



## BRIEFING PAPER

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# Sewer flooding

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## Summary

Sewer flooding is when sewage or foul water leaks from the sewerage system (through pipes, drains or manholes) or floods up through toilets, sinks or showers inside a building. According to the performance data for water and sewerage companies in England and Wales on [Discover Water](#), in 2015-16: 37,434 areas were externally flooded by sewage; and 4,344 properties were internally flooded by sewage.

Sewer flooding may occur for a number of reasons, including a failure of the sewerage system; a blockage in the drainage pipes; or when the sewerage system is too small to take the amount of sewage and/or water entering the system. The latter in particular means that sewer flooding can be a more frequent event during bad weather—for example when too much rainwater enters the sewers from surrounding roads, houses and land.

Responsibility for dealing with sewer flooding depends on which element of the sewerage system is causing the problem. In general:

- Sewerage companies are responsible for the public sewers and drains located outside the boundary of a property;
- Property owners are responsible for the drains and private sewers which carry their waste to the public sewer, usually up to the boundary of the property;
- Local authorities and the relevant highways agency are responsible for highways drainage on the roads they maintain.

If sewer flooding occurs the action that can be taken to address the problem will depend on the cause of the flooding:

- If the problem has been caused by a blockage or other problem which is the property owner's responsibility, they will need to address the problem themselves. They may be able to make a claim on their home insurance policy to cover the cost of any repairs—flooding should be reported immediately to the insurance company.
- If the problem is with the public sewer or any drains which fall within the responsibility of the sewerage company, the affected individual should contact the relevant company immediately to report the problem. In certain circumstances a customer may be entitled to a compensation payment from the company.

Sewage treatment and water quality is regulated at an EU level through Directives which aim to improve the water environment and protect the environment from adverse effects of urban waste water. The Environment Agency/Natural Resources Wales (the environmental regulators) can issue fines for unlicensed sewage discharges; and Ofwat (the economic regulator) can penalise companies for poor environmental performance, including persistent sewage pollution incidents.

This Briefing Paper provides information for England and Wales, unless otherwise stated. Some further information and resources for Scotland and Northern Ireland is set out in Section 6.

# 1. What is sewer flooding?

## 1.1 What is sewer flooding?

Sewer flooding is when sewage or foul water leaks from the sewerage system (through pipes, drains or manholes) or floods up through toilets, sinks or showers inside a building.

Sewer flooding into an outside space, such as gardens, roads or public parks is known as "external flooding". If sewage enters a building, it is known as "internal flooding".

According to the performance data for water and sewerage companies in England and Wales on [Discover Water](#), in 2015-16: 37,434 areas were externally flooded by sewage; and 4,344 properties were internally flooded by sewage.<sup>1</sup>

37,434 areas were externally flooded by sewage and 4,344 properties were internally flooded by sewage in 2015-16.

## 1.2 Why do sewers flood?

Sewer flooding may occur for a number of reasons, including:

- a failure of the sewerage system;
- a blockage in the drainage pipes; or
- when the sewerage system does not have enough capacity (i.e. is too small) to take the amount of sewage and/or water entering the system.

Overflows can happen following extreme weather events when too much rainwater enters the sewers from surrounding roads, houses and land; or where rivers and watercourses overflow and flood the sewers. The cause of the problem may be unclear and can be located some distance from where the sewer flooding occurs.

## 1.3 How can people protect their property from sewer flooding?

There are practical actions that people can take to protect their property from sewer flooding. These include avoiding blockages by not flushing items such as nappies, wet wipes and cotton wool down the toilet; and not disposing of cooking fats and oils down the sink. These items can be bagged and binned in the household rubbish instead, to avoid drain blockages.

Checking that household drains are connected to the correct sewer can also help with overflows, as well as inadvertent pollution. The [Connect Right website](#) can help with more information on misconnections throughout the UK.

The [Connect Right website](#) can help with information on household drain misconnections throughout the UK.

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<sup>1</sup> Discover Water, [Sewer Flooding webpage](#) [accessed 16 December 2016]

Further practical advice is provided by the Consumer Council for Water publication on [\*Flooding from Public Sewers – Your questions answered.\*](#)

## 2. Who is responsible for dealing with sewer flooding?

### 2.1 Responsibility for sewerage system

The entire sewerage system is made up of a number of sewers and drains. Responsibility for dealing with sewer flooding depends on which element of the sewerage system is causing the problem:

- **Sewerage companies** are responsible for the public sewers – usually under roads or public spaces, but they may run through private land. From 1 October 2011, sewerage companies also became responsible for privately owned sewers and drains located *outside* the boundary of a private property (known as lateral drains). Lateral drains were previously the responsibility of the landowner (see Section 2.2 below). The sewerage company for domestic customers is the company they pay for their sewerage services, often the same as the water company but not always.
- **Property owners** are responsible for drains and private sewers which carry their household waste to the public sewer. This usually applies up to the boundary of the property. If a person's property is not connected to the public sewerage system and uses a private cesspit or septic tank, this is their own responsibility. For tenants, this responsibility will usually lie with their landlord and they should report any issues to their landlord in the first instance.
- **Local authorities** are responsible for highways drainage, including gullies, on the roads they maintain. They may also be a relevant landlord for council properties.
- **Highways agencies** (for example, Highways England) are responsible for highways drainage on the trunk roads and motorways they maintain.

Ofwat (the economic regulator of the water industry in England and Wales) provides a [useful website and diagrams](#) to explain the different responsibilities.

### 2.2 Adoption of private sewers and lateral drains

The Government issued a policy statement in September 2010 about its decision to transfer private sewers, lateral drains and pumping stations into the ownership of regulated sewerage companies in England and

Responsibility for dealing with sewer flooding depends on which element of the sewerage system is causing the problem.

Wales.<sup>2</sup> Using powers provided under the *Water Industry Act 1991*, the Government passed the [Water Industry \(Schemes for Adoption of Private Sewers\) Regulations 2011](#), which came into force on 1 July 2011.

The Department for Environment, Food and Rural Affairs (Defra) published detailed [non-statutory guidance](#) on these regulations to explain and give guidance on issues which are likely to arise. The guidance should be consulted for detailed information.

Private sewers and lateral drains that were connected to the public sewer before 1 July 2011 transferred to the regulated sewerage companies on 1 October 2011.<sup>3</sup> More information on how this affects individual customers is provided by the Consumer Council for Water briefing on [Private Sewers and Lateral Drains](#).

Any new private sewer or lateral drain (i.e. connecting to the public sewer on or after 1 July 2011) will remain private unless it is subject to and adopted in accordance with an adoption agreement with the relevant sewerage company (often referred to as a section 104 agreement). There are provisions in the [Flood and Water Management Act 2010](#) which will mean that any developer or landowner who intends to connect a new private sewer or lateral drain to the public sewer *must* enter into such a section 104 agreement. This agreement would include standards of construction which must be achieved; and provide for the adoption of the private sewer and/or lateral drain by the regulated sewerage company. However, these provisions are not yet in force.<sup>4</sup>

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<sup>2</sup> See gov.uk press release, [Written ministerial statement by James Paice on the transfer of existing private sewers and lateral drains in England](#), 6 September 2010 [accessed 16 December 2016]

<sup>3</sup> Some private sewers and drains were exempt from the main scheme, including those owned by railway undertakers and those situated under Crown land which were notified as exempt.

<sup>4</sup> Section 42(1) of the *Flood and Water Management Act 2010* inserts a new section 106B into the *Water Industry Act 1991* for these purposes, but the relevant section has not yet been brought into force.

## 3. What to do if sewer flooding occurs

### 3.1 Is the cause of the flooding clear?

If the problem has been caused by a blockage or other problem which is the property owner's responsibility they will need to address the problem themselves, for example, by hiring a drainage company to clear the blockage.

Those that experience sewer flooding may be able to make a claim on their home insurance policy to cover the cost of repairs. Flooding should be reported immediately to the insurance company.

If the problem is with the public sewer or any drains which fall within the responsibility of the sewerage company, customers should contact the relevant company immediately to report the problem.

If the cause of the flooding isn't clear, a customer should collect as much information as possible (including videos or photos of the problem) and contact their sewerage company who will be able to investigate.

### 3.2 Sewerage companies may have to pay compensation

A customer may be entitled to a payment from the sewerage company under the statutory Guaranteed Standards Scheme (GSS). The GSS requires the relevant company to pay a minimum amount if a property is flooded inside and/or outside, pursuant to the [\*Water Supply and Sewerage Services \(Customer Service Standards\) Regulations 2008\*](#).

Each sewerage company should have relevant information on their GSS schemes on their own websites for customers.

#### Internal flooding

In accordance with GSS Regulation 11, if effluent from a sewer owned by the relevant sewerage company enters a customer's building, the company must make an automatic payment of the sum equal to the customer's annual sewerage charge (or £150 if it is less than £150) up to a maximum of £1000. Payments must be made for each incident.

If the company does not make a payment for which it is liable to the customer within 20 working days following the date on which the claim is received by the company, the company must automatically make an additional penalty payment to that customer.

There are exceptions to the requirement to make a payment if the entry of the effluent was caused by:

A customer may be entitled to a compensation payment from the sewerage company if a property has been flooded inside or out.

- exceptional weather conditions;
- industrial action by the company's employees;
- the actions of the customer;
- a defect, inadequacy or blockage in the customer's drains or sewers; or

if it is impractical for the company to have identified the particular customer as being affected, and the customer has not made a claim within three months following the date on which the effluent entered their building.

### External flooding

In accordance with GSS Regulation 12, if effluent from a sewer owned by the relevant sewerage company, enters a customer's land or property, the company must make a payment of the sum equal to 50% of the customer's annual sewerage charge up to a maximum of £500. The customer must claim the payment from the company within three months of the incident. This only applies if the sewer is the company's responsibility.

If the company does not make a payment for which it is liable to the customer within 20 working days following the date on which the claim is received by the company, the company must automatically make an additional penalty payment to that customer.

However, there are exceptions to the requirement to make a payment, if the entry of the effluent was caused by:

- exceptional weather conditions;
- industrial action by the company's employees;
- the actions of the customer;
- a defect, inadequacy or blockage in the customer's drains or sewers.

Or if:

- The company has made a payment to the same customer in respect of the same incident for *internal* sewer flooding;
- The customer was not materially affected by the incident;
- The customer has not claimed the payment within 3 months following the date of the incident.

More detailed information is available in the Ofwat document on the [Guaranteed Standards System](#).

## 4. Longer term approaches to sewer flooding

### 4.1 EU requirements

Sewage treatment and water quality is regulated at an EU level through Directives, including the [Urban Waste Water Treatment Directive](#) (91/271/EEC) (UWWTD) and the [Water Framework Directive](#) (2000/60/EC).

The UWWTD aims to protect the environment from the adverse effects of discharges of urban waste water from public sewers and treatment plants; the Water Framework Directive establishes a system for the protection and improvement of all aspects of the water environment. As this is a largely devolved area, these Directives are implemented separately in England, Scotland, Wales and Northern Ireland. The UK Government implements the requirements in England only; however meeting the various EU requirements for the whole of the UK is the responsibility of the UK Government.

More detailed info on water quality policy and legislation is set out in the [Library Briefing on the Water Framework Directive \(CBP7246\)](#).

#### Box 1: Thames Tideway Tunnel

In 2012, the Court of Justice of the European Union (CJEU) found that the UK was in breach of the UWWTD as a result of frequent and large spillages of waste water in London.

In order to address the contraventions in London, Defra is currently involved with the Thames Tideway Tunnel project – a large sewer running under the River Thames. The project has been underway for a number of years with preliminary construction starting in 2016 and tunnelling planned to begin in 2017. All works are expected to be completed by 2023. The project aims to tackle the problem of waste water overflows for the next 100 years.

For more information on the Thames Tideway Tunnel project, see the [Tideway website](#); Thames Water's page on the [Thames Tideway Tunnel](#); and the National Audit Office Report on the [Thames Tideway Tunnel: early review of potential risks to value for money](#).

The NAO is currently carrying out a [follow up investigation into assurance arrangements over the project](#), which is expected to report in early 2017.

### 4.2 Environment Agency role

The Environment Agency regulates discharges into surface waters or onto or into the ground (and groundwater) through the environmental permitting system. The Environment Agency and Natural Resources Wales can issue discharge licences to water/sewerage companies which

allows them to discharge raw sewage in a relatively controlled manner (known as combined sewer overflows). Generally these are only permitted in very wet weather.

In England, the Environment Agency can issue fines to anyone who discharges waste water or sewage without a permit when they should have one, or in breach of their permit conditions. More information is provided in the [Gov.uk guidance on discharges to surface water and groundwater](#).<sup>5</sup>

Examples of selected Environment Agency fines for unlicensed sewage discharges include:

- Southern Water: fined £2 million for flooding beaches in Kent with raw sewage;<sup>6</sup>
- Yorkshire Water: fined £350,000 for illegally discharging sewage into a Harrogate watercourse due to a blockage in the sewer;<sup>7</sup>
- South West Water: £300,000 fine for polluting a Devon stream with sewage; £241,750 fine for sewage being discharged into a tributary of the Tamar estuary;<sup>8</sup>
- Anglian Water: fined £50,000 following a failure of a pumping station and sewage polluting Haverings Grove Brook through an emergency overflow pipe, killing more than 1,500 fish.<sup>9</sup>

In Wales, Natural Resources Wales is the equivalent environmental regulator with a role to monitor discharges. More information is set out in the [Natural Resources Wales webpage on managing urban waste water](#).

## 4.3 Ofwat role

### Persistent sewer flooding

Ofwat does not generally deal with individuals' complaints about water companies. Ofwat may deal with a dispute over a customer's right to compensation under the statutory scheme (see Section 3.2 above).<sup>10</sup> If it becomes relevant, Ofwat may also deal with any disputes over a company's refusal (or the reasonableness of its requirements) for a connection to public sewers. More information is available on [Ofwat's webpage on "Complaints and disputes we can help with"](#).

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<sup>5</sup> Defra and Environment Agency guidance, [Discharges to surface water and groundwater: environmental permits](#), 1 February 2016 [accessed 9 December 2016]

<sup>6</sup> Guardian, [Southern Water fined record £2m for sewage leak on Kent beaches](#), 19 December 2016 [accessed 19 December 2016]

<sup>7</sup> Gov.uk press release, [Yorkshire Water fined £350,000 for polluting Harrogate watercourse](#), 18 August 2016 [accessed 16 December 2016]

<sup>8</sup> ENDS Report, [South West Water faces £1.7m in fines for poor pollution performance](#), 7 November 2016 [subscription needed] [accessed 15 December 2016]

<sup>9</sup> Gov.uk press release, [Anglian Water to pay £94,000 for sewage overflow](#), 20 June 2014 [accessed 16 December 2016]

<sup>10</sup> Section 38 and 95, WIA 1991

Ofwat does assess a wide variety of information on companies' performance in order to decide whether to take any action to protect customers' interests. As part of this, Ofwat publishes key performance indicators on companies each year, including on environmental impact. The [2014/15 environmental performance data](#) show performance data for sewerage pollution incidents and for discharge permit compliance.

For more information on individual companies' performance and delivery against the levels of service their customers expect of them (including in relation to incidents of sewer flooding), see [Ofwat's assessment of overall service delivery for 2015-16](#).

The [Discover Water webpage](#) contains useful information on companies' performance on sewer flooding.

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### Best and worst performers

Southern Water and South West Water are identified by Ofwat as performing significantly below target or expectation.<sup>11</sup> South West Water is facing a £1.7m penalty for its poor performance on pollution—according to Ofwat, South West Water was responsible for 171 sewage pollution incidents between 2015 and 2016.<sup>12</sup>

At the other end of the scale, Ofwat is consulting on how to award Severn Trent £18.8m for exceeding its targets on internal and external sewer flooding and leakage.<sup>13</sup>

### Ofwat price review process

Addressing persistent sewage overflows may require improvements to relevant sewerage systems (including pumping stations or treatment plants). This infrastructure investment can be very costly and these costs may ultimately be borne by water customers through higher bills.

Ofwat carries out a price review process every five years in which it sets wholesale price controls which apply to customers' bills and the services they receive. When setting the price controls, Ofwat must balance the interests of the customer with the need to make sure the water and sewerage company can finance its delivery of infrastructure and services (such as upgrading and maintaining sewer systems) to customers, as well as meeting their other legal obligations.

For more information on the Ofwat price review process and customers' bills, please see the [Library Briefing Paper on Water Bills: affordability and support for household customers \(CBP06596\)](#).

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<sup>11</sup> Ofwat, [Companies' performance 2014-15, Environmental Impact](#) [accessed 9 December 2016]

<sup>12</sup> Guardian, [South West Water faces £1.7m fine over sewage spills](#), 1 November 2016 [accessed 16 December 2016]

<sup>13</sup> ENDS Report, [South West Water faces £1.7m in fines for poor pollution performance](#), 7 November 2016 [subscription needed] [accessed 15 December 2016]

## 5. Sewer connections

### 5.1 Duty to supply a connection

A sewerage undertaker has a legal duty (subject to conditions) to provide both a public sewer and a lateral drain to connect premises to the public sewer.<sup>14</sup> The sewerage undertaker for domestic customers is the company they pay for their sewerage services, often the same as the water company but not always.

The duty arises when:

- The sewer or drain is needed for domestic sewerage services;
- The premises consist of buildings or part of buildings, or the premises will so consist when proposed building works are completed;
- The premises are in the area managed by that sewerage undertaker;
- The sewerage undertaker has been served with a notice to connect in accordance with legal requirements;
- Any financial conditions imposed by the sewerage undertaker have been satisfied.

In addition to the general duty, sewerage undertakers also have a duty to provide a public sewer for domestic sewerage from existing buildings if the existing means of drainage (for example, a cesspit or septic tank) is giving, or is likely to give, rise to such adverse effects on the environment or amenity that it is appropriate to provide a public sewer.<sup>15</sup> This duty does not have to be triggered by a notice from an owner or occupier of the building.

### 5.2 Right to connect to existing public sewers

Any owner or occupier of any premises has a right to have his drains or sewer connect with the existing public sewer of any sewerage undertaker and to discharge foul water and surface water from those premises or private sewer.<sup>16</sup> The company can make reasonable charges for this connection.

Where the cost of connection is prohibitively high, customers may choose to use private solutions, such as septic tanks.

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<sup>14</sup> Section 98, *Water Industry Act 1991* (as amended)

<sup>15</sup> Section 101A, *Water Industry Act 1991* (as amended)

<sup>16</sup> Section 106, *Water Industry Act 1991* (as amended)

## 6. Further advice and assistance

### 6.1 Sewerage company

A customer's first port of call for further information should be their sewerage company. If they have a complaint, they should try to resolve it through the company's complaints procedure (which should be detailed on their website).

### 6.2 Consumer Council for Water

The [Consumer Council for Water \(CCWater\)](#) is an independent consumer body and can be contacted for independent advice on how to resolve sewerage related problems. CCWater is an independent organisation that represents customers' interests. Its services are free.

- By telephone on 0300 034 2222 (England) or 0300 034 3333 (Wales)
- By email: [enquiries@ccwater.org.uk](mailto:enquiries@ccwater.org.uk)
- By post: Consumer Council for Water, 1st Floor Victoria Square House, Victoria Square, Birmingham, B2 4AJ

The Consumer Council for Water also provides a helpful summary in its FAQs on [What am I entitled to if I have suffered sewer flooding?](#)

### 6.3 The Water Redress Scheme

The [Water Redress Scheme](#) (WATRS) is an independent adjudication service which has been set up to resolve disputes between customers and water/sewerage companies. It should only be contacted if a complaint or dispute has not been resolved through the company's customer service team or by referring the matter to CCWater.

WATRS can be contacted by telephoning 0207 520 3801 or by email: [info@watrs.org](mailto:info@watrs.org)

### 6.4 Citizens Advice

Citizens Advice have useful webpages which explain [who is responsible for maintaining drains and sewers](#), and [how to deal with sewer flooding](#).

Citizens Advice have a [postcode finder](#) for people to find their local office.

### 6.5 Scotland

Scottish Water has a [Sewer Flooding Guide](#) providing information on Scottish Water's sewer flooding process, safety information, causes of sewer flooding and responsibility, clean up information, insurance and compensation, sewer flooding prevention and useful contacts.

Scottish Water can be contacted on: 0800 0778778 or by email: [customer.services@scottishwater.co.uk](mailto:customer.services@scottishwater.co.uk)

The [Water Industry Commission for Scotland](#) (WICS) is the economic regulator in Scotland; and the [Scottish Environment Protection Agency](#) (SEPA) is the environmental regulator.

## 6.6 Northern Ireland

Northern Ireland Water have a [webpage on sewer flooding](#), which provides information on what customers can do if they think there is a blockage or if their property has been flooded by a public sewer.

Northern Ireland Water can be contacted on 03457 440088 by customers who are affected by sewer flooding.

The [Utility Regulator](#) is the economic regulator of the water industry; the [Northern Ireland Environment Agency](#) is the environmental regulator; and the [Rivers Agency](#) is the flood protection authority for Northern Ireland.

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