inability to co-ordinate or contribute to potentially high costs of maintenance and repair. Transfer will also significantly help address a lack of integrated management of the sewerage network as a whole and provide much greater efficiency of effort, environmental stewardship and expenditure at a time when climate change impacts and housing growth may impose greater demands on drainage systems.
- 2.14 Having a greater proportion of the sewer network in the management of the water and sewerage companies means they will be able to plan maintenance, sewer baiting and resolve problems more easily and comprehensively. The Government is also taking steps to stem the proliferation of newly built private sewers in order to prevent the recurrence of existing problems in the future.
- 2.15 General information on the transfer may be found on the Directgov, Severn Trent and Anglian Water websites. The water and sewerage companies are presently sending out the necessary public notices to their customers across North Lincolnshire (see appendices 3 and 4).
- 2.16 Officers from Neighbourhood and Environmental Services, Infrastructure Services and North Lincolnshire Homes are presently involved in discussions with Severn Trent and Anglian Water to ensure the transfer impacts on customers as little as possible and that resources from all organisations are used in the most effective and efficient manner. This will include publicity and information to the public as well as physical maintenance of the sewer network
- 2.17 It is expected that a memorandum of understanding will be made between the council, North Lincolnshire Homes, Severn Trent and Anglian Water. There may be opportunities to enter into service level agreements in relation to responding to, investigating and clearing blockages.

3. OPTIONS FOR CONSIDERATION

- 3.1 The purpose of this report is to inform and update on the partnership work being pursued by this authority, local partners, Severn Trent and Anglian Water. There are no options for consideration.

4. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

4.1 Finance:

There are no financial implications.

4.2 Staffing:

The council has experienced and knowledgeable 'hands on' staff who frequently clear blockages and as such is well placed to investigate drainage complaints. Sewage above ground will always take priority over pest control, noise, litter, fly-tipping etc. and often places a strain on limited resources dealing with the wide range of environmental health functions. This is exacerbated when a blockage or defect involves multiple premises or during bouts of heavy rain, melting snow etc. Partnership working with North Lincolnshire Homes, Severn Trent and Anglian Water will ensure that staff resources from all organisations are used in the most effective and efficient manner.

4.3 There are no property implications.

4.4 There are no IT implications.

5. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY SECTION 17 CRIME AND DISORDER, RISK AND OTHER)

- 5.1 Statutory implications: focusing on public health, sewer based rats and statutory duties delivers environmental and public health improvements whilst focussing on local priorities for communities.

- 5.2 Environmental Implications: the likelihood of the discharge of untreated sewage above ground will not increase to the detriment of householders and businesses and rats will continue to be treated in the public sewer system.

- 5.3 Diversity Implications: none.

- 5.4 Section 17, Crime and Disorder Implications: none.

- 5.5 Risk and other Implications – a desktop Integrated Impact Assessment has been carried out.

6. OUTCOMES OF CONSULTATION

- 6.1 The management and officers of Neighbourhood and Environmental Services, Infrastructure Services and North Lincolnshire Homes are presently involved in discussions with Severn Trent and Anglian Water.

7. RECOMMENDATION

- 7.1 That Officers report back to the Cabinet Member when discussions with North Lincolnshire Homes, Severn Trent and Anglian Water are complete in order to consider any proposed memorandum of understanding or service level agreement.

DIRECTOR OF NEIGHBOURHOOD & ENVIRONMENTAL SERVICES

Church Square House
Scunthorpe
North Lincolnshire
DN15 6XQ

Author: Stephen Coulman
Date: 2nd September 2011

Background Papers used in the preparation of this report

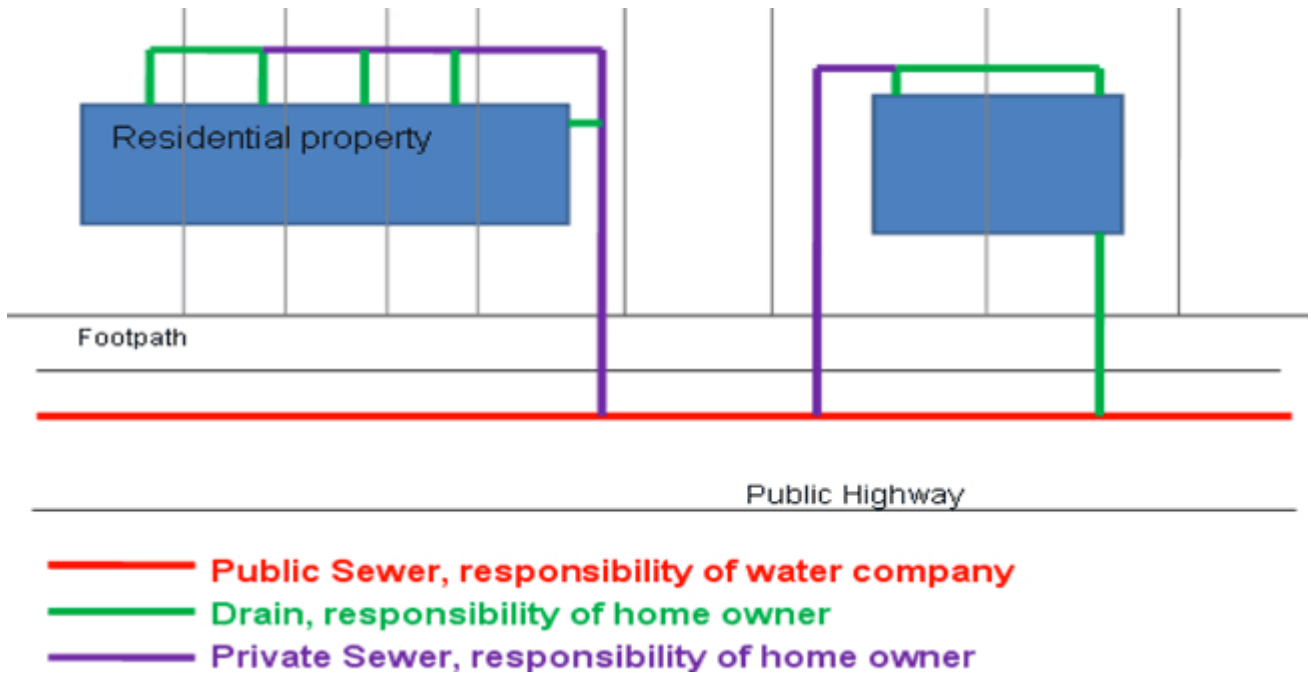
Ofwat, Inf. Sheet 14: Responsibility for water and sewerage pipes, June 2002

House of Commons Library Standard Note SNSC-01514: Private Sewers, June 2011

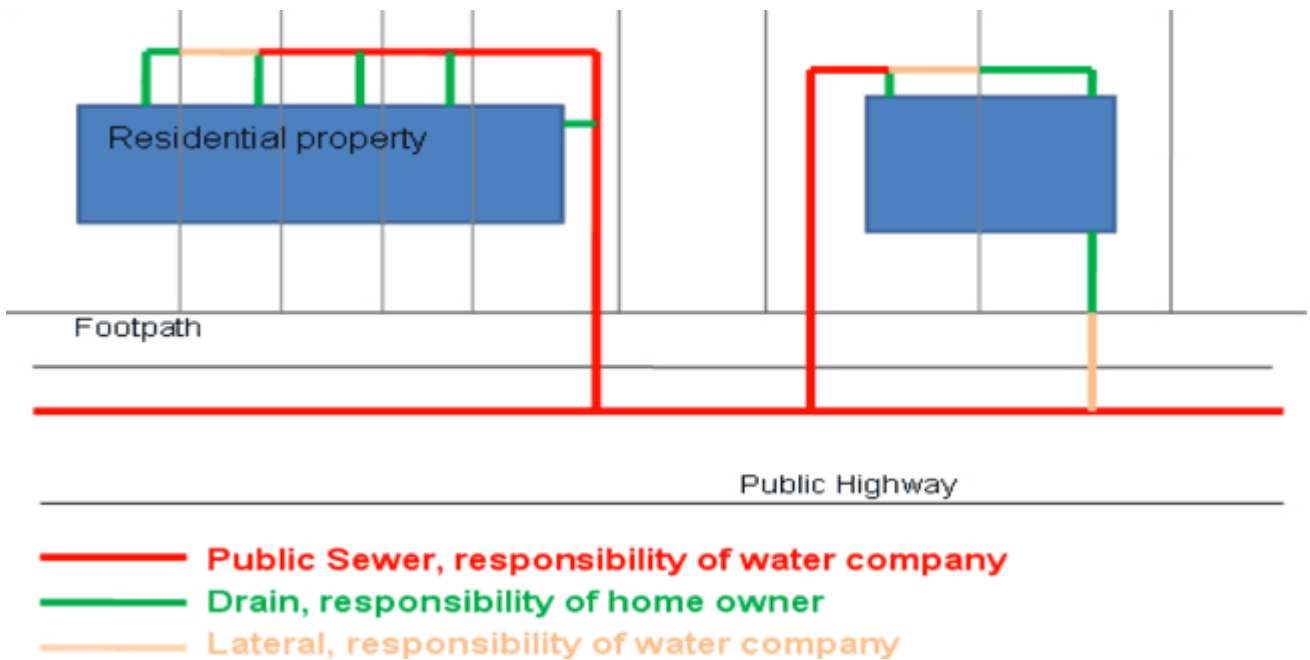
Directgov website:

http://www.direct.gov.uk/en/HomeAndCommunity/WhereYouLive/Streetcleaninglitterandillegaldumping/DG_10026174

Private sewers and lateral drains BEFORE transfer



Private sewers and lateral drains AFTER transfer



Appendix 2

Ofwat, Information Sheet 14: Responsibility for water and sewerage pipes, June 2002

In November 2001, Defra contracted W S Atkins to undertake independent research into the extent of private sewers. In July 2003 Defra published a consultation paper which summarised the findings of this research and sought views on possible solutions for dealing with the problems identified. The consultation paper identified the following common problems:

- a) Many people do not realise they are not served directly by a public sewer until they are informed by a local water company or council that work needs doing and they are liable.
- b) There can be difficulties in establishing the ownership of, and responsibilities for maintaining private sewers.
- c) There can often be unwillingness on the part of some owners or occupiers of premises to accept their responsibilities, especially after changes of ownership and difficulties in requiring them to contribute towards the cost of repair to the sewers.
- d) The owners and occupiers of premises are often unable to afford the high cost of repairing the sewers and for some this can present severe financial difficulties.
- e) There can be difficulties in getting private sewers adopted by the sewerage undertaker because of the nature of the construction and / or condition of the sewer.
- f) The difficulties associated with property owners being responsible for 'lateral' drains or private sewers situated outside the curtilages (gardens, yards etc.) of their properties where, for example, they have no control over bodies such as utility companies or highway authorities possibly damaging those drains and private sewers when working in the vicinity.

This change in the law means that we must take responsibility for most private sewers and drains which connect to our sewerage system. And before we do that, we must let the current owners of the pipes know about the switchover, so they can appeal against it if they want to.

This means that the process for the sewer switchover is defined in a legal document called the Water Industry Act.

This means that any pipe (other than a pumped pipe) which takes drainage from more than one property and connects to our sewerage system will switch to our responsibility from the 1st October 2011.

This means that any pipe which serves only your property and connects to our sewerage system, but lies outside of your property boundary, will also switch to our responsibility from the 1st October 2011.

This bit means that on 1st October 2016 we'll also take responsibility for pumping stations and pumped pipes (which are connected to our sewerage system). We're allowed to adopt them earlier than that date, but if we decide to do that we'll let you know beforehand.)

This means that if you want to retain ownership and responsibility for the pipes, you can contact the water industry regulator Ofwat at the address details below. The pipes will remain in your ownership whilst Ofwat considers the appeal.

This bit refers specifically to sewers which are beneath land belonging to the Railways or the Crown, which are subject to different arrangements.

This is just a reminder that if you don't want us to become responsible for your pipes, then you have a legal right of appeal and should contact Ofwat.



Anglian Water Services Limited

Notice of proposal to adopt private sewers and lateral drains

To: The owner(s) of private sewers and lateral drains

Anglian Water Services Limited ('Anglian Water') gives notice under Sections 102 and 105A of the Water Industry Act 1991 ('the Act') that in accordance with a scheme or schemes made by the Secretary of State under the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011 ('the Transfer Regulations'):

1. on 1 October 2011:
 - a. any private sewer (excluding pumping stations and highway drains or sewers) situated within Anglian Water's sewerage area and which, immediately before 1 July 2011, communicates with a public sewer; and
 - b. any private lateral drain (excluding pumping stations) which, immediately before 1 July 2011, communicates with a public sewer vested in Anglian Water; and
2. on 1 October 2016, any pumping station which forms part of such a sewer or lateral drain and has not been transferred to Anglian Water before that date;

will transfer to Anglian Water and become a public sewer or public lateral drain belonging to Anglian Water unless that private sewer or private lateral drain is subject to an outstanding appeal under Section 105B of the Act.

This notice does not apply to private sewers or private lateral drains which:

1. are owned by a railway undertaker; or
2. are situated on or under Crown land and Anglian Water has received notice in writing before 1 July 2011 from the appropriate authority that the private sewer or private lateral drain should be exempt.

Any owner of a private sewer, private lateral drain or pumping station or any other person affected by the proposal to adopt a private sewer, private lateral drain or pumping station, or the failure to do so, may appeal to the Water Services Regulation Authority (Ofwat) within 2 months of service or publication of this notice, whichever is the later. The grounds on which you can appeal are set out in Section 105B(3) of the Act. Ofwat can be contacted at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email to: appealtransfer@ofwat.gsi.gov.uk

Any terms used in the Transfer Regulations have the same meaning when used in this notice.

Signed: Claire Russell
Company Secretary.

Anglian Water Services Limited
Anglian House
Ambury Road
Huntingdon
Cambridgeshire
PE29 3NZ

Registered in England, no.2366656

Severn Trent Water Limited

Severn Trent Centre
2 St John's Street
Coventry CV1 2LZ

0845 600 7405

Mon-Sat 8am – 8pm

Minicom No 0800 328 1155

Registered in England &
Wales, no. 2366686

NOTICE OF PROPOSAL TO ADOPT PRIVATE SEWERS AND LATERAL DRAINS

To: The owner(s) of private sewers and lateral drains

Severn Trent Water Limited (Severn Trent Water) gives notice under Sections 102 and 105A of the Water Industry Act 1991 ("the Act") that in accordance with a scheme or schemes made by the Secretary of State under the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011 ("the Transfer Regulations"):

1. on 1 October 2011:
 - a. any private sewer (excluding pumping stations and highway drains or sewers) situated within Severn Trent Water's sewerage area and which, immediately before 1 July 2011, communicates with a public sewer; and
 - b. any private lateral drain (excluding pumping stations) which, immediately before 1 July 2011, communicates with a public sewer vested in Severn Trent Water; and
2. on 1 October 2016, any pumping station which forms part of such a sewer or lateral drain and has not been transferred to Severn Trent Water before that date will transfer to Severn Trent Water and become a public sewer or public lateral drain belonging to Severn Trent Water unless that private sewer or private lateral drain is subject to an outstanding appeal under Section 105B of the Act.

This notice does not apply to private sewers or private lateral drains which:

1. are owned by a railway undertaker; or
2. are situated on or under Crown land and Severn Trent Water has received notice in writing before 1 July 2011 from the appropriate authority that the private sewer or private lateral drain should be exempt.

Any owner of a private sewer, private lateral drain or pumping station or any other person affected by the proposal to adopt a private sewer, private lateral drain or pumping station, or the failure to do so, may appeal to the Water Services Regulation Authority (Ofwat) within 2 months of service or publication of this notice, whichever is the later. The grounds on which you can appeal are set out in Section 105B(3) of the Act. Ofwat can be contacted at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email to: appealtransfer@ofwat.gsi.gov.uk

Any terms used in the Transfer Regulations have the same meaning when used in this notice.

Severn Trent provide you with sewerage services although you may be billed by another water company for these services.