



UKDP Private Sewers Transfer Follow Up Survey Results

Councils in England and Wales May 2011



Survey Foreword

UK Drainage Protocol works on behalf of councils to bring resolution to complex drainage cases involving multiple properties, managing communications and controlling costs to the benefit of all parties involved. In December 2010 UK Drainage Protocol undertook a survey of Environmental Health and Pollution departments across England and Wales in order to better understand their thoughts and opinions on the proposed transfer of private sewers. The survey highlighted areas of confusion over the impact the transfer may have on council departments, including what legal powers, if any, councils may retain over Water and Sewerage Companies (WaSCs) when defective systems created health risks. Similarly, many councils believed that they would still be involved in resolving drainage cases, but the role they may have to play was not clear.

In March 2011, Defra and the Welsh Assembly issued a report containing responses to the consultation undertaken on the draft regulations for the proposed transfer. A paragraph from this report states:

With regard to local authorities' powers to issue notices in respect of private sewers, these are unchanged and will remain following private sewers transfer. Local authorities' powers have never been applicable to the public sewerage system, in respect of the maintenance of which sewerage undertakers have statutory duties and operate to statutory minimum standards of service in addition to reporting standards set by the industry economic regulator, Ofwat.

Based on this updated information and as we near the proposed date of transfer of 1st October 2011, we undertook a brief follow up survey to understand how the views of Environmental Health Practitioners may have changed in that time, and what their current understanding is of their legal position with regard to WaSCs.

Notes to the reader

Respondents were provided with the option to leave additional comments after each question. Due to the volume of comments put forward, it was not feasible to include all of these in the printed report. Therefore we have included a sample of the comments provided under each question, and the full comments can be viewed and downloaded by visiting our website www.ukdrainageprotocol.com.

The original survey in December 2010 was sent to 330 councils, and 151 individuals responded representing 129 councils. To ensure consistency, the follow up survey was sent to the same people and we received responses from 131 individuals representing 113 councils.

Please note any references to specific WaSCs or councils within the comments provided by respondents have been removed to ensure that confidentiality is not compromised.

Executive summary

Communications between WaSCs and councils

We asked councils whether the level of communication from their local WaSC had increased, decreased or remained the same since the initial survey in December 2010. 65.7% stated that communication levels had remained the same, with 24.4% stating that levels had increased. When asked, based on current levels of communication, whether they believed their WaSC was communicating effectively with their council regarding the transfer, 26.7% answered Yes versus 52.7% who answered No. The percentage of councils responding negatively has remained the same since the survey in December 2010 – indicating that even though levels of communication have increased in some instances, this level of communication is perhaps still deemed to be too low.

Council involvement in drainage cases post transfer

We asked how councils would handle initial calls from homeowners suffering from drainage issues after the transfer date. The most common understanding is that councils will simply refer homeowners to their local WaSC for the problem to be resolved. However, when asked how they might react to a phone call from a homeowner when a drainage problem posed a potential environmental health threat, only 37.4% stated that they would take no action and inform the homeowner they must call the WaSC. 32.1% stated that they would contact the WaSC themselves to attempt to get resolution with a further 19.1% stating that they would attend site to ascertain the extent of the issues. If they were contacted again about the same problem which remained unsolved, only 11.5% of respondents would take no action and refer the homeowner back to the WaSC, with 63.4% contacting the WaSC themselves. 7.6% of respondents would seek to take formal or legal action against the WaSC at this stage. The responses indicate that councils foresee themselves retaining an active role in resolving drainage cases post-transfer, and these relationships must be managed closely to avoid costly and time consuming issues for all involved.

Council legal powers over WaSCs

Despite Defra clarifying their position that local authority powers have never been applicable to the public sewerage system, 44.3% of respondents said that they still believed they would be able to serve statutory nuisance notices when WaSCs failed to resolve a drainage issue creating a public health risk. This is in comparison to the 30.5% who believed that councils would have no legal powers over WaSCs including the use of statutory notices. Supporting comments from councils indicated that some had successfully used this course of action against WaSCs on public sewers, but there were many other conflicting views as to whether or not other respondents believed this to be possible.

1

The results of the survey in December 2010 highlighted that only 26% of respondents felt that the WaSC in their area was communicating with them effectively. As we move nearer to the proposed transfer date of 1st October 2011, has the communication from your WaSC:

	RESPONSE %	RESPONSE count
Increased	24.4	32
Decreased	1.5	2
Remained the same	65.7	86
Don't know	8.4	11

Comments

- They have sent a questionnaire requesting general information.
- Getting next to nothing in information from WaSC in our area, only information is coming from contacts I have.
- Unless we are dealing with a specific blockage/repair we have very little if any communication with them.

ANSWERED QUESTION 131

SKIPPED QUESTION 0

2

Please provide an answer to the question previously asked in December 2010, based purely on current levels of communication. Is the WaSC in your area communicating effectively with your council regarding the proposed transfer?

	RESPONSE %	RESPONSE count
Yes	26.7	35
No	52.7	69
Don't know	20.6	27

Comments

- Although they have stated an intention to talk further with us about the transfer, I am not convinced they appreciate fully what they will be taking on. Therefore, though we still have some months to go, I would have been happier if we had started talks by now.
- I would suggest [the WaSC] advise all local authorities in writing of the protocols they will have in place prior to the transfer taking place.
- On a regional basis at the moment I believe they are doing what they can, given the current level of knowledge of the situation but it is felt that there isn't yet an effective one-to-one communication method.

ANSWERED QUESTION 131

SKIPPED QUESTION 0

3

The response document on the consultation on private sewer transfer regulations states that local authorities' powers have never been applicable to the public sewerage system and that this will remain the case following transfer. However, some respondents to the survey in December 2010 indicated that they believed a Statutory Nuisance Notice could be utilised if WaSCs failed to resolve problems in acceptable time frames. What is your understanding of the legal situation post-transfer?

	RESPONSE %	RESPONSE count
Councils will have no legal powers over WaSCs, including statutory nuisance notices	30.5	40
Councils will be able to serve Statutory Nuisance notices when WaSCs fail to resolve a drainage issue creating a health risk	44.3	58
Councils will be able to utilise other legal powers (please specify)	2.3	3
Don't know	22.9	30

Comments





- This urgently needs clarification and guidance from government.
- Seeking guidance from solicitors regarding the appropriate course of action specifically for accumulations and prevention of damage by pests.
- Statutory Nuisance notices are regularly served on WaSC where non-compliance has been an issue. May also be able to use environmental damage regulations if the spillage/defect/pollution is significant enough.

ANSWERED QUESTION 131

SKIPPED QUESTION 0

4

The majority of respondents to the original survey stated that they believed they would still be involved in resolving drainage cases beyond the proposed transfer. If you or your team receives communication from a homeowner after the transfer date regarding a surcharging drainage system off the boundary of their property creating an environmental health threat, how are you likely to respond?

	RESPONSE %	RESPONSE count
Take no action and inform homeowner they must call the WaSC	37.4	49
		
Contact the WaSC to attempt to get resolution to the problem	32.1	42
		
Attend site to ascertain extent of possible issues	19.1	25
		
Undertake surveying or clearance work	0	0
Don't know	11.4	15
		

Comments

- At present our current resources are often expended on proving to the WaSC that the problem is one on an existing public sewerage system, so unless there is a change of culture at the WaSC and they take responsibility for investigating all customer reports of drainage issues I cannot see how this is likely to change.
- Inform householder of changes in first instance but follow up with visit if necessary if problem not resolved.
- We cannot ignore a call from a resident and under statutory nuisance we are legally bound to investigate the nuisance e.g. a surcharging foul sewer if a health risk and not being dealt with by WaSC.

ANSWERED QUESTION 131

SKIPPED QUESTION 0

5

If the situation remained unresolved and the homeowner contacted you or your team again, how would you be likely to respond?

	RESPONSE %	RESPONSE count
Take no action and inform homeowner they must call the WaSC again	11.5	15
Contact the WaSC again to attempt to get resolution to the problem	63.4	83
Seek to take formal or legal action against the WaSC	7.6	10
Register a complaint or raise the issue with a third party (please specify with whom)	3.8	5
Undertake surveying or clearance work	1.5	2
Don't know	12.2	16

Comments

- If the WaSC continues not to resolve the problem, I would send an officer down to site to check the problem and if necessary register the issue with a third party.
- I'd like to tick more than one box for this answer since I can envisage circumstances when we would undertake clearance work in an emergency. We may also pursue a complaint with the WaSC (which could include legal action).
- I appreciate this may be a matter of policy. However, I do feel that once we have made an initial assessment of the situation and advised the homeowner, I would not propose to get involved further.

ANSWERED QUESTION 131

SKIPPED QUESTION 0

6

Please provide any additional comments or opinions on the transfer that may not have been included in the questions above, or any ongoing issues relating to the transfer that you feel need to be addressed.

Response count 44

Comments

- I have read the response to the consultation and don't feel that it answers some of the problems raised and that we foresee. I am also concerned that things seem to have 'gone quiet' from our WaSC. We really need to see the final regulations and the guidance to accompany them ASAP. We also need to have confirmation from our own WaSC about how the transfer is to take place, how it is to be communicated and what actually will happen post transfer regarding who the public are to contact when they have a problem.
- It would be useful if local councils could have a 'pre-transfer' meeting with the WaSC before October 2011 to discuss a generic protocol to be used after the transfer date which would hopefully help in the communication between us and we would also be able to address any issues raised over the transfer.
- Just the lack of guidance to the urgent question regarding what happens if the WaSC does not respond quickly – this must be resolved pre-transfer.

ANSWERED QUESTION 44

SKIPPED QUESTION 87

