

Deed of Easement

Anglian Water will need an easement for any surface water sewerage system that is vested under Section 102 or Section 104, or installed under Section 98, of the Water Industry Act 1991, where the system **discharges** into a watercourse or a balancing facility of any sort.

It is the duty of the Landowner/Developer to secure such easement with the owner of the discharge point, balancing facility/watercourse and ensure it is granted direct to Anglian Water.

To avoid lengthy delays and problems it is beneficial to ensure the original Deed has the correct wording taking into account future ownership by the statutory undertaker.

This wording should:

- say that it is granted “in fee simple” or “in perpetuity” or similar;
- be for the **discharge**. It is acceptable if this discharge right is included in an offsite pipe easement as well; but the right simply to lay a pipe and use it on its own is not good enough;
- say that the discharge right is for the benefit of either Anglian Water by name or the owner for the time being of the discharge pipe or the statutory wastewater undertaker or undertaking. It is acceptable if it is for the benefit of the development as well. It is also acceptable if it is worded to only benefit Anglian Water following vesting of the pipe or system;
- be registered at the Land Registry.

If the original Deed does not contain such wording then Anglian Water would look to agree the Deed at agreement stage.

Serious difficulties can arise if the Developer has not obtained either a Deed of Easement to discharge from the owner of the watercourse or balancing facility, or a Legal Agreement that the owner will do so.

The issues regarding future maintenance will also need to be established. In this regard it is recommended that you discuss this with the relevant Anglian Water Drainage Engineer at your earliest opportunity.

Please also note that a discharge consent under the Water Resources Act 1991 is not the same thing as an easement or right to discharge, which is a property right and must be by Deed.