

## **Guidance Notes for Section 185 Sewer Diversion**

Guidance Notes for requesting the diversion of a Public Sewer in the Yorkshire Water area under section 185 of the Water Industry Act 1991.

Whilst every attempt has been made to deal with the full range of practical and legal issues involved, there may always be particular site conditions which are not covered by the Guidance Notes. For further information please contact the Developer Services Team on 0845 1 20 84 82.

### **1. Introduction**

It is the duty of a sewerage undertaker (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 this section 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 he has an interest.
- That the request by the developer is not unreasonable.
- This section does not refer to the removal of any pipe laid above or below a street.
- Under subsection (5), 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 the Act to 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/programme and within 6 months after the signing of the agreement unless some other date is determined by agreement.

Section 185 of the Water Industry Act 1991 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 Section 185.

### **2. Costs**

Where it is proposed that Yorkshire Water undertake the works then an advance payment will be required, minimum £5,000 plus VAT, to cover any costs incurred prior to the legal agreement being signed. The level of the advance payment will reflect the scale and complexity of producing the Feasibility Study Report.

Where it is agreed that the developer undertakes the works then an advance payment is required to cover any costs incurred due to administration and inspection fees.

### **3. Procedure**

Prior to any action being taken a written request from the applicant or agent is required with the minimum level of information as follows:

- A plan showing the outline of the site and footprint of the development.
- Details of the sewers to be diverted and the preferred diversionary route.

All relevant information should be directed to the Scheme Solution Engineers within the Developer Services Team.

On receipt of a valid application, the Solution Engineer will determine the means by which the project will be delivered in accordance with Yorkshire Water's Policy:

- As a Minor Sewer Diversion, constructed by the developer subject to an exchange of letters.
- As a Capital Project, either by Yorkshire Water or by the developer.

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

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

N.B. The formal agreement must be in place prior to the commencement of the construction phase.

#### **4. On completion of the works**

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 in 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 informed in writing. Any outstanding fees are recovered / reimbursed, along with the release of the remaining bond or surety.

Where the works have been undertaken by Yorkshire Water you will be informed when the works are substantially complete. Normally, under the terms of the agreement the final account and Financial Certificate are issued some 12 months later with the appropriate covering letter indicating either a further payment or refund.

## **Appendix 1**

**Guidance on Section 104 and minor sewer diversions can be requested from:**

Sewerage Technical & Developer Services Team

Technical.Sewerage@yorkshirewater.co.uk

**Further guidance and contact details for *other sewer diversions*:**

Yorkshire Water Services  
Developer Services Team  
PO BOX 52  
Bradford  
BD3 7AY

Tel: 0845 1 20 84 82

Fax: 01274 802143