



# Offering land and property searches nationally

## Private to Public Sewer Transfer - Frequently Asked Questions

We have received a number of questions from solicitors regarding the private to public sewer transfer and these are listed below. If you have a question that has not been answered here please do not hesitate to contact us, or go to our website at [www.thameswater.co.uk/privatesewers](http://www.thameswater.co.uk/privatesewers).

### Q) What is the difference between a sewer, a drain, and a lateral drain?

A) A sewer is a waste water disposal pipe that serves more than one property. A drain is a pipe that serves a single property. A lateral drain is a pipe which serves a single property but lies outside that property's boundary.

### Q) Why are some sewers private and others not?

A) Under the Public Health Act 1936 all sewers coming within the definition of a sewer under the Public Health Act 1875 and which were in existence on 1 October 1937 became public. From 1937 onwards sewers were only public if they were laid or adopted by the sewerage undertaker (or its predecessors that exercised the same function).

### Q) Why has the decision been made to transfer responsibility?

A) A number of factors have informed the decision to transfer responsibility for private drains and sewers to water and sewerage companies:

- Up to 10 million property owners are responsible for private sewers - but many won't realise they own a private sewer until a problem occurs and they have to fix it at their own cost.
- Some private sewers are now in poor condition and suffer from blockages or collapses.
- While collapses are relatively infrequent, they can cost individual householders thousands of pounds to repair.
- The transfer will also mean that sewers that are transferred will benefit from water and sewerage companies' maintenance programmes, which will help reduce the risk of problems occurring.

The move to transfer ownership is supported by the three largest political parties.

### Q) Are there any sewers that will not be transferring?

A) Yes. Regulation 5 explains which private sewers and lateral drains are exempt from the Regulations and will not transfer. These include:

- Private sewers and lateral drains situated on or under Crown land (i.e. MOD, Government offices), and an appropriate authority has given the undertaker notice before 1 July 2011 that the private sewer or lateral drain should be exempt from transfer;
- Private sewers and lateral drains owned by a railway undertaker.

Other private sewers and lateral drains that are not subject to the Regulations and will not transfer include, but are not limited to:

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- Private sewers and lateral drains that are not connected to the public sewers
- Land drains and highway drains
- Private drains and pumping stations serving one property

## **Q) Will the charges for waste water services increase?**

- A) The Government has estimated that the transfer could increase customers' bills by between £3 and £14 per year. This small increase will protect property owners against much larger one-off costs of clearing blockages and repairs.

## **Q) Can property owners appeal against the transfer of a private sewer or lateral drain?**

- A) Yes, appeals against the proposal to transfer must be made to the water industry regulator, Ofwat.

Undertakers are required to give two months notice of the proposal to transfer. Thames Water sent notices to all properties within its sewerage service area and published notices in local and regional newspapers and in the London Gazette between 1 and 31 July 2011.

Appeals must be lodged within 2 months of service or publication of the notice. The grounds on which you can appeal are set out in Section 105B(3) of the Water Industry Act 1991. Sewers will remain private throughout the appeals process. You can find out more about appeals from the Ofwat website [www.ofwat.gov.uk](http://www.ofwat.gov.uk). Any appeal should be sent to; OFWAT, Centre City Tower, 7 Hill Street, Birmingham B5 4UA or [appealtransfer@ofwat.gsi.gov.uk](mailto:appealtransfer@ofwat.gsi.gov.uk).

## **Q) If a sewer remains private as a result of a successful appeal will future owners of the property be able to apply for the private sewer to be adopted?**

- A) Yes, Section 102 of the Water Industry Act 1991 contains provisions enabling the owner of a sewer to apply for that sewer to be adopted. The sewerage undertaker will then have to decide whether or not to adopt the sewer.

## **Q) Will there be a record of properties that have had successful appeals?**

- A) OFWAT is managing all appeals. A website has already been set up for this purpose. There is no set turnaround time for the appeals process. OFWAT is required to notify the water companies and keep them informed of the outcome of an appeal.

## **Q) What will happen with sewers and lateral drains created after 1 July 2011?**

- A) The UK Government is planning to introduce legislation in relation to the mandatory adoption of all new sewers and lateral drains. This legislation will be enacted through Section 42 of the Floods and Water Management Act 2010. Before this legislation can come into force, the Government will define minimum build standards in an amendment to the Water Industry Act 2012. We have been advised by Defra that this legislation will not come into force before April 2012. In the

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meantime newly constructed sewers will be adopted under the current process defined in Section 104 Water Industry Act 1991.

**Q) Will private sewers or lateral drains that are subject to an agreement under Section 104 of the Water Industry Act 1991 transfer under the Regulations?**

- A) Regulation 9 relates to private sewers and lateral drains that are subject to an agreement under Section 104 of the Water Industry Act 1991. Private sewers and lateral drains that would be adoptable under the Main Scheme of the Regulations and which are, immediately before 1 July

2011, subject to an agreement, will transfer on the earlier of the date of vesting under the agreement or 1 October 2011.

**Q) If a property owner built over a private sewer or lateral drain, prior to 1 October 2011, when building over approval would not have been required will there be instances where a property owner could be liable for remedial work?**

- A) The changes brought about by the new Regulations are unprecedented and cases where remedial work is required due to action taken by a property owner will be reviewed on a case by case basis, and in accordance with legislation that applied at the time of construction, to determine whether action will be taken against the property owner in respect of remedial work.

Property owners are legally required to notify the local building control department of building work or works to repair, reconstruct or change the course of a drain or sewer. It is the responsibility of the property owner to make diligent enquiries to determine whether the drainage network in the vicinity of any proposed development will affect buildings and to seek the approval of the existing owner or owners of any sewers, or drains that may be present.

**Q) If a property owner wishes to build over a sewer or lateral drain after October 2011 and there are not any public sewers illustrated on the map of sewers in the area under consideration for development, what would be the property owner's position with regards to requirement of building over approval?**

- A) Property owners are legally required to notify the local building control department of building work or works to repair, reconstruct or change the course of a drain or sewer. However there is no current requirement for the building control office to inform customers or Thames Water that a building over agreement may be required where the sewer in question does not appear on the map of sewers. It is the responsibility of property owners to make diligent enquiries to determine whether the drainage in the vicinity of any proposed development will affect property and to seek the approval of the owner or owners of the sewers, or drains that may be present prior to construction.

Cases where build over consent was required, but where construction has taken place without consent, will be reviewed on a case by case basis, and in accordance with legislation that applied at the time of construction, to determine whether action will be taken.

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### Q) What is the situation with private pumping stations?

- A) It is estimated by DEFRA that there are approximately 33,000 private sewerage pumping stations nationally. Thames Water estimates there are around 6000 in our area. Water companies are required to adopt private pumping stations serving more than one property by 1 October 2016.

Thames Water is recording the location of pumping stations and will then carry out a study to determine their design, capacity and condition. We will require 24/7 access to pumping stations when they become public, so this may be an issue if a private pumping station is located in somewhere like a private garage. We also need to consider health and safety requirements and supply of electricity to run the private pumping station.

If one of your clients has a private pumping station they will be able to register its location by completing a form on our website [www.thameswater.co.uk/pumpingstations](http://www.thameswater.co.uk/pumpingstations). We just need to know contact details, the address of the pumping station, the type of properties that it serves and, if known, the name of the company that currently maintains it.

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