

Unedited comments from UKDP Private Sewers Transfer Survey Follow Up Results

A number of questions within the report allowed for respondents to make any additional comments they felt relevant. Due to the volume of additional comments made, however, it was not feasible to include them all within the main body of the report.

The following is the full and unedited comments from each question. Please note that we have not made any amendments to the text to ensure the content of the comments has not changed. The only changes made are those that might have otherwise compromised the confidentiality of the responses e.g. names of councils or specific WaSCs.

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:

- Increased
- Decreased
- Remained the same
- Don't know
- Supposed to be organising further meetings!
- We get very little communication from [the WaSC]
- Haven't been aware of any to date; mentioned in discussion with WaSC employees about a different topic and they thought it was coming in Oct 2012!
- [WaSC] representatives to liaise with LA colleagues via public health liaison group in the near future
- I have recently taken over as the management of this function and am not aware of previous communication and may indeed still not be getting what is intended - so it is unfair of me to comment further in this regard
- They have sent a questionnaire requesting general information
- I work in the Food Team so we have little direct contact with our drainage team
- We were recently briefed by [the WaSC] and the information was very useful given the fact that we're all still waiting for legislation to make this happen
- Received no communication in Environmental Health to date
- Getting next to nothing in information from WaSC in our area, only information is coming from contacts I have
- No personal contact
- Public Protection Service is not the Department that leads the dialogue on transfer with WaSC in the Authority
- No direct contact received
- We have heard nothing yet from them
- Meeting arranged by [the WaSC] to discuss any TUPE implications of the transfer
- Communication generally poor

- Have set up a multi agency 'Making Space for Water' group, but colleagues in the water/sewage industry are also uncertain as to how the changes will be implemented and the impact on them
- Local WaSC made contact particularly over this issue
- Having informally spoken to staff from the Water Company they have not yet made any contact with the council
- Don't get any
- Good communications and working relationship with [the WaSC]
- Communications with [the WaSC] have been minimal. I have attended 1 workshop jointly organised by CIEH and although there was promise of other workshops and information, nothing has been forthcoming. I have tried to make contact this week requesting an update on progress, specifically in regard to 4 targeted discussion working groups to be formed but have still not had a response.
- I have tried to engage with [the WaSC] but on speaking with their management on two occasions to arrange a meeting I have still heard nothing back and they have not engaged with us to meet
- I have had a meeting with agents of [the WaSC] and provided them with some information
- It has been very poor on the whole - we have to find information as communication continues to be an issue affecting the understanding of what these changes will mean to local authorities and their drainage teams for nuisance and public health complaints
- Office meetings with [the WaSC] representatives
- Unless we are dealing with a specific blockage/ disrepair we have very little if any communication with them
- No further communication has occurred
- No communication from the water and sewerage undertaker since the last annual health liaison meeting in November 2010
- Communication has been poor and has not improved recently.
- Meeting held re TUPE
- [The WaSC] has a proactive approach and are asking for information. It is our view that collating the information is a consultancy function, and some of the information is not ours to share
- I am satisfied with the level of communication
- No communication at all
- But I would say the communication has always been good
- What communications?
- The sewerage company was approached and agreed to provide a contact point for transferring details of previous known problem areas. The EHO group also received a presentation on this subject from the sewerage company
- There has been no communication through the Environmental Health Service and I've not been made aware of any communication with other Council Services
- A representative did a presentation to a group of local authority officers about how the transfer was progressing and how it would work in practice
- No contact made by Water Company to L/A regarding arrangements post transfer
- We have had since a questionnaire from the local WaSC asking what information we have and whether we are prepared to share it with them
- We have not had any communication with the Water Company regarding this matter
- No communication from the WaSc

- There have been two regional workshops and a follow up email which summarized the main areas of concern for LAs and the water company but we are all in the hands of Defra to produce timely guidance material to allow planning for the transfer and dealing with the aftermath
- Have had no direct contact from the WaSC
- A small increase, but only to 'minesweep' the LA for any documented information or local knowledge on existing private sewers and any associated problems
- I have had limited contact with a private company acting for [the WaSC] and agreed that a working group is required to ensure smooth transfer, that's it so far
- We have had no communication from them whatsoever

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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?

- We have heard nothing from them on this matter
- See above
- I have had one communication from [the WaSC] which I responded to positively
- Received no communication in Environmental Health to date
- They have not discussed this issue with us, but then to be fair I have not discussed it with them either
- No personal contact
- 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
- See above
- As above
- Meeting held on 26th January 2011 between WaSC; local authorities and drainage consultants to discuss transfer of private sewers
- As a district EHO, I am not aware of any communication from the two WaSCs serving our district but that's not to say that it's not occurring at "Chief Officer" level
- 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
- We have had no contact from them at all, however this is not unusual
- No direct contact. Raised at Making Space for Water forum
- No formal contact and they only contact came as a result of me discussing with them but only because I happen to be speaking to them on the phone about an ongoing drainage problem
- I believe that there may have been contact with the Council's Highways Property and Works Dept. Some contact also made with the Environmental Services & Housing Dept
- Nothing at all
- Partially, I have attended a workshop at [the WaSC] in March 2001 along with other local authorities. Since this time I have received a small amount of information in the form of workshop findings etc however the situation has gone quiet of late
- Environmental Health have not been directly contacted by the WaSC, but they may have contacted other departments regarding the private sewers that the Council may own
- Very little further information received
- I have not heard from [the WaSC] directly

- It's not filtering down to myself
- It could be an internal issue for the Council but I don't believe so- for drainage teams dealing with nuisance and public health the communication has been very poor
- As far as I know they haven't approached EH at this stage
- A regional workshop is planned this month
- No communications received from [the WaSC] directly
- Refer to comments above
- There has been no communication through the Environmental Health Service and I've not been made aware of any communication with other Council Services
- We have had no direct contact. However they have made contact with a central county person and requested details of one officer from each LA for them to contact
- We have had communication with our WaSC and they are currently waiting for the regulations before further discussions will take place
- No communication from the WaSc
- On a regional basis at this 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
- With 6 months to go I would have expected more formal contact than received. To date, we've been telephoned by a business manager asking if there's any held information that could be passed on
- As above limited contact (only researching regular problem areas) one can only hope the contact improves, or perhaps [the WaSC] believe they have it all under control

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?

- More likely to use Ofwat complaints procedures
- In theory I guess we could - I know Councils have successfully used stat nuisance notices against WaSCs for odour. In the first instance I would probably refer them to the CCW
- Drainage issues causing nuisance or risk to health (EPA90:s79)
- This urgently needs clarification and guidance from government. If we cannot take action against WaSCs we are at their mercy - as stated above communication from [the WaSC] is dreadful and I have no faith at all that they will deal with issues in a timely manner
- Current understanding is that no change to existing powers (Stat Nuisance Building Act, Public Health Act) just that responsible person will be different in some cases
- Still awaiting clarification as to this matter. Can see a legal challenge from the WaSCs against a LA that initially serves notice
- Because they are private companies
- We would still wish to apply Stat nuisance in case of a failure to act by our local sewerage undertaker
- Service would likely be based on Act, Default or Sufferance and will depend on circumstances and evidence of stat nuisance
- Whilst sewers are not premises for the purposes of section 79 EPA it may be possible to take action where sewage is on the surface and is a nuisance under 79 (1)e accumulation or deposits. Failure to resolve an issue might be better dealt with through OFWAT

- We have always had a good working relationship with the WaSCs so we are not anticipating any problems. If public health issues arise they will get resolved
- We have served in the past notices in regard to the public sewers
- Seeking guidance from solicitors regarding the appropriate course of action specifically for accumulations and prevention of damage by pests
- It's my understanding that we have no powers, however, I have not yet had to look for case law to show one way or the other. In my experience, while WaSCs may argue the point as to whether a sewer is their responsibility or not, they do usually do the work once shown it is public even though on occasion it has been necessary to pester them
- I would need to research the statutory nuisance provisions and probably get legal opinion on this
- Don't think there is much doubt about this-see recent case of West London Councils and Thames Water re: Mogden Lane
- This depends if a "sewer" can be classed as "premises". The Act should make clear if a "private sewer" will exist anymore. By definition if the Water Undertaker will be responsible for what were private sewers they will become public sewers, the same as sec 24 sewers were public. There should be no difference. If this is the case the present legislation should be amended and the relevant sections dealing with private sewers revoked
- It has not been made clear by parliament what the situation will be, for our powers not to be applicable legislation will be needed
- Still unclear as to what drainage powers will be available but understand can always fall back on stat nuisance
- If a stat nuisance or public health risk is witnessed then the WaSC as the owner of the sewer would be responsible to abate the nuisance
- Still have no more information. S59 BA 1984 may remain but this has not been confirmed.
- There is recent case law under section 33 Environmental Protection Act (EPA) where a WaSC was successfully prosecuted for not dealing with sewerage contamination (legally regarded as waste). Also under section 80 EPA a WaSC could be liable for sewerage contamination of premises/land or where there is a health risk due to their act, default or sufferance whichever is applicable
- Please let me know if my answer is incorrect!
- Some opinion from CIEH, suggests that it may be an option
- The notice must relate to accumulation or deposit of sewer contents and not to the sewer as premises
- Stat nuisance notices have to be served on the person responsible for the nuisance. If the blockage is in a lateral drain this will usually be the WaSC. If it is inside the curtilage it will be the property owner (or possibly occupier). However in most cases it will not be evident beforehand whether the blockage is located inside or outside the curtilage. Where the person responsible can't be identified the EPA requires service on the owner and it is foreseeable that WaSC's will be able to sit back and let this happen, knowing that in most cases the location of the blockage will still not be known even after clearance, and that owners will not be in a position to bring a provable claim for reimbursement
- I don't think this statement really clarifies the situation. Whilst we have never been able to serve Building Act notices on the water company for defective public sewers does the transfer of private sewers mean they then become part of the public sewerage system? This in effect would mean we can't serve Building Act Notices? However, I am interested in the thought that we might be able to use S.80 of EPA but would have to look into it in more detail. I am very concerned that there may be a dispute between LA and [the WaSC] about the location of blockage/defect especially if it is near or on the boundary where a private drain becomes a lateral drain. While this dispute is being resolved, the customer/householder is suffering and this will lead to a deterioration in current levels of service. This is a view expressed by several of my colleagues in Environmental Health and our ALMO which deals with the Council's own housing stock

- So far I have had to serve notices on the owners of the properties and it is only when the matter is proved to be the responsibility of the WaSC. Have they taken over the full responsibility and finished the job
- As the consultation response document states, LAs have no powers in relation to the “public sewerage system”. We have always had the ability to serve an EPA nuisance notice for an accumulation which was caused by a public sewerage system (e.g. raw sewage escaping). Of course, we must be reasonable and expect that with any defect there will potentially be some accumulation. History tells us that WaSCs are often reluctant or slow to clear accumulations caused by defects / blockages. I noticed that one respondent said we don’t have these powers as sewers are not “premises”. They’ve got confused by case law on sewage treatment works. The reality is that we CAN serve an EPA notice on the person responsible for an accumulation, wherever it may be. Whilst we have never actually got to the point of serving an EPA notice, we’ve found the threat of it to their legal department ensures swift compliance
- Our understanding has always been that Local Authorities do not have legal powers against sewage undertakers with regards to foul sewers. The only person that can take enforcement powers is the Director General of Water Services or the Secretary of State
- There were some comments by on this issue by the CIEH. Cannot serve a s80
- No practical experience of having served such a Notice but appears to be practicable in principle
- The sewerage system itself may be outside the powers available but the land surrounding it is not. If a blockage causes a Statutory nuisance by overflowing and contaminating someone’s property or a public highway/footpath etc, and the one by whose act or default the nuisance arises is the WaSC, then as I see it we can serve a notice. The Company itself has no immunity in law
- Stat 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 above to the best of my knowledge
- This area of the law will require clarification post transfer as no information has been forthcoming from the industry
- This would depend upon circumstances i.e. a surcharge of foul sewage from a public sewer within the curtilage of premises could be the subject of an abatement notice for an accumulation which is prejudicial to health if the WaSC did not resolve the problem within a reasonable time. However if this were in the highway the legislation would not apply
- It is our understanding that statutory nuisance is not applicable to public sewers as they are not ‘premises’ as defined by the EPA 1990. I am aware from training courses that I have attended in the past of the opinion that the ‘imminent risk’ powers contained under the Housing Act 2004 may be used to deal with overflowing drains that are presenting an imminent risk to health. I have not needed to use this power though
- Nuisance provisions whilst theoretically applicable to “premises in such a state as to constitute a nuisance” cannot be used to address defects or blockages in sewers unless as a consequence it is causing raw sewage to surcharge into a residential property which in practice is highly unlikely
- We can also use section 17 of the Public Health Act 1961 to take enforcement action
- This may be open to legal challenge at a future date if there are issues of public health significance e.g public sewer not cleared by water authority resulting in sewage ponding in residents gardens etc. The EA recently won a case against [the WaSC] after a seven year legal battle over the definition of controlled waste where a similar situation occurred. Local authority may decide that such a situation could be considered to be prejudicial to health under statutory nuisance legislation
- Not sure whether public sewers can be construed as ‘premises’ under the EPA 1990 for LAs to deal with as statutory nuisance

- WaSC's will be responsible to Owfat to answer for their service delivery. A memorandum of understanding on expected responses from WaSC's would be helpful to know what is expected nationally
- Possibly depending upon circumstance - and case law?
- I have always maintained that in the event of a defect with public sewers LA's have regulatory powers, and in the past I have used these for blockages and odour issues
- I am unclear about para 15. If what is presently considered to be private and lateral sewers are transferred to the WaSC does that mean they are then considered to be public? If the answer is yes then could s.80 notices under the EPA 90 be served on the WaSC as the "person responsible" for a premises to be in a state prejudicial to health and with the powers for the council to carry out works in default?

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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?

- And from there possibly undertake clearance if not complicated or costly, or advise the homeowner at that point to contact [the WaSC]
- Would tick all boxes: Any / all of the above depending on circumstances of each individual case
- It may well be a combination of all of these depending on resources etc. Also I am happy to work with our colleagues and would suggest that a MoU might be useful post transfer
- We were advised to do this by [the WaSC] who are confident that they will be able to manage
- It will be a mix of 1/2/3 depending on circumstances. We will still be expected to assist our residents informally, even if we cannot enforce. We may ask resident to pass on or pass on direct ourselves or inspect first to find out exact problem if unclear before passing on. We cannot ignore a call from a resident and under stat nuisance we are legally bound to investigate nuisance e.g. a surcharging foul sewer if a health risk and not being dealt with by WA
- In most cases the issue would be referred unless it was obvious that it was a drain. Most stoppages reported to us are in private or public sewers
- If on the other hand the homeowner has contacted the WaSC and the WaSC is not co-operating we would intercede on behalf of the homeowner. However, I would send an officer to site to view the problem to ensure the nature of the problem
- And attend the site to ascertain the public health risk if necessary
- I have ticked Don't Know only because you won't accept multiple answers
- The choice between the first two will depend on arrangements that we agree with our water company and 3 and 4 could apply, depending on circumstances
- Don't know yet as there has been no liaison or contact with [the WaSC]. This area of work has largely transferred to another team in [our council] who have far less experience, knowledge and expertise in dealing with drainage cases but I know they have had no contact. They are expecting nearly all drainage work to be taken over by the WaSC I think
- Will still need to take action for some private drainage, such as septic tanks etc
- Agreed written protocols should be provided and discussed with the LA's prior to introduction
- We will take no action as a. Responsibility is with the WaSCs, and because we have had our funding cut from April this year although we remain responsible until changeover
- We should always determine if a public health issue exists

- We are still undecided as to how our procedure may change following the transfer
- First inform homeowner to contact WaSC direct, then contact them ourselves if not resolved, then attend site if still not resolved - as present really when dispute over responsibility
- Don't yet know
- Attendance preferred on the basis that prevention of threats to public health will take precedence over the machinations of the law
- It depends on whether the local Authority maintain any resources to deal with drainage issues after the transfer date. 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 in 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. However, as there is a risk that we will lose the resources we currently have as elected members are given the impression through publications and media that the WaSC's will be dealing with all sewer issues
- There is pressure on LAs to minimise involvement because of budgetary constraints. In reality, LA officers are likely to investigate issues before making decisions
- We would assist customers if they were experiencing difficulty or reluctance by the WaSC to act
- Possibly a mixture of the above
- Initially refer to WaSC for further investigation
- Probably a combination of all or any of the above depending on circumstances
- The initial indication from [the WaSC] is that post transfer they will take all calls relating to blocked sewers, hence the response above. However, as highlighted in Q.3 I am concerned about dispute areas and feel that we will still be going out to drainage complaints to try and confirm whether or not the responsibility lies with the homeowner or [the WaSC]. Past experience of dealings with [the WaSC] tend to back this up
- Not sure really, likely that we would probably be involved in the short term
- I predict that my presence will still be necessary in some cases to resolve the matter
- We may attend to see the extent of the problem and offer advice and guidance but I do not believe we will be able to take action against the WaSC
- The "take no action" response is the most appropriate but in reality we will undoubtedly offer advice as well and ask that the homeowner comes back to us if they are having trouble getting the WaSC to resolve the issue
- We would also advise the complainant to contact the WaSC
- Probably some of the above. Attend on site to determine problem location. Contact WaSC if necessary on residents behalf. Ultimately if it is off their boundary its WaSC resp. I'm concerned about how quickly they will action it
- If it was needed to ascertain whether the problem was in a drain or sewer first, then a site visit would be likely. If it seemed to be highly likely to be a shared sewer, we would inform them to contact the WaSC. We may also attend site anyway if the surcharge was severe
- To be fair to [the WaSC] we normally have a good working relationship and I do not think that they will shirk their responsibilities. I envisage that we may have to give them a call if the customer receives no joy but then the work should be carried out. There may still need to be some investigation from us if [the WaSC] think that the sewer is a private drain. BUT if there is no action from WaSC we would investigate and deal with the matter, AND, in all cases where there is prejudice to health there is a duty to investigate and deal accordingly under EPA s.80
- I take the view that most people would be able to instigate their own initial survey to ascertain whether or not more than one house is involved but there will be some who for one reason or another will not be able to
- Difficult to know due to lack of clarity and communication

- Site attendance will be the option of last resort as current resources are already limited
- We may attend if that is necessary to determine if it is on a sewer or lateral that the WaSC is responsible for. The problem could be on a neighbour's drain before it connects to the 'private' sewer and in these cases we'd be responsible for action against that homeowner. If there's doubt over the exact location of any blockage or defect, we'll try to get the WaSC to undertake investigations, rather than incur any costs ourselves wherever possible
- I think it would depend on the context of the problem. Some individuals are more capable of dealing with issues than others as they possess the requisite personal and communication skills. Others are more vulnerable and may require our assistance. I would like to see open communication with the WaSC that allows for reasoned discussion and problem solving to take place in a professional manner taking account of each other's needs and priorities
- We need to draw up a protocol for dealing with drainage issues following the transfer
- At this stage post transfer arrangements with the WaSC's have not been agreed ie will all drainage problems be referred to them for initial investigation or not and then forward anything they are not responsible for to LAs?
- Likely to be combination of options 1&2 and possibly 3 in extreme cases
- Currently, our approaches to the WaSC contact centre meet with a varied response with regard to responsibility for a surcharging system - some we win, some we lose. I don't see a huge difference in this post transfer, though I'd expect to 'win' more!
- Inform householder of changes in first instance but follow up with visit if necessary if problem not resolved
- This is only a knee jerk reaction as I am still in the dark without specific guidance

5

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

- Would expect to speak to duty manager as currently the case with water supply disruptions protocol
- I would anticipate having contacts with the WaSC enabling an escalation
- Probably advise the homeowner to keep on at WaSC and also I would offer to make a call to them on their behalf. Would also advise re. Ofwat/CCW. Would possibly visit at this stage too
- This would depend on any guidance received as per Q3 above - if we could serve a notice on [the WaSC] we would do without hesitation
- As above
- I would follow up with formal action
- See answer to 4 above
- Or contact the consumer council for water
- We certainly would not leave residents in a situation that could threaten their health. Depending on the situation we would try the informal route and act formally where / when necessary
- This is the initial response if nothing done when passed on
- OFWAT
- 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.
- See comments to Q.4
- Awaiting formulation of a policy/procedure
- Could do several of the above, they are not mutually exclusive

- We are still undecided as to how our procedure may change following the transfer
- Then continue to next stage as above
- As above
- 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)
- It depends on whether the local Authority maintains any resources to deal with drainage issues after the transfer date. There is a risk that we will lose the resources we currently have as elected members are given the impression through publications and media that the WaSCs will be dealing with all sewer issues
- Probably a combination of all or any of the above depending on circumstances
- This is a difficult question to respond to as depending on circumstances we may do any of the above. However, in trying to resolve a problem for a householder it is likely we would visit, determine responsibility and then contact the WaSC. If the situation still remained unresolved I think we would be looking to take formal or legal action against the WaSC
- Very often I have to contact the WaSC to resolve these kind of complaints
- If this fails, then I would look to speak to a WaSC supervisor
- We have not really decided how we will act post transfer- it is still unknown but it is a WaSC - communication has always been an issue - unless of course there is a local agreement between [the WaSC] and local authorities as we have with fire safety enforcement in HMOs and the fire brigade?
- If it is a matter for the WaSC we would again attempt to get resolution to the problem and advise the complainant to contact OFWAT
- If it is definitely a WaSC issue of responsibility I would do the first two options. However it would be helpful to know if we have any formal recourse with the WaSC and if there will be a formal complaint process that the resident and the LA can use
- Recommend to the homeowner that they commence the complaints procedure leading to the involvement of the industry regulator
- If the situation wasn't resolved we would be likely to contact the WaSC ourselves to find out why there is still a problem hopefully aid the homeowner liaising with the WaSC to get it fixed
- Probably a mixture of the above. We wouldn't let a public health risk carry on indefinitely so would be likely to undertake work. However, we would look to the WaSC for assistance initially
- As with all legal actions, we would strive to ensure the informal route has been exhausted before beginning legal action
- Could be any of the above would be case specific, we would investigate and deal with it as we now do. The land owner could be ultimately responsible? But serving on WaSC is a possibility if they are determined to be responsible
- I appreciate this will be a matter of policy. However I do feel that once we have made an initial assessment of the situation and advised I would not propose to get involved further
- The Council will not wish to act beyond a mediation role, unless there is a clear case requiring further action. In this instance it is likely to be referred to the sewerage company regulator
- We would probably try a mixture of the above options, but if serious enough we might engage a contractor to deal with the problem, then ask the WaSC for reimbursement. We have already done this with existing public sewers when the WaSC has not responded satisfactorily
- Not sure we can take legal action. Stat Nuisance doesn't appear to cover this, other than the land itself being prejudicial to health or a nuisance, but this would involve action against the landowner, not necessarily the WaSC. We'd need to take legal advice before we consider action. If the private sewer effectively becomes a public sewer on transfer ie. It becomes adopted, then powers to deal with private sewers under S.35 LG(MP)A or S.59 BA'84 could not apply

- My answer is similar to question 4 with the additional comment that if it were felt that the WaSC were being unreasonable or unhelpful then the Council retains the right to take the matter further as it sees fit
- First contact WaSC again depending on the responsibility determined by investigation / site visit. If no further response by WaSC:
- If issue was serious - complaint to ombudsman / Calling Senior representative of WaSC to council's overview and scrutiny committee. The obligation to attend o/s committee needs to be looked at
- Contact would be relatively brief but would cite the WaSC own published response time standards back to them. Previous experience with WaSC responses to blockages in the public sewer network has been very positive and professional so we don't envisage a significant problem in this regard. When dealing with sewer or pumping stations in need of major repair or improvement involving significant capital outlay the response is less positive due to internal issues within WaSC regarding how they plan the funding for capital work. Difficult to get them to address issues outside of their planned capital works programme
- If the problem is occurring on a shared system we would contact the WaSC to resolve the matter. However, we would take action if the matter was clearly a private problem affecting the complainant alone
- I would contact the Communications Director for the water company in question to get the matter resolved as it would take forever otherwise
- Need to devise a protocol with the WaSC - hence the need for communication
- As per answer to 4, depending on finalised arrangements it could be any of the above options
- As above
- The questionnaire only allows one response, though in reality I would assume the LA would additionally take formal action against the WaSC. Survey or clearance work could, of course, only be undertaken if the LA is left with any physical resources post transfer
- Take up matter with [the WaSC] first and then follow up with formal action if unsatisfactory response
- This is only a knee jerk reaction as I am still in the dark without specific guidance.

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.

- New system should lead to prioritisation of workload for water utilities we expect km of network to be double what they deal with at the moment they were astonished we dealt with them on the day received in the office
- I am concerned that WaSCs will have the ability to refuse to adopt certain private sewers/lateral drains as failing to meet criteria in s102 WIA (method of construction/state of repair) ... and these are likely to be the ones that have the most problems. If my understanding is correct!
- No details, planning or contingencies discussed at all with WaSC
- Just the lack of guidance to the urgent question regarding what happens if the WaSC does not respond quickly - this must be resolved prior to the transfer
- It would be useful if it was made clear who will be responsible for cleaning up the sewage spills on private or public land following the unblocking of a sewer
- I am unaware that the stat nuisance legislation could not be applied to organisations such as the WaSC as they are private. Other drainage legislation will no longer be applicable
- As with all change there will be elements of challenge that will in the fullness of time be met

- Some government movement on this issue + legislation would be useful because Sewerage companies need to give two months notice before transfer...which doesn't give them much time to do so
- The issue of Local Authority powers to serve statutory nuisance notices against a WaSC needs to be addressed and clarified by UK/ Welsh Assembly Government BEFORE this matter progresses further so as to avoid any threat of risks to public health and general misunderstanding regarding the traditional role of Local Authorities in Public Health
- Just to reiterate the point about water companies appreciating exactly what they are taking on
- I suspect [the WaSC] will be very unresponsive and let residents contact the Local Authority who are more accessible and easier to complain about through Councillors, M.P.'s and the local complaints system/Ombudsman
- Whilst transfer appears to still be on track for October, there appears to be very little (no?) publicity to home owners on the matter. It would therefore appear that, unless information is sent out in September/October, the first Home Owners will know of it is if they have a problem, ring their local authority and are directed to the WaSC. The cynic in me thinks this may be to stop Home Owners "sitting on problems" until the WaSC take responsibility!
- Written protocols should be provided and discussed with LA's prior to the introduction of the Act
- Most colleagues are concerned about the situation in q5, where the WaSC do not deal with a public health matter in a timely manner, the lack of communication from them and government does little to allay this fear
- Still unclear on the date of transfer, the mechanism and the transition as well as what the undertakers will do to respond to blockages, breaks and collapses
- Information on logistics of transfer still not being communicated by WaSC although info and interactive maps have now been placed on web address regarding the transfer
- Will not alleviate problems of assessing responsibility, reliance on existing maps etc will not be adequate/accurate. will not resolve public health issues of those with public sewers passing through a single curtilage as happens now. Concern about WaSC resources for responding
- So little (or none) contact has been made by the water company in our area that things remain unclear
- The only contact I have had is informal chats with junior staff who say that the water companies are still unhappy with the adoption powers
- I think that the communications relating to this issue are critical to ensure that all stakeholders are clearly briefed on who has responsibility for what and who is expected to investigate issues. As I have stated previously there is currently a risk that Local Authorities will lose current drainage resources as directors and Members believe that after the transfer there will be no need to retail these resources
- Education and information is important, as the public are mainly unaware of the current and proposed rules
- [The council] undertakes a substantial amount of drainage investigation work and currently have a good working relationship with our WaSC however only time will tell following the transfer. We accept that Environmental Health will still have a role to play, most probably in the form of mitigation
- The response suggests existing enforcement powers will remain post transfer. Does this mean that we are supposed to consider still using s35LGMPA76 to get a transferred private sewer cleared? Ditto s17 PHA61 or s59BA84 to deal with transferred laterals and private sewer defects? That's crazy! Unless these bits of legislation are amended we will have overlapping and conflicting powers that oblige us to serve notices on private owners in respect of pipes that have become the WaSC's responsibility. A "drain" will still be a drain even if it becomes a post transfer lateral, but the legislation confines us to serving only on the owner or occupier of the property it serves. Major scope for conflict if this is not resolved

- 'Guidance' on curtilage has been promised - but unless this is made very clear and given some teeth the track record of WaSCs trying to evade responsibility for existing s24 public sewers suggests they will continue to opt out of accepting some of those that are currently disputed - the biggest being drainage systems on ex-council housing estates
- 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 own 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
- There is still time so that it is not a complete mess but I feel Defra should be providing more guidance or guidance pre-transfer so that local authorities are clear on responsibilities etc
- Perhaps some more clarification on issues where systems end in a septic tank or treatment plant. These don't appear to be part of the transfer and our LA does quite a lot of work in this area so workload will not fall in correspondence with the number of drainage jobs we get overall. Whilst I don't expect Government to give LAs the ability to take legal action on WaSC if they don't do their jobs, it's a worry that we have, mainly in the shorter term whilst they find their feet
- Hope to achieve good working relationship with WaSC prior to any formal action
- Please confirm if this transfer is definitely going to take place and when 2. Better liaison needed - heard nothing from WaSC
- Provide legal clarity for councils on the legal action in relation to public sewers.
- 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. Hopefully this would make things run smoothly and any uncertainties that local councils had would be addressed
- Only time will tell how complaints will be resolved to the satisfaction of all parties
- Most blockages that start from public sewers will involve a lot of discussion between LA, WaSC & owner to resolve; putting a system in place to facilitate this is mandatory for a smoother transition
- If WaSC continued to be obstructive and uncooperative then we would consider taking formal action
- If a blockage occurs on a private drain, whether or not the blockage is within the curtilage of the affected property can only be decided by rodding to find out where the blockage is, in which case whoever undertakes the rodding might just as well go on and clear it and they almost certainly will. I take the view that in a case where a drain serves only one property, the responsibility for the maintenance of that drain should remain with the owner/occupier of that property irrespective of where the blockage is. That is within the curtilage of the property or not
- Our Local Authority has had no contact with WaSC but we do know the Water Company that covers our area
- We still feel that the public will contact the Council for advice as many are unaware of the transfer
- I still believe that private drainage systems with ongoing problems will not be covered and in a last minute panic the WaSC will contact the Council for recent records to see if they can pass existing problems back to the owners. There is also an issue where a shared private sewer is used by private owners and tenants of Housing Association properties
- General comment regarding TUPE of any affected staff
- I understand that the relevant regulations may be delayed until April 2012
- The legal position regarding LA enforcement powers needs clarification. ie: do we have any or not
- We are looking forward to making new system work for the benefit of the public at large

- The transfer is long overdue - cuts out huge amounts of unproductive survey work trying to identify the beneficial users of sewers to confirm liability prior to taking enforcement action for relatively minor problems (e.g. blockages). Also wipes out the whole market for less than competent small private drain clearance companies who in some instances can exploit householders with excessive fee structures. Now the WaSCs are commissioning private companies for sub-contracting works proper schedules of rates will be used and only competent contractors will survive - which is a move to be welcomed
- Just concerns that we will be unprepared in the likelihood of complaints and unsure of actions to be taken should WaSC take unreasonable amounts of time to deal with surcharges
- The WaSC will need to provide clear guidance on their responsibilities and what service they will provide. There appears to have been nothing so far
- As highlighted in the article the single curtilage needs to be defined
- Specific guidance needs to be produced as paramount importance