

Owner responsibility for rivers and ditches

This leaflet will give information to landowners about their responsibilities for the maintenance of watercourses on or adjacent to their land.

Who is a riparian owner and what are their responsibilities?

Under common law, a property or land owner is the riparian owner of any watercourse within or adjacent to that property or land. Where a watercourse is sited between two or more properties, each owner is equally responsible.

Owners of rivers, streams or ditches must accept water from an upstream neighbour and transfer this, together with drainage from their own property, downstream and undertake necessary maintenance of the watercourse to maintain the proper flow of water. The owner is responsible for the cost of maintenance including any culverted sections, pipe or other structure that allows water to flow underground or beneath another structure. If owners wish to propose a structure within a watercourse or any activity that could affect in-channel flows consent must first be given by the land drainage authority.

What is a watercourse?

A watercourse is defined as any channel through which water flows. It may range from a river, pass through a culvert or be reasonable sized ditch with a regular flow to a shallow trench which carries water infrequently.

Watercourses are classified as either:

- **Main rivers** – These are the responsibility of the riparian owner(s) for their maintenance and repair. The Environment Agency (EA) also has some powers to maintain and improve them. For more information on your responsibilities regarding main rivers, refer to the EA document “Living on the Edge” which is available on their website: environment-agency.gov.uk. You can also find watercourse is a main river from their site.
- **Ordinary watercourses** – These include any rivers, streams, ditches, drains or channels which do not form part of a main river as designated by the Environment Agency. The responsibility for their maintenance and repair also lies with the riparian owner(s).

What can cause problems to watercourses?

The common issues are the build up of silt which can block watercourses, the growth of vegetation which is not kept under control, blocked culvert entrances, or undersized or inadequate culverts, and disposal of garden or domestic waste in the watercourse.

If an owner fails to maintain the watercourse this could cause flooding or damage to the owner’s property, that of any neighbours and to the highway. Possible enforcement action could be taken against the riparian owner by the land drainage authority under the Land Drainage Act 1991 (The Act) if watercourses are not maintained.

Roadside ditches

KCC Highways has a right to drain the highway to any adjoining roadside ditches which could include privately owned ditches. Rural roads rely to a great extent on ditches to remove water. To make sure these ditches remain effective, it is essential



that they are kept in good condition. Common law imposes a duty on the owner of land adjoining a highway to maintain these ditches that provide natural drainage for both the land and highway. In the majority of cases the responsibility for ditch maintenance rests with the adjacent landowner.

A ditch on the side of the road which drains water from private land (and could be on either side of a private fence or hedgerow) is the responsibility of the land owner to maintain so it doesn't cause flooding to the highway. This ditch may still take water that drains from the highway, but the ditch's principle purpose is to drain water from private land.

A ditch that was created by Kent County Council Highways for the sole purpose of draining water from the highway is the responsibility of KCC to maintain.

What is a land drainage authority?

Kent County Council and internal drainage boards are local land drainage authorities in Kent for ordinary watercourses and have powers under the Land Drainage Act 1991.

The act gives land drainage authorities powers to deal with obstructions in ordinary watercourses, which can impede the flow of water and increase the risk of flooding. If an obstruction impedes the flow, the relevant land drainage authority may serve notice on the riparian owner to remove the obstruction. If no action is taken, the land drainage authority may carry out the work itself and recover the cost from the riparian owner. Land drainage authorities do not have a duty to carry out any works on ordinary watercourses.

What is land drainage consent?

The act requires that formal written consent is sought from the relevant land drainage authority for any structure proposed within a watercourse or any activity that could affect in-channel flows, or for any works within eight metres of a main river or internal drainage board maintained watercourse.

The Environment Agency, Kent County Council and internal drainage boards are generally opposed to the culverting of watercourses, due to the problems they cause, and consent will usually only be granted if there is no practical alternative.

To contact **Kent County Council** for more information and advice, please call the contact centre on **0300 041 41 41** or visit our website kent.gov.uk/flooding.

Internal drainage board (IDB) contact details:

Upper and Lower Medway IDBs

Tel: 01622 758345

medwayidb.co.uk/

River Stour (Kent) IDB

Tel: 01227 462377

riverstouridb.org.uk

Romney Marshes Area IDB

Tel: 01797 227000

rmaidb.co.uk