

# Developer Services

*Developers Guide to Requesting a Variation to a S104 Agreement*

January 2018

It's part of our  
Blueprint for Yorkshire



YorkshireWater

# Developers Guide to Requesting a Variation to a S104 Agreement

## DOCUMENT CONTROL

<b>Author</b>	Natalie Drake
<b>Created Date</b>	November 2017
<b>Last Updated</b>	January 2018
<b>Document Ref</b>	Developers Guide to Requesting a Variation to a S104 Agreement 09 Jan 18
<b>Version</b>	Final

<b>Reviewed By</b>	Wendy Mullaney / Nicola Hewitt / Jenny Henman
<b>Date Reviewed</b>	January 2018
<b>Review Comments</b>	Final
<b>Signature</b>	N A Drake

# General

The purpose of this document is to provide developers with a guide on how to request a variation to their existing signed Agreement under Section 104 (S104) of the Water Industry Act 1991

A S104 Agreement is entered into by the relevant parties and once signed is legally binding until the system has been formally vested by Yorkshire Water. The Engineering Layout Drawing incorporated within the S104 Agreement shows the sewers proposed for adoption by Yorkshire Water.

Should a developer wish to amend the proposed adoptable sewer included within the S104 Agreement, a variation can be requested and Yorkshire Water shall determine whether this can be done by correspondence, by a Deed of Variation or whether the S104 Agreement needs to be terminated and a new Agreement put in place.

## Methods of Variation

When a developer wishes to make minor alterations to the sewer layout, a request to do so should be made to Yorkshire Water. Yorkshire Water shall determine whether the alterations are acceptable. If the alterations are deemed to be minor and are acceptable, the alteration to the S104 Agreement may be done by correspondence. All parties to the S104 Agreement must agree to the alteration in writing. Yorkshire Water shall then issue a side letter to the S104 Agreement confirming that the plan has been replaced.

When a developer wishes to have several sections of the system removed or added to / from the Engineering Layout Drawing incorporated within the S104 Agreement, a Deed of Variation may be required. All parties to the existing S104 Agreement will need to be party to any Deed of Variation.

If the variation requested is a complete change to the existing S104 Agreement and site layout, it may be determined that the Agreement cannot be continued in its current form. In that case, the S104 Agreement may be (with agreement from all of the parties) terminated and a new S104 Agreement entered into.

Yorkshire Water shall determine which method of variation is required on a case by case basis and has the right to refuse any variation request received.

### Contact Us

**E** : [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)

**W** : [www.yorkshirewater.co.uk/developers](http://www.yorkshirewater.co.uk/developers)

**T** : 0345 120 8482 (Monday to Friday 0800-1700)

**P** : Yorkshire Water, Developer Services (Sewerage Technical), PO Box 52, Bradford BD3 7AY

# Method of Variation

## Request Process

To allow a variation to be made, the following information needs to be submitted to the Sewerage Technical Team of Developer Services for review:

- a written request from the developer requesting a variation to the existing S104 Agreement
- copies of the approved Engineering Drawings incorporated in to the S104 Agreement clearly showing all the minor alterations proposed or a set of revised drawings where the alteration cannot be shown on the existing drawings (for major or complete changes)
- written confirmation from the developer and all parties to the existing S104 Agreement that they agree to the changes together with written confirmation that the developer shall be responsible for paying the associated legal and administrative fees.

Once the Sewerage Technical Team are in receipt of all required information, it will be reviewed for completeness. The team will also review the request in terms of viability. Once it has been determined that the variation(s) is viable, the team shall determine which method will be utilised to vary the Agreement.

If a Deed of Variation is required the Sewerage Technical team shall instruct Yorkshire Water's Legal Services team to prepare the necessary documentation. It is the developers responsibility to ensure that all parties subject to the S104 Agreement sign the Deed of Variation and the incorporated Engineering Drawings.

It is then the developers responsibility to return all signed copies of the Deed of Variation and incorporated Engineering Drawings to Yorkshire Water for signing.

The developer shall also be responsible for any fees incurred which must be paid at the time of returning the signed documents to Yorkshire Water.

Once satisfactory correspondence has been concluded (minor variation) or the Deed of Variation documents have been signed by all parties and completed by Yorkshire Water, we will update our records to reflect the changes made.

We will retain the correspondence or one copy of the Deed of Variation (whichever applies), alongside the original S104 Agreement for the named development site for our records. Likewise, the developer shall be required to keep the correspondence or Deed of Variation with their copy of the Agreement.

In the event that the existing S104 Agreement cannot be fulfilled as the site layout is in need of major or complete changes, it may be determined that the most suitable and, in some cases, the only option is to terminate the existing Agreement and all parties enter into a new S104 Agreement based on the new site layout. If this appears to be the case, the Sewerage Technical team shall discuss this option with the developer.



[@yorkshirewater](#)



[facebook.com/yorkshirewater](https://facebook.com/yorkshirewater)

[yorkshirewater.com](http://yorkshirewater.com)