

Developers Guide to Sewer Diversions (S185)

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YorkshireWater

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Introduction

The purpose of this document is to provide developers and designers with a guide on how to apply for an alteration or diversion to a public sewer.

This guide provides information on how to apply to have an existing sewer diverted under Section 185 (S185) of the Water Industry Act 1991.

While every attempt has been made to address the full range of practical and legal issues covered by the process, there may always be practical site conditions which are not detailed in this guide.

We are happy to meet with you at the outset of the process, prior to submission of a complete application, to ensure our requirements are clear and any issues with a site can be discussed at an early stage.

You must not commence any works on the public sewer network without written permission from Yorkshire Water.

We'll determine the means by which a diversion will be delivered either:

- as part of a Section 104 Agreement constructed by the developer in conjunction with adoptable sewers;
- as a minor diversion, constructed by the developer subject to an Exchange of Letters; or
- as a major sewer diversion, constructed by Yorkshire Water or by the developer under our supervision and supported by an S185 legal Agreement.

You can apply for a sewer diversion at yorkshirewater.com/developers/sewerage/sewer-diversions/

Sewer Diversion

It is the duty of a sewerage undertaker, under Section 185 of the Water Industry Act 1991, to alter or remove any relevant pipe or other apparatus from above or below a developer's land or any adjacent land subject to the developer giving notice under S185 and subject to the following:

- that the alteration / removal is necessary to enable that developer to carry out a proposed improvement of the land in which they have an interest;
- that the request by the developer is not unreasonable;
- S185 does not refer to the removal of any pipe laid above or below a street;
- under subsection 5 of S185, a relevant undertaker is entitled to recover any expenses reasonably incurred in carrying out the alteration / removal of any relevant pipe or other apparatus.

There is no time limit laid down in S185 of the Act which the relevant undertaker has to respond to such a diversion request. However, such works should be carried out with due regard to the developer's requirements / build programme and within six months after signing the Agreement unless some other date is determined by Agreement.

S185 specifically relates to the sewerage undertaker carrying out the works at the request of a developer and recovering the expenses in so doing. There are occasions when it is more convenient / cost-effective for the developer to undertake such works and whilst the works will be approved and inspected under Agreement, the actual Agreement cannot be pursuant to S185.

Minor Diversion to the Public Sewer Network (S185)

Section 185 places a duty on Yorkshire Water to divert apparatus in land, upon receipt of notice from persons who have an interest in the land, as necessary to enable that person to carry out a proposed improvement of the land. This duty does not arise when apparatus is located in, under or over any street.

Diversion of public sewers under Section 185 of the Water Industry Act 1991 can be a protracted process. All parties involved (developers, consultants, contractors, project managers) need to be aware of the process, costs, legal and technical requirements and programme implications. Developers need to ensure that sufficient time has been included in your build programme for diversion of sewers before works associated with the development commences.

Legal and financial arrangements differ depending on who carries out the works.

The developer may be permitted to carry out the work when:

- the sewer is non-critical infrastructure; and
- the diversion is in land owned by the developer

In relation to turning flows at either end of the diversion, you must apply for a Section 106 Connection application before doing so. In addition, any Section 185 Agreement must be signed before turning flows. Once the existing sewer flows have been diverted into the new pipework, the redundant sewer must then be abandoned in accordance with the developer's Method Statement.

What happens next?

Once you have submitted your completed application form, proposed drawings and camera survey, we will technically assess your submission and provide an initial response detailing whether the proposals are acceptable or not. If the application does not meet the criteria, we will tell you the reasons for this and what you need to do to rectify the proposals.

Once we are in receipt of all the necessary information, we will complete a full assessment of your submission, in accordance with the Design and Construction Guidance contained within the Code for Adoption, which may result in us requesting changes and / or further information.

When we are happy with the changes requested, we will be in a position to prepare the Agreement and invoice you for fees and 100% bond as outlined in our Charging Arrangements.

Alterations to the public sewer network shall not be commenced until the Agreement with Yorkshire Water is in place.

During the construction phase, our inspectors will attend site to monitor work being undertaken on site in relation to the diversion of our assets.

When the diversion is complete, it is your responsibility to provide us with 'as built' drawings for the works undertaken. A copy of all the drawings included in the signed S185 Agreement must be provided in 'as built' format.

When the flows have been turned, you can request a pre-maintenance inspection by contacting the Developer Services scheduler. If the diversion is found to be satisfactory, then the maintenance period (typically 12 months) can commence. On completion of a satisfactory maintenance inspection, we will refund 90% of the Bond, retaining 10% or a minimum of £10,000.

Just before the end of the maintenance period, it is your responsibility to contact us to arrange a Final Inspection of the diversion. Once any outstanding remedial works are completed, we will arrange for the remaining bond monies to be released.

In all cases, the sewer to be abandoned must be clearly indicated on the drawings submitted for Technical Acceptance and the method of abandoning the sewer (i.e. removed, grouted, fly ashed, etc.) must be stated.

Major Diversion to the Public Sewer Network (S185)

Yorkshire Water will undertake a feasibility study, design, supervision and construction of the diversion when:

- the diversion is to pass through third-party land;
- the sewer is critical infrastructure of strategic importance.

Where Yorkshire Water carries out any work under Section 185 as a result of notice being served, Yorkshire Water is entitled to recover any costs reasonably incurred from the person who served the notice.

The Formal Agreement must be in place prior to commencement of the construction phase.

Where the works are to be **undertaken by Yorkshire Water**, the developer is then offered terms and the developer's acceptance of terms must be given in writing.

Where the works have been undertaken by Yorkshire Water, the developer will be informed when the works are substantially complete. Under the terms of the Agreement, the Final Account and Financial Certificate are issued 12 months later with the appropriate covering letter indicating either a further payment or refund.

Where the works are to be **undertaken by the developer**, Yorkshire Water must approve the proposals.

Where the works have been undertaken by the developer, on substantial completion of the scheme, the Certificate of Completion is issued as required under the terms of the Agreement and the developer is informed in writing. If required, by the terms of the Agreement, the reimbursement on part of any bond or release of a Surety is undertaken.

At the end of the Maintenance Period, the Certificate of Final Completion is issued and the developer will be informed in writing. Any outstanding fees are recovered / reimbursed, along with the release of the remaining bond or surety.

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