

Diversion of Public Sewers S185 Water Industry Act 1991



Section 185 of The Water Industry Act 1991 places a duty on a statutory undertaker such as Southern Water to alter or relocate any of its apparatus upon receipt of a notice to do so from any person with an interest in land upon which, under which or adjacent to which the public apparatus is installed, providing that the alteration or relocation of the apparatus is necessary to enable that person to carry out a proposed improvement of the land in which he has an interest and that it is reasonable to do so. No such duty arises where the apparatus is located in, under or over any street.

Where the undertaker carries out any work under section 185 by virtue of a notice having been served, the undertaker shall be entitled to recover any expenses reasonably incurred in carrying out those works from the person who served the notice.

You should read the following carefully prior to serving notice on Southern Water to relocate any of its apparatus. You must ensure that any project managers, consultants or contractors acting upon your behalf are aware of the costs, requirements and timings associated with diversionary works and that sufficient time has been allowed for the completion of the diversion prior to your starting to build on site.

Building over public sewers on new development or redevelopment sites is **not** permitted.

1. Who will carry out the work?

Southern Water will design and supervise the diversion and employ the contractor to carry out the works when:

- The route of the diverted sewer passes through third party land, and/or
- The sewer to be diverted is a critical sewer (this includes all rising mains) or there are specific operational requirements
- The sewer to be diverted is a Bonded Asbestos Cement Pipe. This includes pipes described as Asbestos Cement (AC) and Fibre Reinforced Cement (FRC)

However, Southern Water may permit the developer to carry out the work providing that:

- The apparatus to be diverted is categorised as non-critical, and
- The route of the diversion remains entirely within the boundary of the developers' land.

The legal and financial arrangements will differ depending upon whether it is Southern Water or the developer who is carrying out the works.

2. Legal and Financial Arrangements

When Southern water carry out the works
(*Southern Water Diversion*)

The diversion will have to be supported by a formal Diversion Agreement drawn up by Southern Water's Legal and Property

Services department (their fees will be invoiced directly to the developer or his agent and are not included in the fees or percentages detailed below). Copies of a typical agreement may be obtained by writing directly to them at the address given at the end of these guidance notes.

Southern Water will also recover all its reasonable costs in respect of administration, design, supervision, compensation and construction and will require a cash sum equal to the total estimated cost of the work to be deposited with the company at the same time as the Diversion Agreement is signed and prior to the commencement of any works on site.

When a developer carries out the works
(*Developer Diversion S104/185*)

The diversion will again need to be supported by a formal agreement drawn up by Southern Water's Legal and Property Services department. Their fees will be invoiced directly to the developer or his agent and are not included in the fees or percentages detailed below. However, in this case there will be a slightly amended standard agreement to take into account the different financial arrangements.

In this case a refundable cash sum equal to the estimated cost of construction will have to be deposited with Southern Water.

3. What will it cost?

The application fees for Southern Water Diversions and Developer Diversions are shown on the application form.

Southern Water Diversion

We will provide a budget estimate for the cost of diverting the sewer.

Your application form and cheque (made payable to Southern Water Services should be sent to the address given at the end of the application form.

In addition to the above we will require the following drawings.

- A 1:1250 site location plan
- A drainage layout plan (where applicable) to a scale of not less than 1:500 showing.
 1. Site boundary clearly marked in green.
 2. Clearly defined plot boundaries.
 3. Location of sewer to be diverted and your suggested route for the diverted sewer.
 4. Layout of any foul and surface water sewers to be offered for adoption under a Section 104 Agreement.

You should forward all relevant information concerning the site to enable the estimate to be produced. Any subsequent requests for additional or alternative routes or revised estimates will be subject to further charges.

Upon receipt of the initial fee, we will consider the options and inform you within 30 working days if a sewer diversion is possible and the likely costs involved.

We would draw your attention to the preliminary nature of this initial estimate, which may alter significantly, after the detailed survey and design have been completed.

If a diversion is possible you will be able to enter into a Sewer Diversion Agreement with Southern Water.

A deposit will be required to carry out the design (this sum will be deducted from the cash sum required upon the signing of the Diversion Agreement). Upon receipt of the deposit we will commence the detailed design and prepare the final estimate. The terms for the Agreement will be forwarded to you within 55 working days from the receipt of the deposit. This period may need to be extended if land negotiation prove to be complicated and or the diversion itself complex.

The offer will be open for acceptance for three months.

Developer Diversion

Where the route of the diversion will remain entirely within the development site boundary and the sewer is classified as non-critical, Southern Water will allow your consultants to design the diversion and for your contractor to carry out the works. The design should be carried out as per the specification contained in *Sewers for Adoption (6th Edition)* – a design and construction guide for developers.

The design drawings will need to be sent to this office for vetting in a similar manner to a Section 104 Water Industry Act 1991 adoption together with the initial fee.

The vetting and administration fee will be estimated on a time-related basis (minimum of eight hours) less the initial application fee.

The supervision fee will be 2.5% of the construction cost. Both the vetting and administration and the supervision fees will be payable prior to any instructions being given to our legal department for the preparation of the Agreement.

We will require a cash sum as a surety equal to the estimated construction cost of the works which will be payable prior to, or at the same time that the Diversion Agreement is signed.

Your contractor will carry out the works at no cost to Southern Water and we will refund 80% of the cash sum once the works have been substantially completed to our satisfaction. The remaining 20% plus any accrued interest will be refunded 12 months following the substantial completion and making good of any defects. (If the diversionary route passes through the public highway only 15% will be refunded at the twelfth month following completion the remaining 5% being retained for another two years).

It should be noted that no works on the public sewerage system will be permitted until the Deed of Grant of Easement is in place, Agreement signed, fees paid and surety lodged.

4. Additional Requirements

Prior to you commencing any work on site, you must identify the positions and operational status of all laterals connecting to the section of sewer which is to be abandoned.

Should laterals be found you must obtain the written consent and authority of the owner of the lateral to reconnect their property to the new sewer.

You must ensure that the premises served by the lateral continue to be drained with at least equal effectiveness once the works have taken place.

These approvals should be included in your initial submission.

We will also require a method statement detailing how you are intending to deal with existing flows during the course of the works.

Please Note: It is not permissible to discharge foul sewerage into road gullies, surface water sewers, ditches, the trench or watercourses. Nor should ground water be discharged into any public sewer or surface water discharged into the foul water system without the express permission of Southern Water.

Buildings should be located at least three metres away from the diverted sewer where the depth from ground level to invert level is less than three metres. In circumstances of greater depth, large diameter sewers, unusual ground profile or material a greater distance may be required.

On completion of the works the redundant section(s) of the existing public sewers will be made safe by removing them from the ground.

Upon being notified of substantial completion of the works the Developer shall supply to the Company two sets (or more if requested) of operating instructions/ maintenance manuals for any pumping stations associated with the works.

Three full sets of as constructed drawings showing the diversion works and the Health and Safety File, as may be required by the Construction (Design and Management) Regulations 1994 will also be required.

5. How long will it take?

Southern Water Diversion

Whilst we use our best endeavours to keep costs and timing within reasonable bounds, diversions that encroach into third party land have, by their nature, cost and time commitments not applicable to the developers own site work and the applicant must accept this.

One such commitment is the requirement to give Notice where the route of the diverted sewer passes through third party land.

The code of practice associated with the notice to enter onto third party land commits Southern Water to:

- Make contact with all owners and occupiers.
- Ascertain whether they have any existing or future development proposals that are likely to be affected by the works.
- Establish the correct information about the ownership and occupation of the land likely to be affected by the works.
- Give owners and occupiers information about the proposed programme of the works including the nature, route and timing.
- Provide the owner and the occupier with a record of the condition of the working area.

The notice period specified for laying a new length of sewer is three months.

As can be seen from the above and from the timings given previously in this document the average time to complete a sewer diversion is seven to eight months.

You should make allowance for this when programming your site works.

Developer Diversion

You should provide all the information detailed in these guidance notes, as it is upon this that the estimate will be based. Any subsequent requests for additional or alternative routes or revised estimates will be subject to further charges.

Upon receipt of this information we will consider the options and inform you within 30 working days if your proposals are acceptable. At the same time we will provide you with our estimate of the cost of the works (if different from your own) and the fees that will be required.

You should be aware that any deviation from the standard form of agreement may affect the works programme and anticipated costs.

Please note: All legal fees will be separately invoiced by Southern Water's solicitor and must be paid before the Agreement is engrossed.

Should you require any further information or assistance, please contact:

**Southern Water Services Limited
Atkins Limited
Network Development
Anglo St James House
39A Southgate Street
Winchester
Hampshire
SO23 9EH**

**phone: 01962 858688
fax: 01962 810296**

For a typical Diversion Agreement please contact:

**Legal and Property Services
Southern Water
Southern House
Yeoman Road
Worthing
West Sussex
BN13 3NX**