

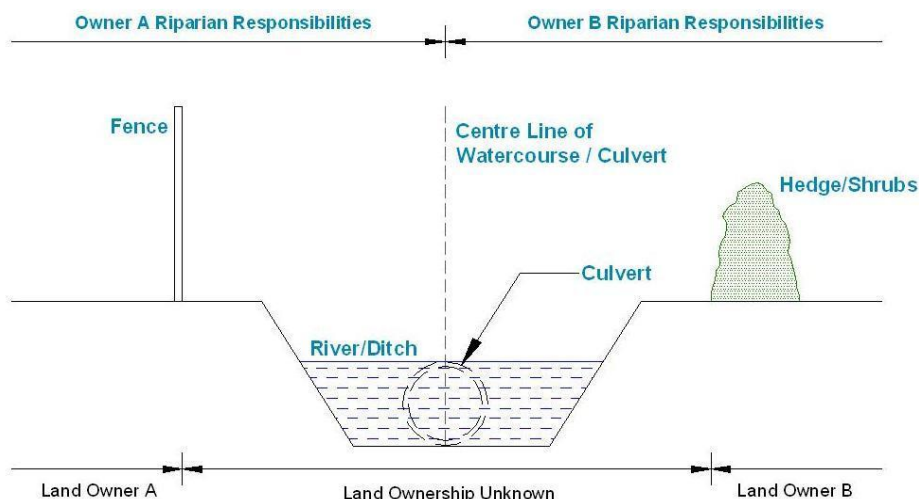
Living by a watercourse: Riparian rights and responsibilities

If you own a property that contains, or is adjacent to, a river, stream, brook, drainage ditch, culvert (piped watercourse) or any other form of watercourse, you should read this advice note. This note explains the rights and responsibilities of property owners/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 within, or adjacent to, the boundaries of your property. Where a watercourse is between two or more property boundaries each owner may be equally responsible. So, as in the diagram below, even if the Title Deeds for the landowner's properties show the boundary to be the fence/hedge, the landowners have riparian rights and responsibilities to the centre of the watercourse. (Further scenarios are shown on the "Riparian Responsibility Diagrams" document which you can also download from our website).

Example 1



Riparian Owners Rights

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, in order to avoid any obstruction of flow.

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.
- Failing to remove excess silt.

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.

Legislation

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

- The Public Health Act 1936
- The Land Drainage Act of 1991 (as amended)
- Water Resources Act 1991
- National Rivers Authority (now the Environment Agency) Land Drainage Byelaws 1981.
- The Flood and Water Management Act 2010

Implementation of Legislation

In an effort to reduce the risk of flooding the District Council aims to improve and maintain an effective watercourse system through a process of co-operation, liaison, advice and assistance wherever possible. Enforcement of legislation will only be used where necessary to resolve problems. 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.

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, (other than regular maintenance), which would interfere with its proper operation, or restrict road surface water draining into it. Although the Highway Authority has the right to discharge rainwater from the highway into these ditches under current legislation, the landowner is responsible for maintaining it.

However, if West Sussex County Council, the highway authority, have 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.