

# Making a Section 104 application

## The process

This document explains the various stages of the process and provides information on how to apply to have new sewers adopted under Section 104 of the Water Industry Act 1991. For more detail for the adoption process please refer to the Sewerage Adoption Code; sector guidance: Appendix B.

### 1. Section 104 Pre-Development Enquiries

#### 1.1 Pre development enquiry - Determining the drainage strategy

If you plan on draining surface water to a sewer you must complete a pre development enquiry first.

The pre development service will also provide advice if you need to move an asset or need our help making a connection through a sewer requisition.

#### 1.2 Pre design application - complex developments

If the development is large or complex you should also complete a S104 pre design application, this will allow us to give early advice on adoptability without the need for you to provide full details associated with a full application

The following are areas that would benefit from these discussions; SuDS, complex storage components or pumping stations and developments effected by multiple phases/landowners or connections.

### 2. Existing Sewer records

It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities' assets and the proposed development.

A number of providers offer a paid for mapping service including United Utilities. To find out how to purchase a sewer and water plan from United Utilities, please visit the Property Searches website; <https://www.unitedutilities.com/property-searches/>.

You can also view the plans for free. To make an appointment to view our sewer records at your local authority please contact them direct, alternatively if you wish to view the water and the sewer records at our Lingley Mere offices based in Warrington please ring **0370 751 0101** to book an appointment.

Due to the public sewer transfer in 2011, not all sewers are currently shown on the statutory sewer records and we do not always show private pipes on our plans.

### 3. The Section 104 application

The applicant must complete a 'S104 application form'. This should be completed in full and returned along with the requested supporting documents and appropriate application fee. We will respond within 48 hrs of receipt with a unique reference number which the applicant should quote on all future correspondence. We will confirm payment details and let you know if the application has enough information for us to begin our technical assessment, or we will let you know what information we require.

#### 3.1 Design Appraisal

If your submission is complete, an Engineer will respond to you within 20 working days to advise if your proposals are technically satisfactory or which aspects do not comply with our requirements. We will carry out checks in accordance with our 'Adoptions Engineer Feedback Form'. A completed version of this feedback form will be issued to you following our first technical assessment. Please ensure that you return the feedback form with your comments and amended drawings with any further resubmission. If the completed form is not supplied your application will be classed as incomplete and can not be processed.

Please note that we can charge for additional time spent carrying out assessments of submissions which are incomplete or unsatisfactory.

If the design is substantially changed and requires a full reassessment, you will be charged the minimum application fee.

#### 3.2 Fees/Surety

Once the submission is confirmed as technically acceptable, we will confirm to you the appropriate section 104 fee. This is calculated as 2.5% of the estimated construction cost of the agreed design based on United Utilities contract rates. This fee covers the processing, assessment and inspection of the works.

The Developer is required to provide surety (a list of our approved sureties can be provided on request) or a cash deposit which is calculated as 10% of the estimated construction cost. This value will be confirmed following design acceptance.

#### 3.3 Section 104 sewer adoption legal agreement

The S104 adoption agreement, will be sent once the submission is confirmed technically satisfactory and you will also be advised of the supporting information, drawings etc. that must be included with the signed agreement. An example of the adoption agreement is available for viewing on our website.

A separate legal fee (for the preparation of the agreement) must be paid before the agreement is signed. Please note clauses in the S104 Agreement cannot be amended.

#### 3.4 Starting work before the S104 Agreement is signed

Construction work should not begin until the S104 Agreement is signed. However, as we recognise this may cause delay to some developments and so in certain circumstances and with prior agreement from United Utilities, we may allow work to begin as long as;

- The S104 submission has been assessed as technically satisfactory, and all relevant supporting documentation (as detailed on the approval documentation) has been provided.
- The S104 fees have been paid. Payments can be made by cheque or BACS.
- The 'pre-start' form has been signed (this will be supplied on design acceptance).

Any works on sewers that are intended to be subject to an adoption agreement but do not have a technically agreed design are constructed entirely at the developers own risk.

United Utilities Inspectors will attend a 'pre-start' site meeting for any new development where a completed 'pre-start request has been made and fees have been paid.

Any contractor who wishes to connect to the public sewer must complete a 'Request for permission to work on the public sewer form (part 2)' and receive written approval from United Utilities before work can begin.

#### 3.5 Inspecting the new sewers

##### Construction inspections & remedial work

During construction we will carry out inspections to check compliance with the S104 Agreement. If improper work, materials or variations are found we will notify the site contact and any defects should be remedied without delay, we reserve the right to carry out any work not completed within a 6 month timeframe and can recharge under the terms of the adoption agreement. We would expect that prior to a request for a

provisional certificate any remedial work is completed to our satisfaction.

### 3.6 Provisional Certificate & Maintenance Request

To request the provisional certificate you will need to complete a S104 maintenance request form and provide the information requirements. The development will need to meet the following criteria;

- S104 Agreement in place (including any associated deed of easements or land transfers)
- All sewers have been constructed and are in use
- At least 50% occupancy
- Any outstanding remedial work is complete

The purpose of the pre-maintenance inspection / assessment is to identify any remedial works that are needed to ensure that the system is operating as intended and to check that the As-Built information adequately reflect what has been constructed.

Prior to any formal inspection we would ask that the system be pre-cleansed, all sediment removed and if applicable any erosion to adoptable open drainage features resolved. Following the formal inspection any further work will need to be resolved to our satisfaction before we will be able to issue a provisional certificate.

For any sites containing infiltration or open SuDS features the maintenance period will only be able to be progressed once planting has been established and each feature is fully functioning as designed. This is likely to be at least one 'growing season' and could stretch beyond 12 months depending on the specification and maturity of plants specified.

After confirmation that any remedial works have been completed and the As-Built drawings reflect what has been constructed on site, the Provisional Certificate will be issued to confirm that the system is on a maintenance period.

We will require a maintenance period of at least one year. During this period the developer will still be responsible for the sewer network and must keep a record of ongoing maintenance, the provision for a review of the performance of any SuDS features to allow minor adjustments and refinements based on observed performance must be provided. Any adjustments made will be at the developer's expense. At the end of the maintenance period there will be a final inspection.

If emergency works to the sewer are required during the 12 month maintenance period United Utilities reserves the right to undertake the works required and re-charge the cost to the Developer.

### 3.7 Final Certificate and final adoption

We would expect contact to be made at least 3 months prior to the end of the maintenance period in order to prepare for the final inspection stage.

The final inspection is used to give acceptance for final adoption and includes checking the system is working properly, ensuring there are no operational issues. Final Inspection and handover cannot progress until the system has been working effectively and causing no major operational issues. If any defects or issues have arisen, then confirmation of any remedial works required will be provided by UU following the Final Inspection. These works must be completed and a set of revised As-Built drawings provided (if required) before a Final Certificate will be issued.

The legal vesting/adoption of the sewers will take place shortly after the Final Certificate has been issued once any outstanding

legal issues have been completed. This will conclude the developer's obligation under the legal agreement.

Note: UU reserve the right to decline the adoption of any system that is not designed in accordance with the adoption requirements and where construction is not verified.

## 4. Sewer diversions

If we have permitted a developer to divert a public sewer, a legal agreement must be in place before any work can commence. If sewers assets are deemed critical there will be circumstances where we will have to carry out the diversionary works, this will be confirmed as early as possible in the sewer diversion application process.

Please see our 'Guide to sewer diversions' on the website for further information.

## 5. Sewer requisitions

If you cannot connect your development to an existing public sewer without crossing land in third party ownership, and you cannot agree an easement with that third party landowner, you can request that we 'requisition' a sewer using our powers under Sections 98-101 of the Water Industry Act 1991.

If the requisition is agreed, we will construct a public sewer to serve your site. You will be liable for the construction costs and be required to enter into a S98 Agreement with United Utilities to enable a sewer to be requisitioned.

Please see our 'Guide to sewer requisitions' on the website for further information.

## 6. Abandoning public sewers

Subject to the conditions found within Section 116 of the Water Industry Act 1991 we have the power to restrict or close the use of the public sewer. In order to facilitate new development we recognise that there is in occasion circumstances that arise which lead to a developer requesting the abandonment of a sewer. Before an existing public sewer can be closed, we need to check that there are no other legal users connected to the sewer and understand the impact that a closure of a sewer may have on the rest of the sewer network.

To request to close a public sewer you would need to make an application, please see our 'sewer abandonment guide' on our website for further information.

## For further information



[unitedutilities.com/builders-developers](https://www.unitedutilities.com/builders-developers)  
[SewerAdoptions@uuplc.co.uk](mailto:SewerAdoptions@uuplc.co.uk)



United Utilities Water, Developer Services, Second floor,  
Grasmere House, Lingley Mere, Warrington WA5 3LP

### About us

United Utilities is the North West's water company. We keep the taps flowing and toilets flushing for seven million customers every day. From Crewe to Carlisle, we work hard behind the scenes to help your life flow smoothly.