



13 July 2011

Consultation on Ofwat's Guidance on Appeals concerning the Transfer of Private Sewers, Lateral drains and Pumping Stations in England and Wales

Consultation questions

SBWWI is the trade association representing the interests of the water industry supply chain that creates and maintains the sector's infrastructure and non-infrastructure assets.

1. Is the information we have provided about who can appeal, how they can appeal, and the timescales for appeal clear?

Yes, though existing text needs to pick up the 3 month period for receipt of Appeals where a sewage company fails to propose transfer of a private sewer or lateral drain.

In general, any person receiving a Notice or letter from the WaSC will assume from the content that 'their' private sewer will be transferred. They are unlikely to appreciate that the private sewer has not been transferred until specifically advised by the WaSC. And that is unlikely till a problem occurs on that sewer that causes a failure in service. Such a problem could happen at any time after the Notice date not just within the first three months.

We understand it was not Ofwat's decision to introduce this time limit, but it is included in the Scheme made by the Secretary of State. It could however lead to subsequent disputes between WaSCs customers and Ofwat unless an alternative 'discretionary' scheme could apply.

2. Is the information we have provided about the grounds for appeal clear?

Yes, though you could emphasise that even if the Appeal is successful the customer will still have to pay the same increase in charges as all other customers, to cover the increased costs of operating and maintaining the transferred sewers and lateral drains.

3. Is the information we have provided about how we will consider appeals clear?

Yes, though it could be clearer on the process for identifying other owners affected by the Appeal.

At the workshop there was some discussion on the process for making an Appeal. There needs to be agreement between Ofwat and companies as to when they receive details of an Appeal – when the application form is first received by Ofwat, even if incomplete, or when Ofwat has received any further information it needs from the appellant to decide a valid appeal.

We understand a separate meeting has been set up with WaSCs to agree this part of the process

4. Do you consider that we should provide more information about how we will consider appeals, and if so, what information?

No. there is sufficient information provided.



However, Ofwat should clarify that neither they, the WaSC or Defra will be responsible for the costs incurred by the applicant in making the appeal, whether that Appeal is successful or not.

5. Do you agree with our suggested approach to serious detriment as outlined on pages 12-14? If not, why not?

In 4.1.2 you state you will “take into account the potential detriment of not transferring a sewer to you and other customers that it serves”

You also suggest that you “will consider how that detriment might be reduced or removed, thus allowing the proposed transfer”.

It may be difficult to decide against an Appeal, where say a large land owner or property business can demonstrate potential and significant financial detriment, whilst the other owners affected are only householders.

As a prerequisite and as an ‘acid test’, the risks of NOT transferring should be less than the risks of the current situation. Those served by a sewer that remains private should have greater assurances about the provision of future maintenance and repair than now. That assurance should be equivalent to if the sewer had transferred to the WaSC, and that should not be at their cost.

6. Is the process we will follow set out sufficiently and clearly? If not, please explain how it could be improved.

In 4.1.1 Ofwat states “We will also consider any evidence provided by the other party or parties to the appeal, as well as the facts of the case generally”. This is not repeated in the process table.

However, how will you engage with the other parties affected, i.e. those other property owners who share the same private sewer?

An issue not covered but one that could cause significant annoyance amongst customers is the problem post 1 October on a sewer subject to Appeal and hence not yet transferred to the WaSC. Any information supplied to the other owners connected to a sewer not transferred because of an ongoing Appeal should clearly set out that they are still responsible for the maintenance and repair of that sewer

7. Are the requests for information in the appeal form clear? Have we asked for information that we should not need? Is there additional information we should ask for?

The Appeal form could be clearer about the ownership of the sewer (section B). It could instead ask for those properties connected to the sewer.

We would also welcome any additional comments you may have about our proposed guidance concerning appeals relating to the transfer of private sewers or lateral drains.

2.3 How can you find out more about how the transfer might affect you?

This paragraph states:

38 Holly Walk Leamington Spa Warwickshire CV32 6NY
Telephone: 01926 831530 Fax : 01926 831931
e-mail: hq@sbwwi.co.uk www: sbwwi.co.uk



If you want to understand how the sewerage company's decision to propose transferring a sewer or lateral drain – or its failure to do so – might affect you, you should contact the sewerage company.

As written this encourages all customers to call their water company. But WaSCs will only be able to provide generic advice at this stage. To avoid overloading call centres that could only give such advice, it would be wiser to suggest customers consult their company's or Defra's web site. Companies have provided significant levels of information, booklets and video clips that should provide sufficient background for most customers. Only those persons who feel they will be adversely affected should need to call their WaSC.

Appendix 2 : Appeal form

If the form is being redesigned it may be helpful to restate the definition of 'lateral drain' and possibly 'sewer' or to refer back to the explanation in Introduction.

You ask if the transfer If the transfer happened, how could the serious detriment be reduced (mitigated) by the sewerage company?

The same question could be asked of a commercial organisation appealing against transfer, for example a property company. The question could thus be restated - "If the transfer did not happen, how could the serious detriment to others be reduced (mitigated) by the appellant company?"

Yours sincerely

A handwritten signature in black ink that reads 'Carol Hickman'.

Carol Hickman
Executive Director
SBWWI