



## Private sewers

Standard Note: SNSC-01514

Last updated: 14 July 2011

Author: Oliver Bennett, Policy Analyst

Section: Science and Environment

After a number of consultations the Labour Government announced that approximately 200,000 kilometres of privately owned sewers and lateral drains in England would be transferred to water and sewerage companies from 2011. It also announced the introduction of a mandatory build standard for new sewers, and that new sewers would automatically become the responsibility of water and sewer companies.

The Coalition Government will transfer private sewers on 1 October 2011. Private sewer owners do not need to take any action to make the transfer happen.

### Contents

<b>1</b>	<b>What is a private sewer?</b>	<b>2</b>
<b>2</b>	<b>What are adopted sewers?</b>	<b>2</b>
<b>3</b>	<b>What problems are associated with private sewers?</b>	<b>2</b>
<b>4</b>	<b>Addressing these problems</b>	<b>3</b>
4.1	The construction of new sewers	3
4.2	Existing private sewers	4
4.3	The transfer of private sewers	5

This information is provided to Members of Parliament in support of their parliamentary duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as being up to date; the law or policies may have changed since it was last updated; and it should not be relied upon as legal or professional advice or as a substitute for it. A suitably qualified professional should be consulted if specific advice or information is required.

This information is provided subject to [our general terms and conditions](#) which are available online or may be provided on request in hard copy. Authors are available to discuss the content of this briefing with Members and their staff, but not with the general public.

## **1 What is a private sewer?**

Private sewers are those sewers that have not been “adopted” by the water companies. Sewerage undertakers only have a statutory responsibility to maintain public sewers that they have adopted.<sup>1</sup> Homeowners with unadopted (private) sewers are responsible for their maintenance and the associated costs. It is estimated that nearly half of all domestic properties are served by a private sewer or lateral drain. However, many homeowners are unaware of their liability until a problem develops.

## **2 What are adopted sewers?**

Adopted sewers mainly include those that water companies took over from the public water authorities in 1989 at privatisation. In most cases these are in roads or public open spaces but in certain circumstances they may run through private gardens.<sup>2</sup>

The *Water Industry Act 1991* gave water companies the power to adopt other sewers and disposal works situated within their area or serving the whole or any part of that area.<sup>3</sup> Under Section 102(2) of the Act, the owner of the sewer may make an application to the sewerage undertaker to request it to adopt the works. It will only do this if the sewer satisfies a number of considerations listed under Section 102 (5) of the Act, such as the method of construction and its state of repair.

Generally, water companies have only adopted main sewers running underneath the middle of roads; the connecting drains serving individual homes are not adopted and remain the responsibility of householders. Those who have bought ex-council houses are often served by private sewers as sewers serving council estates were usually constructed by the local authorities in their capacity as local sanitary authorities and therefore most are unlikely to have been adopted by the water companies.<sup>4</sup>

Sections 198 and 199 of the *Water Industry Act 1991* require water and sewerage companies to keep records in the form of maps of the location of every water main and adopted sewer vested in them and to make this information freely available for inspection at their offices at all reasonable times. The companies are also required to provide local authorities with copies of sewer maps and any modifications to them. The local authorities in turn must make them available to members of the public. However, there is no obligation for the companies to keep records of connections to water mains or private sewers or drains.

## **3 What problems are associated with private sewers?**

Many homeowners or businesses are unaware that they, sometimes jointly with others, face the costs of sewer maintenance—although the status of the sewers should be evident on house deeds. The water companies in turn have been able to refuse to adopt a sewer if it has not been built to an appropriate standard.

In November 2001, Defra contracted W S Atkins to undertake independent research into the extent of private sewers. In July 2003 Defra and the Welsh Assembly Government published a consultation paper which summarised the findings of this research and sought views on

---

<sup>1</sup> HC Deb 17 March 1998 c444

<sup>2</sup> Ofwat, *Information Sheet 14: Responsibility for water and sewerage pipes*, June 2002

<sup>3</sup> Section 102 (1) (a))

<sup>4</sup> Information provided by Ofwat Information Services

possible solutions for dealing with the problems identified.<sup>5</sup> The consultation paper identified the following common problems:

- a) Many people do not realise they are not served 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 houses 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 houses 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 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.<sup>6</sup>

## **4 Addressing these problems**

The Labour Government sought to tackle the issue by improving the construction of new sewers to prevent future problems and by transferring ownership of existing private sewers to the water and sewerage companies.

### **4.1 The construction of new sewers**

A public consultation exercise was undertaken in 2000 and this indicated that there was support for a rationalisation of the standards and controls for the construction of new sewers. In March 2002 the then Government issued guidelines on one agreed standard applicable to all new-build sewers and drains built from April 2002. The *Protocol on Design, Construction and Adoption of Sewers in England and Wales* was agreed following discussions with the Building Regulations Advisory Committee, Water UK and the House Builders Federation.<sup>7</sup>

In addition, the *Water Act 2003* amended the *Water Industry Act 1991* to give the Secretary of State or the Welsh Assembly powers to develop schemes requiring the adoption of private sewers by sewerage undertakers. It also contained provisions requiring all new laterals (the part of the drain between the curtilage of the property and the sewer) which connect to a public sewer to be constructed to a standard that will enable them to be adopted by the sewerage undertaker on completion.<sup>8</sup>

However, a review in 2005 found that these measures had not been successful:

---

<sup>5</sup> DEFRA, Review of Existing Sewers and Drains in England and Wales: Consultation Document, July 2003

<sup>6</sup> *ibid*

<sup>7</sup> DEFRA Press Release 84/02, *Householders to save money on sewers repairs*, 5 March 2002

<sup>8</sup> *Water Act 2003*, ss93-99

...less than 1% of developments built after the publication of the protocol were designed and constructed in line with the protocol. The main reasons include the cost implications placed on developers to comply with the protocol and its lack of legal strength to obligate developers to comply. The protocol was considered to be out of date, ineffectively regulated and publicised. It is recommended that the requirements of the protocol are made mandatory.<sup>9</sup>

To ensure that new sewers met acceptable standards, the Labour Government proposed to introduce a mandatory build standard for sewers and to require sewerage companies to adopt new sewers where they meet the standard. These powers are contained in the *Flood and Water Management Act 2010*. The build standard would be specified in regulations. However, it is for the Coalition Government to commence these powers as it sees fit.<sup>10</sup>

In the consultation on draft regulations to effect the transfer of sewers, the Coalition stated that it “plans to introduce a mandatory build standard for gravity foul sewers and lateral drains that will make the construction of new sewers and lateral drains connecting to the public network subject to national standards”.<sup>11</sup>

#### **4.2 Existing private sewers**

The 2003 Government consultation identified a range of potential options to deal with the problems associated with existing private sewers:

- 1) Transfer of ownership of private sewers and lateral drains to a statutory body
- 2) Transfer of management responsibilities for private sewers and lateral drains to a statutory body
- 3) Adoption of private “lateral” pipes (Sections of private sewers and drains (laterals) within public land (including roads) and connecting with a private sewer would be adopted by the existing sewerage undertaker)
- 4) New enforcing legislation (New legislation relating to private drainage could be introduced so that drainage networks are policed by a statutory body.)
- 5) General legislation improvements and guidance. (Address some of the shortcomings of the current arrangements)

The consultants felt that all these options represented an improvement in the environmental management of the sewer network, but favoured Option 1 as offering potentially the greatest environmental advantages. It was claimed that this option would provide a structured framework for the management of the network.

Local authorities and sewerage undertakers made up the majority of respondents to the consultation.<sup>12</sup> 95% of respondents believed that the current arrangements were unsatisfactory and Option 3 emerged as the favourite. 81% of respondents (including 81% of responding local authorities, and 7 out of 10 sewerage undertakers) favoured a change of ownership in general. 90% of those in favour of a change in ownership preferred to see

---

<sup>9</sup> [Review on the Performance of the Protocol on Design, Construction and Adoption of Sewers in England and Wales](#), Defra, March 2005

<sup>10</sup> *Flood and Water Management Act 2010*, s42

<sup>11</sup> [Consultation on Draft Regulations and Proposals for Schemes for the Transfer of Private Sewers to Water and Sewerage Companies in England and Wales](#), Defra, August 2010

<sup>12</sup> Local authorities and sewerage undertakers made up 71% and 10% of the 186 responses respectively. Defra deposited a summary of consultation responses in the House of Commons Library on 5 January 2004, DEP 04/146

sewerage undertakers take on the responsibility of private sewers. However, there was also support for new adoption guidelines and procedures specifically for private sewers.

Further consultation was conducted with consumer groups and industry bodies.

#### **4.3 The transfer of private sewers**

The Labour Government announced on 22 February 2007 its decision to transfer private sewers and lateral drains to the water and sewerage undertakers in England.<sup>13</sup> The National Assembly for Wales made a separate announcement in respect of Wales. The cost of the transfer would be met by an increase in sewerage bills (from 7.5p to 23p per week).<sup>14</sup>

Further consultation took place in February 2007 about how such a transfer should take place. In December 2008 the Labour Minister announced that the transfer of lateral drains and private sewers in England would begin from 2011. A Defra press notice provided more information:

Approximately 200,000 kilometres of privately owned sewers and lateral drains in England will be transferred to water and sewerage companies from 2011, removing millions of householders from the risk of expensive repair bills, Environment Secretary Hilary Benn confirmed today.

Currently, if a private sewer or lateral drain needs repairing, the bill is picked up by householders, even if the problem is outside their property boundary. Most householders don't even know the sewer or drain is their responsibility as it is not apparent when buying a property, and their insurance policies are unlikely to cover wear and tear.

It is estimated that well over half of all houses in England have a private sewer or lateral drain, the part of a drain that lies outside the property boundary.

Mr Benn said:

"Millions of householders are unwittingly sitting on the ticking financial time bomb of private sewers and lateral drains. They may not realise it, but if something goes wrong they have to pick up the bill. The transfer to water and sewerage companies will create a fairer system for all and save many households the agony of finding thousands of pounds to pay for repairs."

There are approximately 300,000 kilometres of public sewers in England operated and repaired by water and sewerage companies. A further 200,000 kilometres of pipework connects to the public system but, by default, remains the responsibility of householders they serve. Many people will be unaware that they own the sewer or lateral drain until problems occur. This can result in people having to find thousands of pounds for repairs or relying on contributions from neighbours as the sewer will serve more than one property.

An extensive review of private sewers began in 2001, prompted by the concerns of householders and a consultation in 2003 revealed a high level of support for transfer. Defra looked at how this transfer could be achieved in a further consultation in 2007.

---

<sup>13</sup> Defra, News Release, 22 February 2007

<sup>14</sup> [Private sewers and drains transferred to water company ownership](#), Defra news release Ref: 390/08, 15 December 2008

The costs of transfer will be met by an increase in the sewerage element of bills across the nine sewerage companies currently estimated to be around 7.5 pence to 23 pence a week.<sup>15</sup>

However, the transfer required the approval of regulations by Parliament. Draft regulations were due to be published by the Labour Government and consulted on in 2009 so that the transfer could occur in April 2011—but that did not happen.<sup>16</sup>

The Coalition Government decided to continue with the transfer. On 26 August 2010 draft regulations to effect the transfer from October 2011 were published for consultation. The Minister, James Paice MP, said:

I am pleased to announce that on 26 August 2010 I published for consultation draft regulations to effect the transfer of private sewers into the ownership of the statutory sewerage companies in England from 2011. The consultation paper sets out the Government's intentions and provides an opportunity for interested parties to respond with their views on the accompanying draft regulations. A copy has been placed in the Library of the House.

The decision to transfer follows an extensive review of the arrangements for private sewers and laterals in England and Wales. Existing private sewers and lateral drains (that part of the drain that extends beyond the property boundary) are currently the responsibility of the owners of the properties they serve. This fact typically comes as a surprise to owners, who usually assume that the sewer and lateral drain serving their property are the responsibility of the local sewerage company or local authority.

Private sewers serve more than one property so ownership is shared and usually a large extent of the sewer will lie outside a property's own boundary. Lateral drains serve one property but always lie outside the property's boundary. Transfer provides the only comprehensive solution to a range of private sewer and lateral drain problems affecting householders. These include a lack of awareness of owners' responsibilities and unwillingness or inability to co-ordinate or contribute to potentially high costs of maintenance and repair. It will bring simplification and clarity to owners, local authorities and sewerage companies, all of whom typically become involved when these problems arise.

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 urban drainage systems. Having a much greater proportion of the sewer network in the management of the water and sewerage companies means they will be able to plan maintenance and resolve problems more easily and comprehensively. The Government are also taking steps to stem the proliferation of newly built private sewers in order to prevent the recurrence of existing problems in the future.

Subject to approval of the regulations, transfer will take place from October 2011 in order to allow the water industry and those businesses operating around it sufficient time to prepare for transfer. The costs of necessary future improvement and maintenance will, post transfer, be met by an increase in the sewerage element of bills for the generality of customers. Although these costs cannot be stated now with

---

<sup>15</sup> [Private sewers in England and Wales](#), Defra Press Notice, Ref: 390/08, 15 December 2008 [on 1 February 2010]

<sup>16</sup> [Private sewers in England and Wales](#), Defra Press Notice, Ref: 390/08, 15 December 2008 [on 1 February 2010]

certainty, Ofwat estimates indicative increases of around £3 to £14 per annum across the water and sewerage companies in England.<sup>17</sup>

Draft regulations were laid before the House on 26 April 2011. The transfer will occur on 1 October 2011.<sup>18</sup> The Minister said:

I am pleased to say that the transfer of private sewers and lateral drains to the statutory sewerage undertakers in England will take place on 1 October this year. Regulations to provide for the transfer, involving those sewers and drains that connect to the public sewerage system, will take effect on 1 July and the undertakers will then start the formal notification process. Private sewer owners need take no action to make the transfer happen.<sup>19</sup>

---

<sup>17</sup> HC Deb 6 September 2010 c6WS

<sup>18</sup> HC Deb 10 May 2011 c1060W

<sup>19</sup> HC Deb 30 June 2011 c913W