

Developers Guide to Requesting a Deed of Novation to a S104 Agreement

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YorkshireWater

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General

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

The existing 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.

Should any party to the S104 Agreement wish to transfer their liabilities and benefits to another party and thus no longer themselves be party to the Agreement, a Deed of Novation can be requested.

Deed of Novation

A Deed of Novation effectively transfers one party's liabilities and benefits under a contract to another party. Therefore, a Deed of Novation applicable to a S104 Agreement would remove the requesting party and transfer the Agreement to a willing third party, with the consent of Yorkshire Water.

Yorkshire Water would consider a Deed of Novation request, only when the following situations arise when:

- a developer may no longer be able to trade or the company changes hands
- a developer has relinquished its responsibilities and sold the development site onto a different developer
- a developer may wish to change the Surety or to pay a Cash Bond

- the landowners details may change
- additional landowners may need to be added to the S104 Agreement.

Yorkshire Water will only agree to the request for a Deed of Novation, if there are substantial works still outstanding on the named development site.

Yorkshire Water has the right to refuse any Novation request received.

Contact Us



Email

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Visit

yorkshirewater.com/developers



Call 0345 1 20 84 82

Monday to Friday 8am-5pm.



Write to us

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Deed of Novation

Request Process

To allow a Deed of Novation to commence, the following information needs to be submitted to the Sewer Adoption, Diversion and Requisition Team of Developer Services for review:

- a written request from the developer requesting a Deed of Novation or, in the event that the developer has ceased trading, from the liquidator or administrator assigned to the company
- written correspondence from all parties of the S104 Agreement confirming the request
- confirmation that the details of the Surety are to remain the same. If not, confirmation of the new Surety/Cash Bond arrangements
- if the landowner will be changing, Land Registry information confirming such land ownership details will be required
- written confirmation stating which party is going to be responsible for paying the associated legal and administrative fees.

Once the technical team are in receipt of all required information, it will be reviewed for completeness.

When this has been deemed to be satisfactory, we will send the request to our Legal Department who will ensure all outstanding legal matters are complete, prior to preparing the Novation Agreement which will be legally binding.

All parties subject to the initial and novated Agreement will receive paper copies of the Novation Agreement prepared by our Legal Department. It is a requirement of all named parties to sign and return the copies of Novation Agreements to Yorkshire Water for signing.

Once the signed Novation Agreements have been signed by all parties and returned to Yorkshire Water we will update our records to reflect the changes made.

We will retain a copy of the Novation Agreement, alongside the original S104 Agreement for the named development site for our records.

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