

Critical Ordinary Watercourses

Watercourses which are not classified as 'Main River' but which the council has agreed with the Environment Agency to be critical because they have the potential to put at risk from flooding large numbers of people or property.

Roadside Ditches

The riparian owner of any ditches alongside roads is normally the adjoining landowner, as the highway boundary invariably lies along the top of the bank closest to the road. Adjacent owners should not carry out any work on the ditch, which would interfere with the water flow or restrict road surface water draining into it. Although the County Council in its role as the Highway Authority has the right to discharge rainwater from the highway into these ditches, the landowner is responsible for maintaining it.

However, if the County Council has created or piped the ditch under their highway powers, they became responsible for its maintenance. Likewise, any pipe beneath the highway is the responsibility of the County Council. When the condition of a ditch is causing flooding on a highway it will be the County Council that may take action under the Land Drainage Act.

Watercourses occur naturally, they serve to drain the land and assist in supporting flora and fauna. Historically, watercourses have taken surface water run off from buildings and roads, as well as fields and parks. In the process of development many have been culverted or changed in other ways.

In normal conditions the watercourse may be a dry channel in the ground. In storm conditions it may become a raging torrent. Continued development tends to increase the

rate at which water is discharged to a watercourse, (even though adequate safeguards to prevent this are available), a process that could lead to increased risk of flooding if not controlled.

Additional Sources of Information

Environment Agency
(www.environment-agency.gov.uk):

- Pollution Prevention Guidelines (PPG 05) Works and Maintenance in or near Water (October 2007)
- 'Living on the Edge' - Guide to the rights & responsibilities of a riverside owner (3rd Edition - April 2007)

Horsham District Council
(www.horsham.gov.uk):

- Floods - Preparing for and dealing with flooding
Emergency Planning

West Sussex County Council
(www.westsussex.gov.uk):

- Flooding
What can I do in an emergency

Rights and responsibilities of living by a watercourse



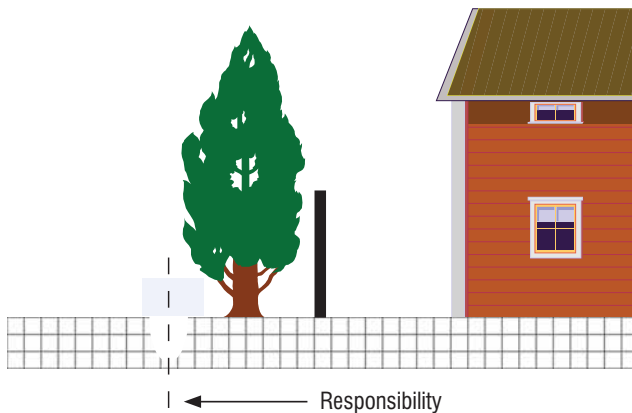
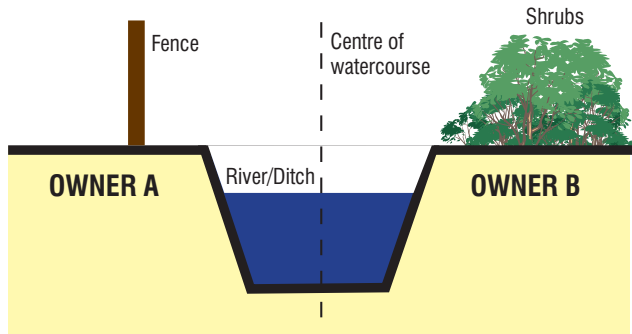
Do you own a property adjacent to a river, stream, brook, drainage ditch, culvert or any other form of watercourse?

Then you need to read this advice note.

You may not be aware but if you live next to a water course you may be responsible for maintaining it. The purpose of this leaflet is to explain the rights and responsibilities of property owners and residents whose property is adjacent to any form of watercourse.

Who is a Riparian Owner?

Under common law you are the **riparian** owner of any watercourse both within and adjacent to the boundaries of your property. Where a watercourse is between two or more property boundaries each owner may be equally responsible. So in the diagrams below, even if the Title Deeds for Owner A's property show the boundary to be the fence, they have riparian rights and responsibilities to the centre of the watercourse.



You have the right to protect your property against flooding from the watercourse and also to prevent erosion of the watercourse banks or any structures.

Riparian Owner Responsibilities

As a **riparian** owner your responsibilities include the maintenance of the bank and bed of your section of watercourse or culverted section, to avoid it becoming blocked or overgrown.

The most common problems affecting watercourses are:

- Failing to keep vegetation growth under control.
- Failing to obtain consent for installing pipes or culverting of watercourses
- Disposal or storage of garden or domestic rubbish, waste etc. on the banks of watercourses.

Riparian Owners and the Law

A riparian owner is not permitted to construct any structure or works such as bridging, culverting, diverting, infilling or creating a pond in, under or over a watercourse which is likely to affect the water flow without prior consultation with the District Council, County Council and the Environment Agency.

Legislation

Your responsibilities as a **riparian** owner are based on the following legislation:

- The Public Health Act 1936
- The Land Drainage Acts of 1991 & 1994
- Water Resources Act 1991
- National Rivers Authority (now the Environment Agency) Land Drainage Byelaws 1981.

Enforcement

In an effort to reduce the risk of flooding the District Council, the County Council and the Environment Agency aim to improve and maintain the watercourse system through a process of co-operation, liaison, advice and assistance wherever possible. Enforcement of legislation will only be used where it has not been possible to obtain the landowners cooperation. Any increase or decrease in flow, diversion of flow, blockage of flow or other alterations which damage adjoining land, or the owner's rights, could result in private legal actions and claims for damages.

What is a Watercourse?

A watercourse is any channel through which water flows and can be open or enclosed underground as a culvert.

Main Rivers

Main rivers are usually larger streams and rivers, but also include smaller watercourses of strategic drainage importance. A main river is defined as a watercourse shown as such on a main river map, and can include any structure or appliance for controlling or regulating the flow of water in, into or out of a main river. The Environment Agency's powers to carry out flood defence works apply to main rivers only. The Department for Environment, Food and Rural Affairs (DEFRA) designates main rivers.

Ordinary Watercourses

An ordinary watercourse is every river, stream, ditch, drain, cut, dyke, sluice, sewer (other than a public sewer) and passage through which water flows which does not form part of a main river.