

# Transfer of Private Sewers Regulations 2011 - General Principles to assist in applying the Regulations



1. Pipes that serve more than one separate building are generally sewers and will transfer to the Sewerage Company whether they are within the separate curtilage of one of the properties or not.
2. Pipes that serve a single building (or part of a building) are drains. From the point where the pipe leaves the curtilage of the building (or the curtilage of part of the building) the pipe is a lateral drain if it communicates with a public sewer. It will therefore transfer to the Sewerage Company as a public lateral drain.
3. Where a pipe serves two or more buildings which are within the same curtilage, the pipe is a drain not a sewer. Only from the point where the pipe leaves that curtilage will the pipe become a public lateral drain (not a sewer) public and transfer to the Sewerage Company, again provided it communicates with a public sewer.
4. Buildings within the same curtilage can be joined or be two or more separate blocks.
5. A building which is divided between different ownerships (eg a semi detached houses) is treated as two or more separate buildings.
6. A public highway will not be part of the curtilage of any property, but private streets within a retail, office or industrial estate and which are managed with the land surrounding the buildings on behalf of the land owner are likely to be an indication that the whole site and all the buildings on it are part of a single curtilage. Whether there is a single curtilage will depend on the individual facts.

7. Gutters, down pipes and other above ground plumbing serving two or more premises is not a sewer or a drain and therefore will not transfer to the Sewerage Company.
8. Gulley pots below ground will often be accessories to the down pipes that drain into them and if so, will not transfer.
9. Pipes which are owned by a Railway Undertaker (as defined in the Water Industry Act 1991) will not transfer, wherever they are situated.
10. Pipes which are situated on or under Crown Land and in respect of which the Sewerage Company received notice from the appropriate authority prior to 1 July 2011 are exempt from the transfer, whoever owns the pipes.
11. Sewers and lateral drains will generally transfer even if there is private infrastructure between the transferring asset and the public sewer as they will be considered to “communicate” with the public sewer. For example, an intervening highway drain or a Railway Undertaker’s sewer will not of themselves affect the transfer of sewers and lateral drains. Where there are swales or watercourses between the sewer/lateral drain and the public sewer, transfer of the upstream asset will depend on the particular circumstances. If the intervening asset was constructed as part of the overall drainage scheme, it is more likely that the upstream infrastructure will transfer.

- 12 Cast iron gulleys from rainwater down pipes which run across footpaths and the modern profiled concrete equivalent, are gutters, not drains or sewers and therefore will not transfer.
- 13 Drains vested in a Highway Authority are highway drains and will not transfer whether they carry surface water drainage or not.
- 14 Pipes which have been constructed to carry highway drainage will similarly not transfer even if they also carry surface water sewage.

**Note: these notes are intended to provide an initial indication of whether or not particular sewers or drains transfer. They are not an exhaustive analysis of the Regulations and in cases of doubt, legal advice should be obtained on the particular circumstances.**