



Section 185 sewer diversion application: Guidance Notes





Important Note:

- **No work on public sewers is permitted** until a Deed of Grant of Easement is in place, Section 185 agreement signed, fees paid and surety lodged.
- Completion of an application form does not represent a completed agreement.

1.0 Introduction

Please read the following guidance notes thoroughly before servicing notice on Northumbrian Water to divert its apparatus.

Diversion of public sewers under Section 185 the Water Industry Act (WIA) 1991 can be a protracted process. All parties involved (project managers, consultants, developers, contractors and consortia) must be aware of the process, costs, requirements and programme implications. You should ensure that sufficient time has been included in your programme for diversion of sewers before works associated with the development commences.

2.0 Summary of Legislation

Water Industry Act 1991 – Section 185 – Diversion of Public Sewers

Section 185 places a duty on Northumbria Water to divert apparatus in land, upon receipt of notice from persons who have an interest in the land, as necessary to enable that person to carry out a proposed improvement of the land.

This duty does not arise when apparatus is located in, under or over any street.

Where Northumbrian Water carries out any work under Section 185 as a result of notice being served, Northumbrian Water is entitled to recover any expenses reasonably incurred from the person who served the notice.

3.0 Who does the diversion – the Developer or Northumbrian Water?

There are two possible options that can be followed to undertake a diversion, depending on several factors. Legal and financial arrangements will differ depending on who carries out the works.

Northumbrian Water will undertake feasibility study, design, supervision and construction of the diversion when:

- The diversion is to pass through third party land
- The sewer is critical infrastructure of strategic importance

The Developer may be permitted to carry out the work when:

- The sewer is non-critical infrastructure, and
- The diversion is in land owned by the developer

Exception: Turning flows at either end of the diversion. You must use Northumbrian Water S106 connection procedure, and any S185 Agreement must be signed before turning flows.

4.0 Diversion by Northumbrian Water

4.1 Legal Arrangements

A formal S185 diversion agreement will be required, and associated legal fees will be paid by the Developer. These are in addition to other charges noted here.

4.2 Costs

The costs associated with making the application are given in the Section 185 Sewer Diversion Application Form. A cheque should be sent with the application to the address given.

Northumbrian Water is permitted by the WIA to recover all reasonable costs relating to administration, design, supervision, compensation and construction.

Depending on the scale and complexity of the diversion, a feasibility study to determine the preferred option, if more than one option is available, may also be required.

Owing to the complexities associated with diversions Northumbrian Water do not supply early budget estimates of the cost of the diversions. Cost estimates for diversionary works and design fees etc. will be provided at the end of feasibility study / outline design / detailed design as these stages are completed, as required. The costs for feasibility studies, design and the construction costs are recoverable from the developer under the WIA.

Associated legal fees are also recoverable from the developer.

4.3 Arrangements for Payment

- An initial vetting fee of £500 is to be included with the application.
- 100% of the estimated fees for feasibility studies, outline design, and detailed design phases are to be paid up-front at the beginning of each phase. We will keep developers abreast of any variation in out turn costs.
- 100% of the construction costs are to be paid upfront prior to the commencement of construction. We will keep developers abreast of any variation in out turn costs.
- Legal fees will be invoiced as incurred.

4.4 Timescales

Diversions in third party land have additional time implications which can be independent from the developer's own programme of works. Therefore you should be aware that your programme can be significantly affected where Northumbrian Water is required to carry out a diversion.

Large or complex diversions may require a feasibility study undertaking to determine the most appropriate option for diversions. The time required for feasibility and detailed design and construction will vary from project to project.

Northumbrian Water is required to serve notice on third party land, the notice period for which is three months. Specifically we need to:

- Establish accurate owner and occupier information
- Contact all affected owners and occupiers
- Ascertain if any existing or future development proposals will be affected by the diversion
- Consult with owners and occupiers on the nature of works, programme and timing
- Provide a condition report to owners and occupiers

Therefore diversions are likely to take an absolute minimum of seven months.

5.0 Diversion by Developer

The developer's consultant and contractor may carry out the design and construction work when the assets are non-strategic and the diversion is in land owned by the developer. The design should be carried out in accordance with the current edition of Sewers for Adoption, and will need to be vetted by Northumbrian Water in a similar process to the S104 Sewer Adoption process.

5.1 Legal Arrangements

A formal S185 diversion agreement will be required, and legal fees associated will be paid by the Developer. These are in addition to other charges noted here.

5.2 Costs

The costs associated with making the application are given in the Section 185 Sewer Diversion Application Form. A cheque should be sent with the application to the address given.

A CCTV survey must be carried out on the existing sewer to identify any laterals, and copy included with the application. Your design should ensure that the properties served by the laterals are effectively drained once diversionary works are completed. You should obtain written consent from the owner of the lateral to reconnect their lateral to the new sewer.

Northumbrian Waters fees for vetting, administration and inspections is 10% of the estimated construction cost, minus the initial vetting fee paid with the application. In all cases estimated construction costs are provided by Northumbrian Water to ensure consistency.

A cash deposit or bond of 100% of the estimated construction costs is required. This will be reduced to 10% upon satisfactory completion of the construction works, with the remaining bond lifted at the end of the maintenance period.

5.3 Arrangements for Payment

- An initial vetting fee of £500 is to be included with the application
- The total vetting, administration and inspection fee, minus the initial vetting fee, will be due for inclusion in the Agreement (after Northumbrian Water have responded to your application)
- Legal fees will be invoiced as incurred.

5.4 Timescales

The diversions undertaken by developers are typically less complex therefore Northumbrian Water will endeavour to notify you within four weeks regarding:

- the acceptability of your proposals
- the number of drawings to be included in the Agreement and Deed of Grant of Easement
- completion of a S185 schedule which we will forward to you
- confirmation that Northumbrian Water must be notified prior to the start of any works on the sewer diversion and agree to the start date
- request for contact details for the applicant's solicitor

5.5 Maintenance Period, Adoption of the Sewer and abandonment of the existing sewer

Following a satisfactory inspection of the construction a Maintenance Certificate will be issued. The developer is responsible for correcting any defect, damage or blockage which occurs within the



Maintenance Period (the twelve month period after issue of the Maintenance Certificate). The developer must maintain the sewer to the satisfaction of Northumbrian Water. Any repairs made in this period must be guaranteed for a further twelve months from the date of the repair by the developer (the Guarantee Period).

Prior to the end of the Maintenance Period, Northumbrian Water will make a final inspection, and upon completion of any outstanding remedial work, a Final Certificate will be issued.

The Agreement

In all cases the legal Agreement and any Deed of Grant of Easement required are standard Northumbrian Water documents. Any divergence or changes to these documents may not be accepted, may delay completion and may incur additional charges.

Abandonment of the existing sewer

In all cases the sewer to be abandoned will no longer be a Public Sewer and the developer will be responsible for all future liabilities arising from the asset. The proposed method of abandoning the sewer (removed, grouted etc.) should be indicated in the drawings for technical approval.

Contact Details

Should you require any further information or assistance please contact our New Development Team at:

New Development Sewerage Team
Northumbrian Water
Leat House
Pattinson Road
Washington
Tyne & Wear
NE38 8LB

Telephone 0845 7171100