

A guide to surface water drainage at non-household properties in Scotland and how to apply for a review



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Introduction

The information contained in this guide is to help owners or occupiers of non-household properties in Scotland understand whether their surface water, i.e. the property drainage from their roofs and/or hard standing areas, is connected to the public sewer network. It is also intended to assist Licensed Providers and consultants in dealing with queries from their customers.

The vast majority of properties in Scotland have their surface water property drainage (roofs and hard standing areas) connected to the public sewer network. Most of the components of the network are below ground and the apparatus on the surface will only give an indication of what may exist underfoot.

If you are a non-household customer paying charges for property drainage through your Licensed Provider, and you have grounds, which can be evidenced, for believing that the property does not use the public sewer network, you may make a request for a review. Applications for such a review will need to be channelled through your Licensed Provider.

Where you make an application for a review, you will be required to provide key supporting information to assist Scottish Water in reviewing the specific circumstances at the property. This supporting information is listed on page 5 and includes “as built” engineering drainage plans, copies of wayleaves or servitude agreements or other relevant permits.

This guide also contains illustrative diagrams of some typical drainage scenarios encountered. Please note these examples are for illustrative purposes and will not reflect all scenarios encountered or the details in each case. The diagrams are schematics, also for illustrative purposes, not engineering drawings.

Applications for such a review will need to be channelled through your Licensed Provider.

Establishing if a property drains to the public sewer network

All pipes and drains within the boundary (curtilage) of a property are considered to be in private ownership, including drains for surface water property drainage. These drains usually run to connect with other sewer systems outwith the boundary of the property. An overarching principle to bear in mind is that where a drain exits the boundary of a property, it automatically becomes a sewer. The property boundary will normally have a boundary wall or fence to indicate the extent of ownership, but in any case the owner will know the extent of their property from their records and drawings or from a legal title search.

As soon as the pipes leave the boundary of the property, they are considered to be sewers. In Scotland the overwhelming majority of pipes which remove waste water and surface water beyond the boundary of a property belong to Scottish Water.

Surface water property drainage may connect directly to an open or piped watercourse, such as a burn, that passes through or is on the boundary of a property. If this is all done within the boundary of the property then these arrangements would normally be considered to be in private ownership. It should be noted there may need to be a permit for such direct discharge of drainage, for example to comply with environmental requirements.

Some non-household customers occupy units which are part of a larger single property, for example an office block with multiple tenants having a common landlord; a shopping centre with multiple retail units and a common landlord; a retail park with multiple individual buildings under common ownership; or a small private estate in single ownership with smaller buildings and properties over the estate. Others share common roofs, with arrangements for the disposal of drainage. It is important to consider these scenarios and the wider content of the property as a whole in assessing the drainage arrangements.

Establishing if a property drains to the public sewer network cont.

If a pipe leaves a property and does not connect to the public sewer network at any point, then it would be considered to be a private sewer. However only Scottish Water has statutory rights to lay or allow sewer infrastructure to be laid in private land. If the owner or occupier of a non-household property has laid a private sewer outwith their property boundary, there will be an agreement comprising a wayleave or servitude between the owner and a third party allowing that, or giving rights to lay and use infrastructure outwith the boundary of the property. Similarly, if the owner of a non-household property has connected to a private sewer there will be agreements to allow that to have occurred.

Where a sewer is public, Scottish Water is obliged to convey and discharge the surface water to a suitable location for treatment and/or disposal. This could be to a pond, river or other watercourse.

Charges apply where the pipes leave the boundary of the property and become a public sewer as the public sewer network is being utilised.

Some properties will have been identified as posing a potential risk to the water environment due to the operations carried out at the property or a particular part of the property. In such cases, these parts of the property drainage are likely to have been designed and constructed to connect to the waste water drainage/sewer system. These interactions between surface water property drainage systems and waste water systems can normally be identified from engineering drainage plans. Some examples of these situations are vehicle loading bays and areas handling or storing oil/petrol. In such cases, where a part of the property drains to the public sewer system, the property as a whole is deemed to be connected to the public network and charges apply.

Information to support an application for review of surface water property drainage

Where a non-household customer has grounds, which can be evidenced, to suggest that the property does not use the public network for the disposal of surface water property drainage, it is possible to submit a request for a review, via your Licensed Provider, along with the information which supports the application.

Each Licensed Provider will have their own application forms for use by their customers. However, there is certain core information Scottish Water requires to allow a review, and that should include the following;

- “As built” drainage plan(s) for the property showing both the foul and surface water drainage arrangements throughout. These will normally be engineering consultant plans or plans of a similar standard. The plans should show the points to which the drainage was designed and constructed to discharge or connect. The plan(s) should cover the entire extent of the boundary of the property. Where the property to be reviewed is part of a larger estate with multiple tenants as explained above, the drainage layout plan(s) must extend to include the full extent of the landlord’s property.
- Where a private sewer is shown outwith the boundary of the property and this is stated as belonging to the owner of the non-household property, drainage layout plan(s) of the private sewer should be provided showing the route and the eventual discharge point.
- Copies of the wayleave or servitude agreements of rights to use third party pipework or construct sewers in private land, where the pipes exit the boundary of the property;
- Where the property drains to a watercourse outside the boundary and the pipe beyond the boundary is believed to belong to a party or parties other than Scottish Water, copies of any permits allowing the discharge.

There may be other evidence which the owner or occupier of the non-household property considers relevant in the particular circumstances. This should be included in the application if it will help inform the review.

Information to support an application for review of surface water property drainage cont.

On receipt of the information from the Licensed Provider, Scottish Water will examine the evidence available and reach a decision on whether the relevant pipe is a Scottish Water asset or not. We may need to undertake site work as part of the investigation. It should be noted that, as many pipes may have been constructed many years and indeed decades ago, we do not always hold exact records of the sewers vested in Scottish Water.

If, following investigation we conclude that the property is not connected to the public sewer network, the Licensed Provider will not be charged by Scottish Water for the review. If the property is found to be connected to the public sewer network, the Licensed Provider will incur a charge for the investigation. It is a matter for the Licensed Provider whether they charge their customer or not in such circumstances.

Note on legal situation

Scottish Water has a duty under Section 1 of the Sewerage (Scotland) Act 1968 to provide such sewers and public SUDS systems as may be necessary for its areas of domestic waste water, surface water and trade effluent, and to provide necessary treatment of their contents providing this can be done at reasonable cost.

Unlike in England where there is a concept of adoption of sewers by a water or sewerage company, under section 16 of the Act sewers constructed by Scottish Water or its predecessors or which are lawfully connected to these systems automatically vest in Scottish Water unless agreed otherwise. In relation to new infrastructure, Scottish Water generally enters into an agreement with a developer that the infrastructure will vest when it is completed to the technical standards set out in Sewers for Scotland. Following the case of *Cowie v Normand* it has been established that where a drain exits a property boundary it automatically becomes a sewer.

The assumption would therefore be that where a sewer is shown on Scottish Water's digital infrastructure records as vested in Scottish Water, this is the case.

Were the sewer to be private it would need to not be connected to Scottish Water's network at any point or subject to a vesting agreement as only Scottish Water has or can authorise statutory rights to lay infrastructure in private land. It is reasonable therefore to ask a customer to establish how they have acquired rights to lay and use infrastructure outwith the boundary of their property.

Any pipe removing surface water from a property will either have been vested in Scottish Water, be subject to a vesting agreement or will be a private pipe owned by a third party. In Scotland the vast majority of such pipes have been vested in Scottish Water.

Diagram 1

Example of typical drainage arrangements at a non-household property

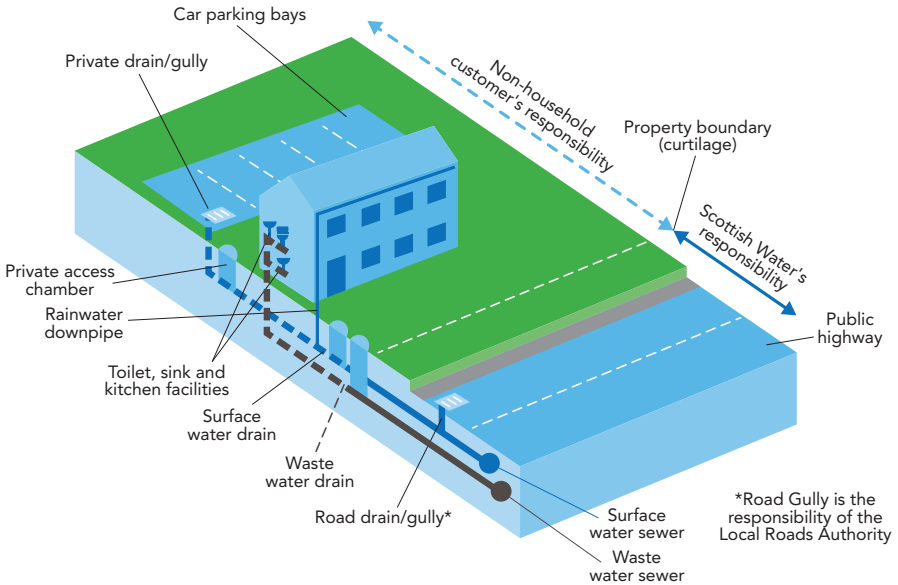


Diagram 2

Example of a business unit in a multi-tenancy property with shared communal facilities

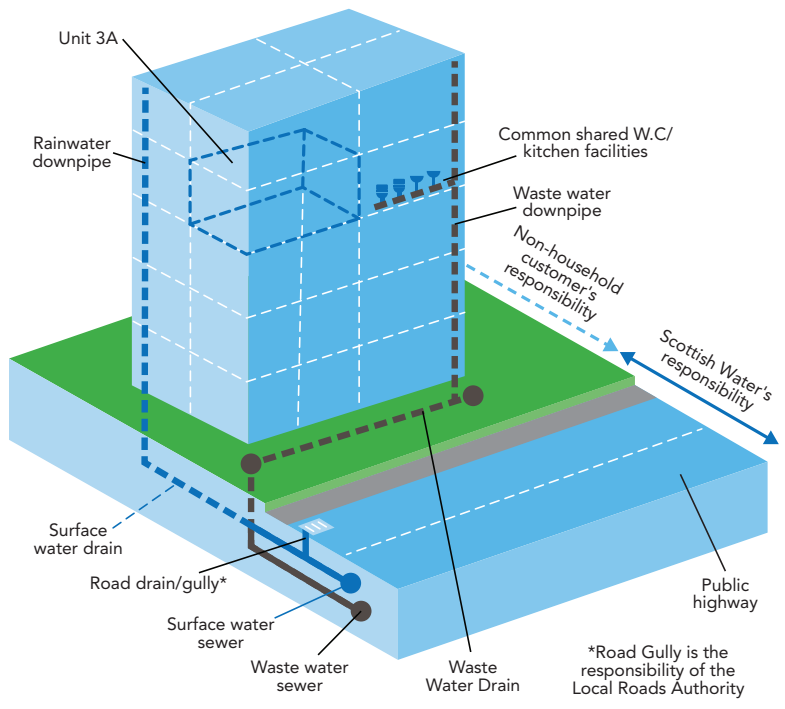


Diagram 3

Example of a typical shopping centre

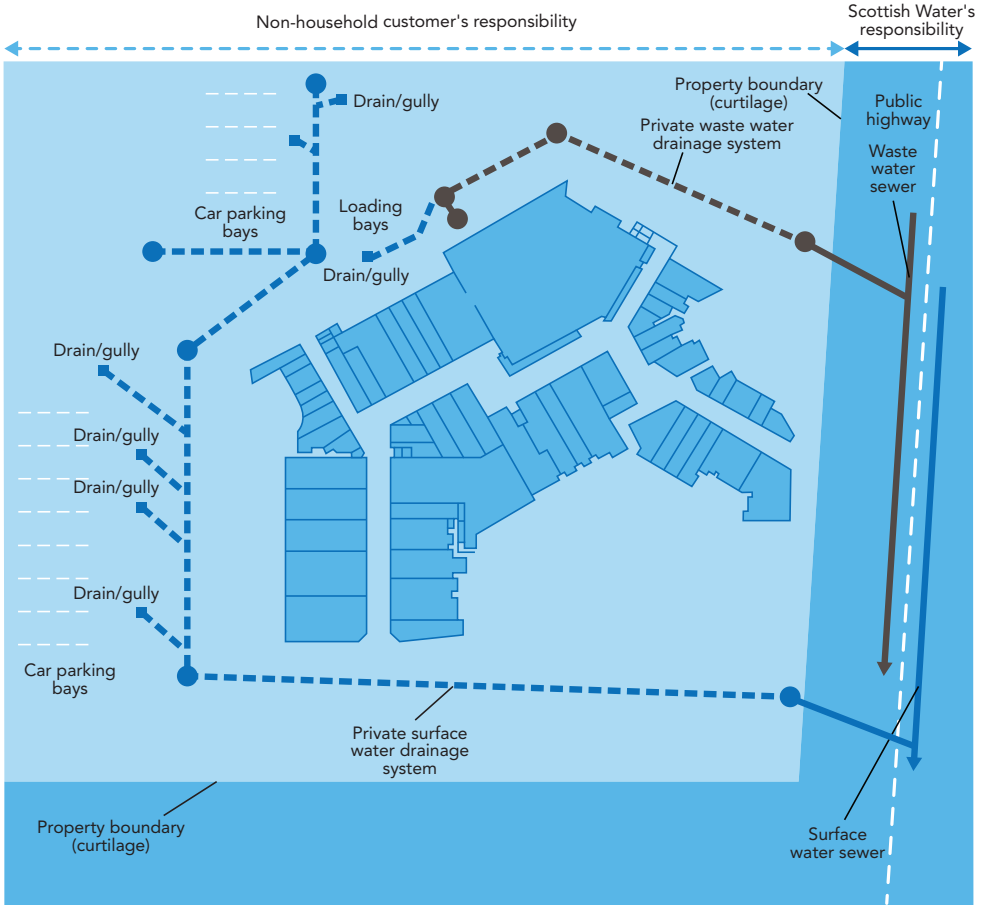
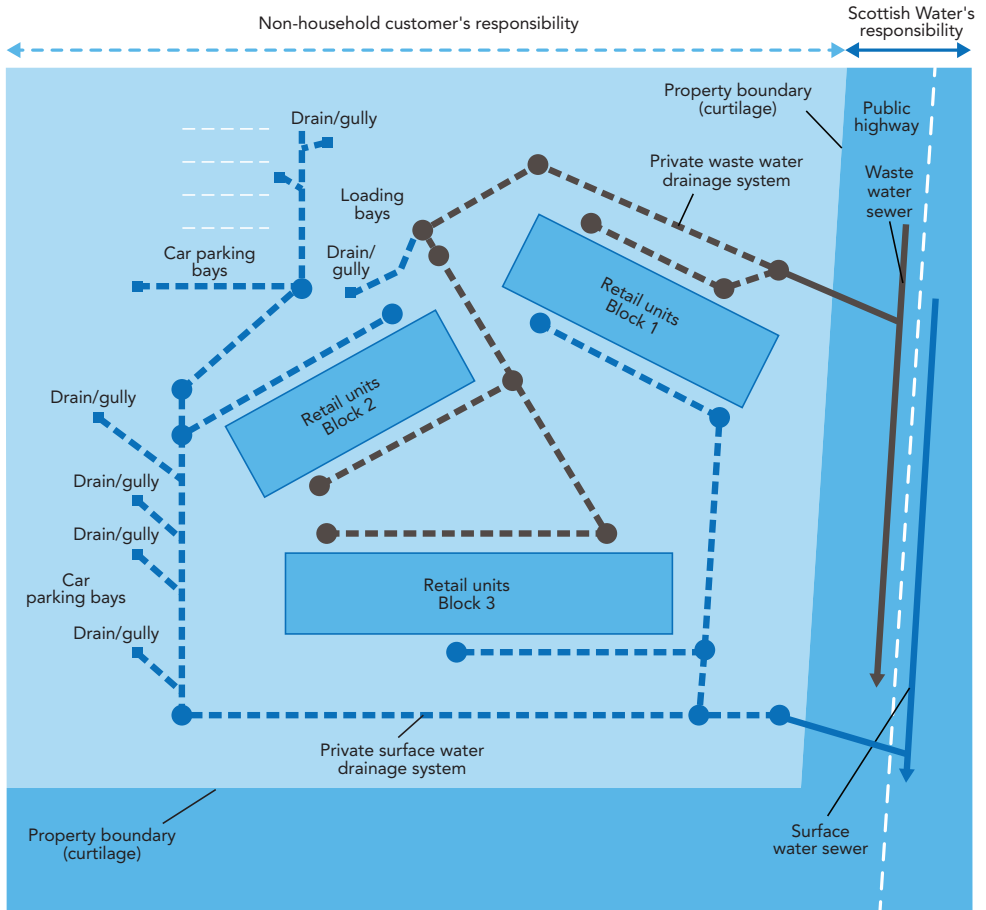
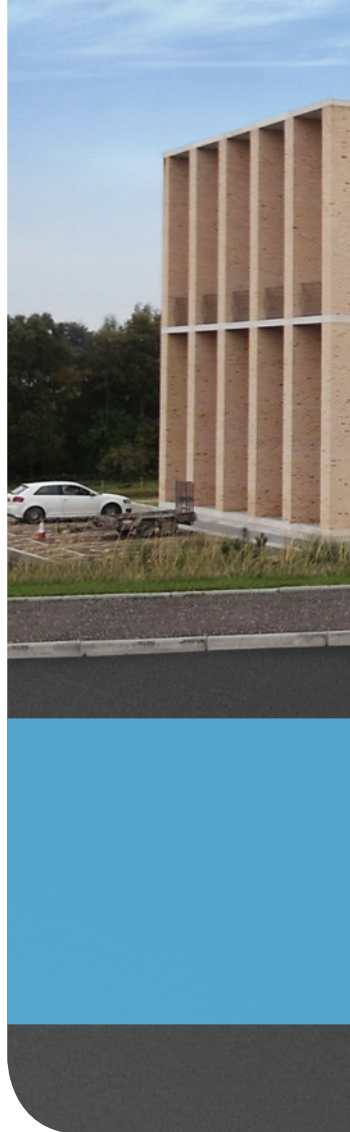


Diagram 4

Example of an industrial or business estate with multiple units on a single multi-tenancy site



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For more information on Scottish Water please visit our website at

www.scottishwater.co.uk