

## **The Great Transfer – (Private to Public)**

### **Don Ridgers**

Thames Water  
Clearwater Court  
Vastern Road  
Reading RG1 8DB  
Don.ridgers@thameswater.co.uk

### **Transfer of private sewers and lateral drains.**

On October 1<sup>st</sup> 2011, the most significant change to the Water and Sewerage Industry in England and Wales, since privatization, was brought into effect. All sewers and lateral drains, communicating with public sewers, became the responsibility of the Water and Sewerage Companies following their adoption under Section 102 of the Water Industry Act 1991, in accordance with a scheme of transfer introduced under Section 105A of the same act. This brought to an end a long process of discussion on how to improve the management and operation of mostly minor drainage systems whose failures often led to disputes between neighbours over access or payment and costs to local authorities in resolving them.

Pumping stations that are parts of lateral drains or sewers will also be adopted over the five year period ending on 1 October 2016.

DEFRA, the government department that covers this policy area in England and the Welsh Government, undertook a series of consultations between 2002 and 2010 to establish the level of support for changes, the possible options for dealing with the problems, which assets should transfer, the mechanism of transfer etc.

From the earliest stage it became apparent that transfer to Water and Sewerage Companies was the most widely supported solution, so much so that a late amendment was incorporated into the Water Act 2003, introducing a new Section 105A to the Water Act 1991 to achieve it. Recognizing that there was more preparation to undertake concerning the scope, this amendment made provision for the Secretary of State to make Regulations to introduce “Schemes”, rather than attempt to cover every detail in the Act. This satisfied the political momentum at that time.

All Water and Sewerage Companies supported the principle of transfer but had a number of reservations including:

- The mechanisms for adequately funding the transfer.
- Having the time to publicise details to customers.
- Ensuring adequate time to set up procurement arrangements
- Having clarity over what will transfer.
- Rights to discharge.

DEFRA and the Welsh Government had to balance further issues:

- The interaction with “Making Space for Water” incorporating the savings from the Private Sewer Transfer to fund the additional work on Surface Water Management and SUDS that was likely to fall upon Local Authorities.
- Ensuring that no new private sewers would be created.

Due to the uncertainty over timing and scope as the consultations slowly progressed, Water and Sewerage Companies could not include provision for funding in either their PR04 or PR09 Business Plans, although some wished to do so. Consequently funding will either be dealt with through Companies requesting Interim

Determinations (IDOKs) or obtaining no funding until 2015/6 when it is included within PR14.

The main issues around the scope of what would transfer through schemes, were:

- Private Sewage Treatment facilities.
- Private Surface Water systems draining to watercourses or the sea.
- Defining what constitutes a sewer or a lateral drain.

Private Sewage treatment facilities were dismissed as presenting too many challenges (land ownership, rights to discharge etc.) whose resolution would delay the issues of sewerage that impact far more people. They are also not presently customers of the Water and Sewerage Companies.

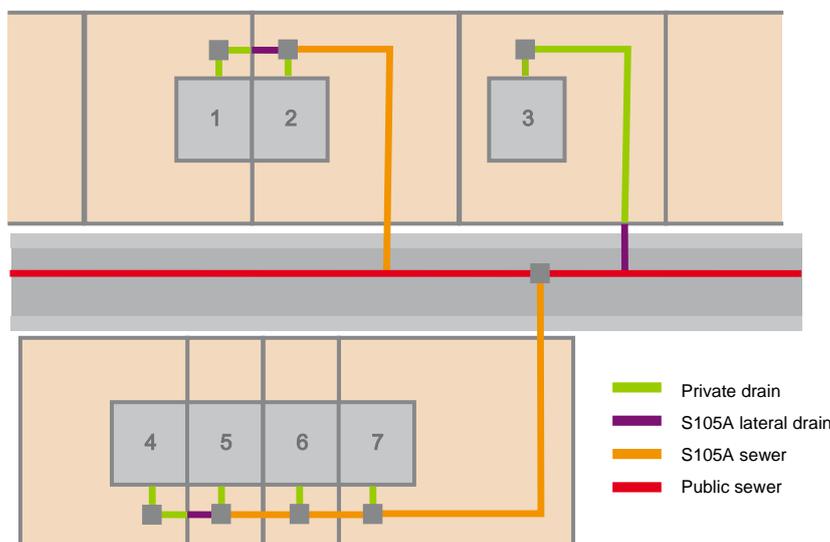
Private Surface Water systems could more logically be dealt with under the Surface Water Management discussions. Again this avoids the issue of transferring rights to discharge.

There is nothing to prevent the transfer of either private sewage treatment facilities or surface water sewers discharging to watercourses, through the introduction of a subsequent “scheme” under the current legislation, if the political will arose.

Defining what constitutes a “sewer”, a “lateral drain” or a “private drain” requires an interpretation of the word “curtilage” as it is used in their definitions in Section 219 of the Water Industry Act 1991. Water and Sewerage Companies were concerned that without clarity there would be frequent disputes with customers, which was not in the spirit of transfer. Curtilage is not defined in any relevant legislation and its relationship (or not) with “ownership” has been inconsistently interpreted by different courts.

After much debate, DEFRA and the Welsh Government declined to produce a legal definition of curtilage. Instead they have produced some illustrations in Guidelines to accompany the Statutory Instrument initiating transfer (ref 1 & 2). In simple terms, this proposes that the curtilage of a residential property is the small piece of land occupied for residential purposes as part of the single dwelling, irrespective of the ownership.

### What are the typical responsibilities and ownerships today?



For commercial or institutional sites, the opposite interpretation is made such that if a number of separately occupied buildings share a singly managed perimeter then the whole group are deemed to be parts of a single curtilage. The late emergence of these guidelines delayed and disrupted plans to communicate the impending transfer to customers and other stakeholders.

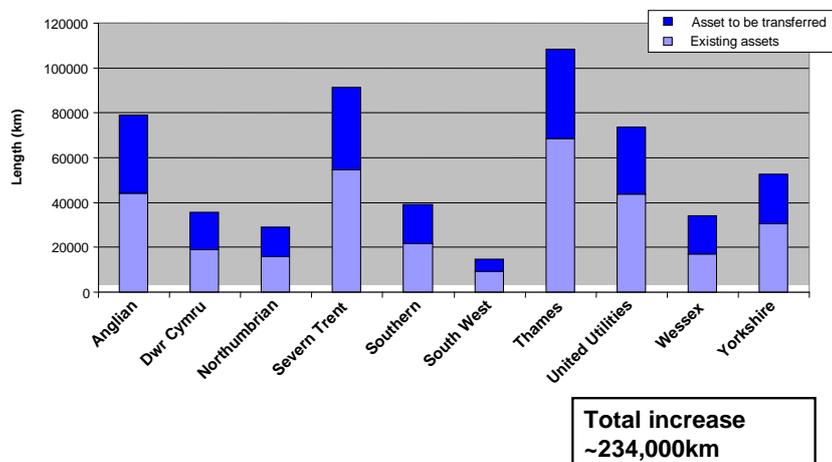
Water UK is producing further Water Industry guidance (ref 3) based upon the DEFRA and the Welsh Government Guidelines.

## Volumes

Over the many years leading up to transfer, Water and Sewerage Companies have been modelling the length of pipework that will transfer and the operational impact. A model was also produced through an UKWIR project by WRc (ref 4). It is in the nature of such modelling that revisions are continually made, however the approximations indicate a dramatic increase in the length of pipework that each Water and Sewerage Company will be responsible for maintaining.

Original public sewer  
length = 310,000km

## Length of sewers



## Operational Activities

The major anticipated activity change was the number of blockages. The overwhelming majority of sewer blockages occur on small sewers serving few people, particularly former Section 24 sewers and at interceptor traps. So, as the transferring sewers and lateral drains are virtually all in this small sewer category, they are expected to have a disproportionately high impact on blockage numbers. The private drainage contractor sector is very fragmented so historic or trend information was difficult to obtain and very uncertain. Accordingly different Water and Sewerage Companies predicted a range for the uplift in numbers of up to 400%. This scale of increase would be beyond the scalability of existing suppliers to Water and Sewerage Companies and new procurement arrangements would be needed to take on the increased work.

### **Asset Management Impact – Pipes**

The transferring assets are widely dispersed and with the exception of a relatively small number of significantly sized developments, they generally comprise discrete short sections of pipe that do not lend themselves to any strategically significant capital scheme. Undoubtedly there will be some estates drained using pitch fibre pipes that warrant replacement over time but these are believed to make up a tiny fraction of the transferred length. The lateral drains (which may make up the majority of the length) serve only one property and their size would have been dictated by the minimum size for maintenance, as hydraulic capacity is not an issue except perhaps in some commercial sites. The only surface water sewers transferring are those which discharge to existing public sewers so no new polluted outfalls are included. Few will therefore have a requirement for hydraulic modelling. The situation would have been different if pipes draining to watercourses had been included.

### **Asset Management Impact – Pumping Stations**

From very early in the consultations it had been generally accepted that unlike gravity pipes, pumping stations and rising mains would need to have a phased transfer in order to allow for the separation of power supplies, arrangements for access, upgrading to acceptable safety standards, installation of appropriate telemetry and potentially reconstruction or abandonment.

Initially, the number and costs associated with pumping station transfer were thought to be relatively small and of less concern because of the available timeframe (originally expected to be 10 years) and the ability to programme the activity and investment demand. However, the political expedient was to reduce the timescale for transfer to a maximum of 5 years.

Again, no central database exists listing the pumping stations that exist and until the guidelines for curtilage appeared, there was no certainty on which pumping stations would transfer (Note: many pumping stations serve commercial singly managed sites). While the total number of affected pumping stations nationally amounts to many thousands, pumping station numbers and costs remain very uncertain. The overwhelming majority of qualifying pumping stations are very small.

UKWIR undertook a study to research appropriate condition and interventions to be carried out for adoption of individual pumping stations (ref 5) and this incorporates a cost model that Water and Sewerage Companies can populate with their own cost data and telemetry policies.

Individual Water and Sewerage Companies are currently formulating their prioritization and telemetry policies in parallel with data collection on location and investment needs.

### **Asset Management Impact – Building over sewers**

In the early discussions on transfer, the justification of a need to systematically map the transferred sewers was challenged as the estimated mapping cost could be a showstopper (estimated to be in excess of £1bn).

Problem sewers would only be identified from incidents arising (e.g. blockages) and could be mapped at that stage. Thus a map of them would soon exist to allow future interventions to make improvements. This left mapping for asset protection or connections as areas of concern. Of these, asset protection from building over was thought to be the most important.

In 2006, at the invitation of DEFRA, the Welsh Government, Water and Sewerage Companies and DCLG (the government department that has, until now, been responsible for the Building Regulations in both England and Wales) agreed a proposal whereby the building applicant would be responsible for establishing the presence of drainage pipework that could affect/be affected by the development, instead of reliance on the sewer being on the official map of sewers in advance. Building Control Officers are only required by Regulation H4 of the Building Regulations, to consult Water and Sewerage Companies about building work over sewers if those sewers are shown on the map of sewers. However the Government no longer feels the need to amend the Building Regulations and the DCLG is adopting a more cautious approach over increasing the extent to which Water and Sewerage Companies become involved in the Building Regulation process. The outcome is that there is no statutory protection for sewers from being built over. There is an ongoing dialogue involving Water and Sewerage Companies, DEFRA, DCLG, LABC, Approved Inspectors and the Glazing Industry to develop joint proposals for a protocol for situations of potential building over of sewers, that could in due course become enshrined in future Regulations. Meanwhile protection relies upon goodwill of all parties involved.

### **What happened when transfer occurred?**

The 1<sup>st</sup> October was a Saturday in the tail end of an unseasonable dry period of above average temperatures. Blockage numbers for many companies that day and in the immediate weeks preceding transfer were lower than normal and the long-term average. Although numbers have risen steadily since 1 October they remain generally lower than was forecast.

Among the many uncertainties affecting blockage numbers were the impact of weather and the extent to which customers have understood the changes from the information they have been given. There is also uncertainty as to the extent that Housing Associations are passing calls through due in part to the late information on the how transfer affects the drainage of blocks of flats and ongoing dialogue continues with the MoD over the extent of transfer within the Defence Establishment.

At the time of writing this paper, investigations of customer awareness and contractor data audits are underway in order to provide a comprehensive picture of the overall impact of the transfer.

### **References**

1 Defra Guidelines <http://www.defra.gov.uk/publications/2011/09/21/pb13621-private-sewers/>

2 Welsh government Guidelines

<http://new.wales.gov.uk/topics/environmentcountryside/epg/waterflooding/sewers/transfer/?lang=en&ts=1>

3 Water UK guidance [www.water.org.uk/home/policy/private-sewers-transfer/guide](http://www.water.org.uk/home/policy/private-sewers-transfer/guide)

4 UKWIR Report 03/RG/07/2 2003 and Report 04/RG/07/6 2004

5 UKWIR Report WM07E206