

DAVID KEIGHLEY

BUILD OVER AGREEMENTS, SEPTIC TANKS AND LATERAL DRAINS: WHAT YOU NEED TO KNOW



- **Bespoke Seminars**
- **In house Training**
- **One to one coaching**
- **Consultancy**
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Contact:

- davidktraining@outlook.com
- 07464 485506

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davidktraining@outlook.com

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Agenda

Responsibility

SUDS

Build Over & Build near Agreements

Property without mains drainage

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Sewers v Drains

Sewers carry waste from more than one property.

Drains carry waste from a single property to the sewer. These become **lateral drains** when they extend beyond the boundary of the property

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Sewers v Drains

Property owners are responsible for the maintenance and repair of drains inside the boundaries of their property (unless the drains of other properties run through their property).

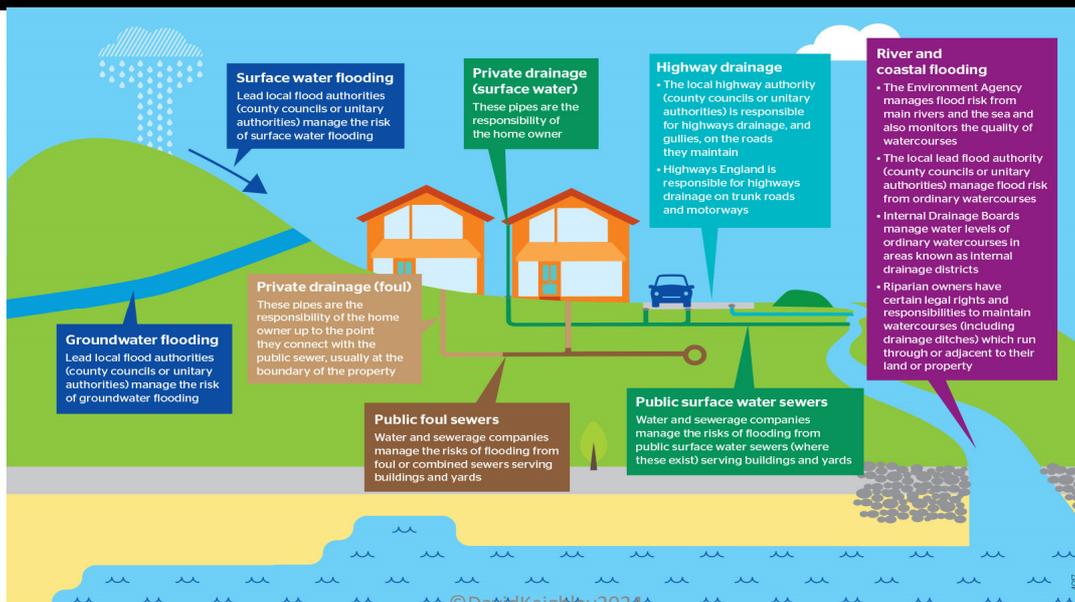
Most private sewers and lateral drains that connect to the public sewer network are owned by the regulated sewerage companies.

This does still cause a degree of confusion especially as the same pipe can hold different classifications in different parts of its course.

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Responsibility overview



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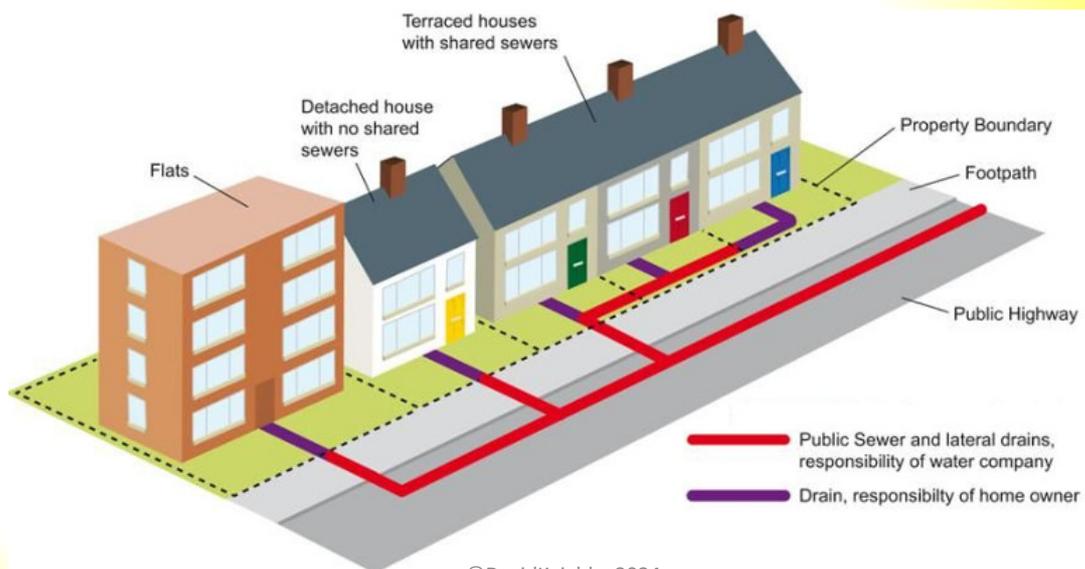
Lateral/Private/Public



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Lateral/Private/Public



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Surface Water

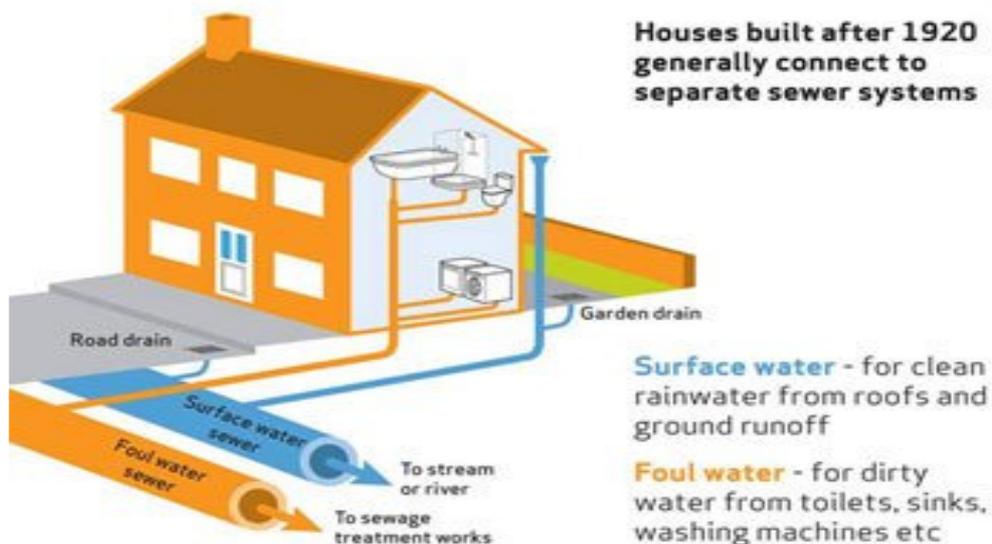
Surface water is the rain or melted snow that drains from the roof of a property and other impermeable areas such as driveways.

It normally flows into a highway drain or a road gulley and then into sewers, but in some cases the surface water drains into a soakaway often in the garden.

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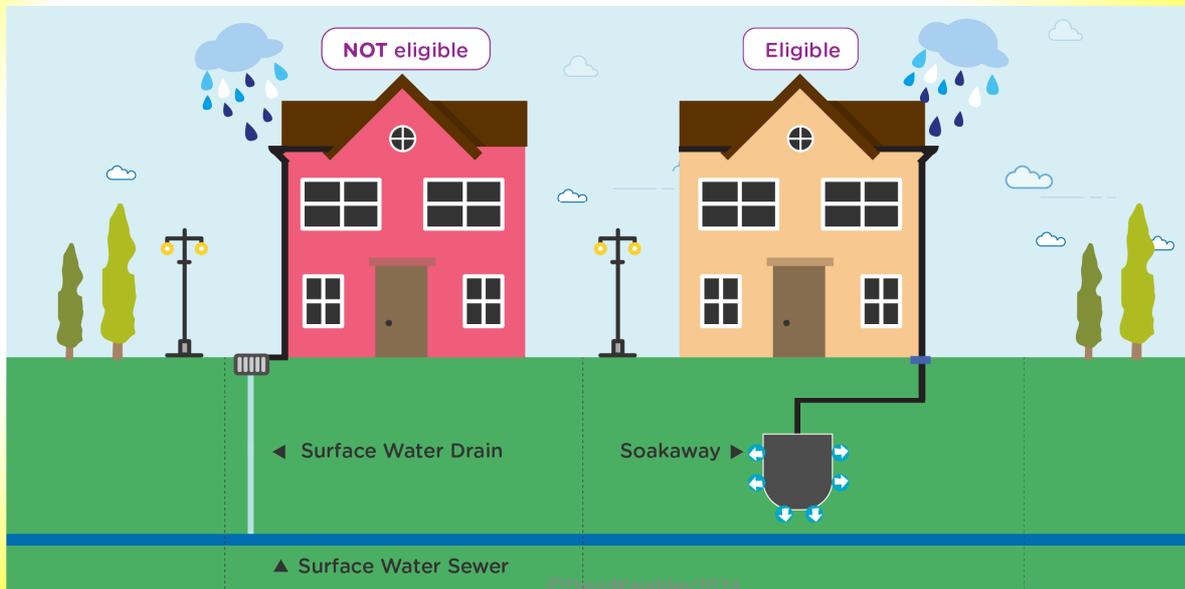
Surface Water



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Surface Water charge reduction



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Sustainable Urban Drainage

Current guidance requires SUDS to be provided in any "major development" unless it can be shown that to be inappropriate.

In Residential terms a major development is defined as a development of 10 houses or more.

A SUDS is one which collects surface water and releases it over time without it passing into the public sewer system

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Sustainable Urban Drainage

Intended to deal with surface water as if the land had not been developed.

Dispose of the collected surface water by a combination of several means

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Government has announced the implementation of [Schedule 3](#) of the [Flood and Water Management Act 2010](#) which is expected to come into force in **2024**.

Once implemented, Schedule 3 will remove the automatic right for builders to connect new developments in England and Wales to the drainage system.

This change means that builders will only be able to connect new developments to the drainage system if they have incorporated SuDS into their development design.

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Building Regulation H4

Building within 3 metres of a **public sewer**,
or

within 1 metre of a **public lateral drain**,

Requires water authority approval before
work begins

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Build over/near agreements

**Prevent damage to sewers by the
building works and/or the resultant
structure.**

**Buildings and extensions should not be
constructed over a manhole or inspection
point on a sewer**

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Build over/near agreements

If a build over agreement is in place then the water authority cannot remove the structure which is the subject of the agreement.

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Build over/near agreements

Where no agreement is in place the authority has powers to remove any structures which are blocking access and they are not liable for any damage caused.

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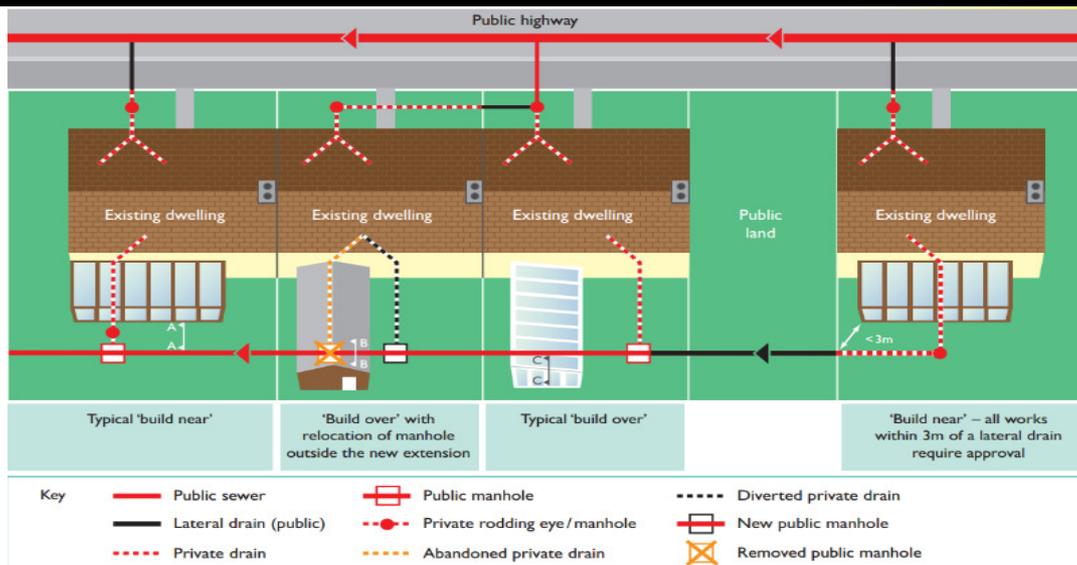
Build over/near agreements

In reality they now have machinery which will usually allow them to access the damaged pipe from a different, unobstructed point and will avoid causing damage wherever possible, but a risk does still remain.

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Build over/near agreements

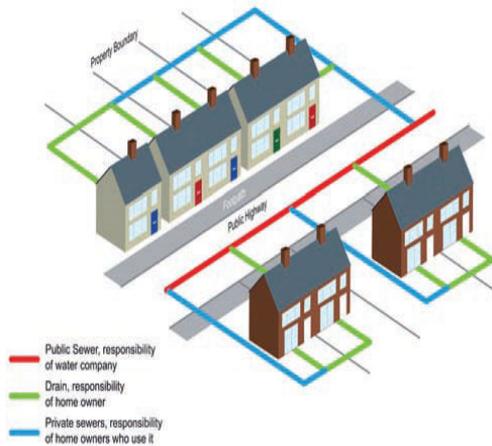


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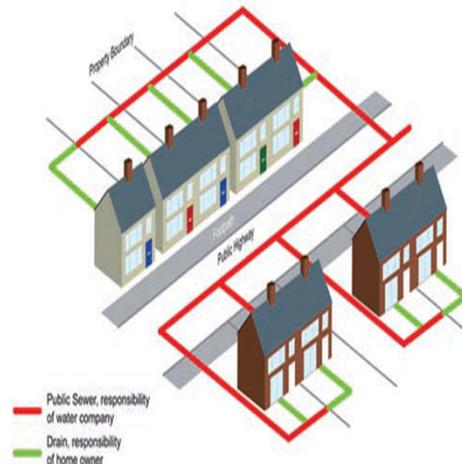
Buildings built before 2011

Before Transfer



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After Transfer



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Buildings built before 2011

Is backdated consent needed if extension over a shared private sewer was built before 1 October 2011 and the private sewer is now public?

There is no legislation on the point.

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Buildings built before 2011

Probable that any damage caused by the water company needing access through the extension that blocks the drain will be at the company's own expense **provided the home owner obtained any required building control consent for the extension itself.**

If no building control was obtained Indemnity insurance?

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Buildings built before 2011

Thames Water Q & A

Q) If a property owner built over a private sewer or lateral drain, prior to 1 October 2011, when building over approval would not have been required will there be instances where a property owner could be liable for remedial work?

A) The changes brought about by the new Regulations are unprecedented and cases where remedial work is required due to action taken by a property owner will be reviewed on a case by case basis, and in accordance with legislation that applied at the time of construction, to determine whether action will be taken against the property owner in respect of remedial work.

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Property without mains drainage

Law relating to Septic Tanks

The Environmental Permitting (England and Wales) Regulations 2016 which came into force on 1st January 2017.

These regulations specifically refer to the **General Binding Rules** for small sewage discharges

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Property without mains drainage

[Septic tanks and sewage treatment plants: what you need to do: General binding rules for septic tanks and small sewage treatment plants - GOV.UK](https://www.gov.uk/guidance/septic-tanks-and-sewage-treatment-plants-what-you-need-to-do-general-binding-rules-for-septic-tanks-and-small-sewage-treatment-plants)
www.gov.uk

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General Binding Rules

The operator of a system must make sure the system meets the 'general binding rules'

Systems are either:

- a septic tank (an underground tank where the solids sink to the bottom and the liquid flows out and soaks through the ground)
- a small sewage treatment plant (a system that treats the liquid so it's clean enough to go into the ground or a surface water)

If it does not meet general binding rules a permit is needed.

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General Binding Rules

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General Binding Rules

GBR only apply to domestic sewage

This includes wastewater from:

- toilets
- personal washing, showering and bathing
- household washing using domestic detergents
- cooking at home for family and friends
- washing dishes and cooking equipment, on a scale comparable to domestic cooking, after using them on the premises
- swimming pools at homes and when the effluent is treated and discharged in combination with other domestic sewage

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Past practice

Liquid effluent from a septic tank discharged either:

Into a drainage field or a soakaway system allowing the water to disperse or

Into a watercourse by means of a sealed pipe.

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General Binding Rules

New septic tanks (installed after 1st January 2015) are not permitted to discharge into a watercourse.

Transition period has ended for existing tanks which discharge to waterway

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General Binding Rules

If a house uses an existing septic tank that discharges into a watercourse, then that tank must be replaced or upgraded by **the earlier of:**

The date on which a sale of the property completes; or

1st January 2020.

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General Binding Rules

A sale now where a property uses a septic tank that discharges to surface water will trigger the requirement to replace or upgrade the system.

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General Binding Rules

Replacing a Septic tank is not always straightforward

Can be a costly exercise

Timescale/responsibility?

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General Binding Rules

Responsibility for cost is a matter of negotiation

Environment Agency says 12 months after sale is a reasonable timescale for replacement

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Septic tank & Treatment plants practical issues

Both septic tanks & Sewage treatment plants need emptying

If not emptied then solids build up & there is a risk of a “pollution incident” which may result in EA taking action.

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Septic tank & Treatment plants practical issues

Existing system may not have capacity for new occupants

Always advise survey before exchange

That will usually require emptying the system

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Cesspit

A cesspit is a sealed tank and owners do not need to comply with the General Binding Rules

However, the cesspit must be maintained and emptied regularly by a registered waste carrier

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