

Guidance Notes: RIPARIAN LANDOWNERSHIP

If you are unsure about anything within these notes, then please contact the Flood Risk Management (FRM) team using the details at the end of this document.

Riparian Landownership

If you own land or property next to or over a river, stream, ditch, or culvert/pipe that forms part of a watercourse you are legally termed a 'riparian landowner' of that section of the watercourse that falls within your land. If your land boundary is next to a watercourse, it is assumed you own the land up to the centre of the watercourse, unless it is definitively owned by someone else (as illustrated on Figure 1 below).

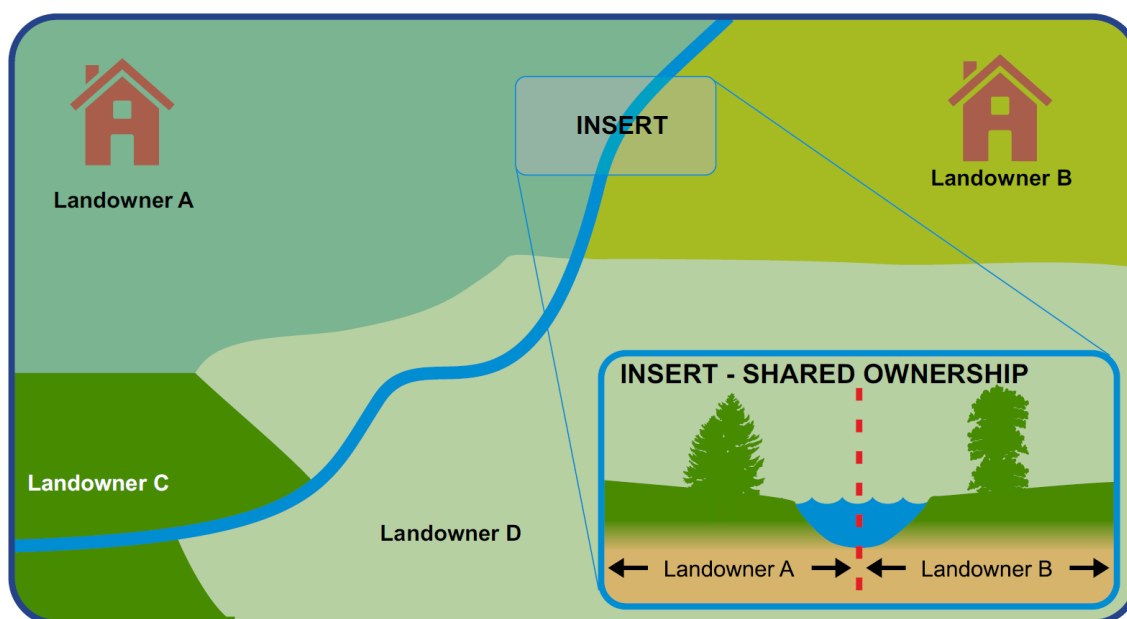


Figure 1: Illustration of riparian landownership

If a watercourse runs alongside your garden boundary wall or hedge you should check your property deeds to see if the wall or hedge marks your boundary. If the watercourse marks the boundary, it is assumed you own the land up to the centre of the watercourse. Occasionally a watercourse, especially an artificial one, will be the responsibility of a third party; to establish this you should check your property deeds.

Living on the Edge

The Environment Agency have produced a document that summarises rights and responsibilities of watercourse ownership called '**Living on the edge**' available on the DCC's flood risk web page

'Living on the edge' also summarises the role of Risk Management Authorities (RMAs), who are responsible for flood risk management and flood defences and explains how you can work with these organisations to protect and enhance the natural water environment.

Rights and Responsibilities

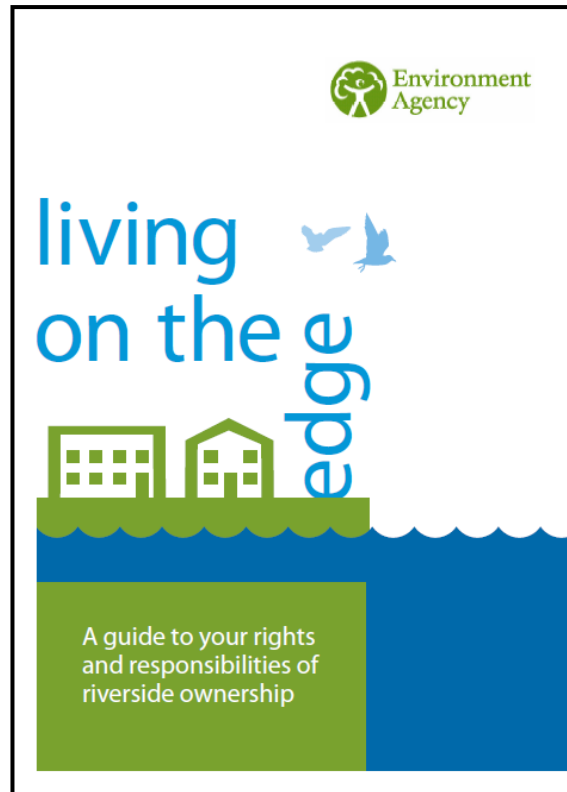
All riparian landowners have the same rights and responsibilities.

Your rights as a riparian landowner

- To receive a flow of water in its natural state, without undue interference in quantity or quality.
- To protect your property against flooding and protect your land from erosion.
- To abstract a certain volume of water from the watercourse - check with the Environment Agency.
- To fish in your watercourse - you may require a licence.

Your responsibility as a riparian landowner

- To maintain the watercourse and to clear any obstructions (natural or otherwise) so the normal flow of water is not impeded.
- To accept the natural flow from your upstream neighbour and transfer it downstream without obstruction, pollution, or diversion. This includes accepting floodwater through your land.
- To maintain the banks and bed of the watercourse (including trees and shrubs growing on the banks) and any flood defences that exist on it.
- To maintain any structures on your stretch of watercourse including culverts, weirs, and mill gates.



- To Keep the bed and banks clear from any matter that could cause an obstruction and clearing any debris, natural or otherwise, even if it did not originate from your land
- As a riparian landowner you also have a responsibility to manage your own flood risk.
- Perception of what is clear or not and its impacts.

For more information regarding roles and responsibilities please refer to 'Living on the edge'.

Frequently asked questions

Am I a riparian landowner?

If you own land that a watercourse (river / ditch / dyke / pipe / culvert / etc.) flows through you are likely to be the riparian landowner. If you are unsure whether you are a 'riparian landowner' then please check your property deeds.

If you are still unsure, then please contact the FRM team using the details at the end of this guidance.

Are the County Council a riparian landowner?

The County Council do not own any watercourses except parts of those that flow through land owned by the County Council. The County Council are therefore the riparian landowner of that section of watercourse and have riparian responsibilities like any other riparian landowner. Where a watercourse passes beneath the Highway the Highways Authority (County Council for all non-Trunk Roads) would maintain that section of watercourse to limit the impact on the public Highway. However, it is unlikely that, the County Council would own the section of land beneath the highway.

For more information, please refer to the [Highways Statutory Duties and Vested Powers Guidance Notes](#).

My neighbour is not fulfilling their duty as a riparian landowner?

If you think that a neighbouring landowner is not fulfilling their duties as a riparian landowner, and this may be causing or exacerbating flood risk, then there are steps that can be taken to help mitigate the situation. This includes discussing your concerns with your neighbouring landowner, advising them of their riparian responsibilities and pointing them in the direction of 'Living on the edge'. You may also wish to contact the FRM team using the details at the end of this guidance.

Can the County Council enforce my neighbour to fulfil their riparian duties?

The County Council has permissive powers under Section 25 of the Land Drainage Act to enter land to undertake emergency works to mitigate flooding / flood risk. Permissive powers would only be exercised under extreme circumstances and the County Council would only consider exercising their permissive powers once all other forms of communication had been exhausted and this would not be undertaken without a full understanding of the benefits / risks involved. For further information please refer to the **Enforcement Powers Guidance Notes**.

What level of maintenance is required of my section of watercourse?

Section 25 of the Land Drainage Act specifies that you must let water flow through your land without any obstruction or diversion which affects the rights of others. Receiving landowners have a right to receive water in its natural quantity. If you are unsure about the level of maintenance that you need to undertake, please refer to 'Living on the edge'.

Please remember that any works to or adjacent to a watercourse may require Land Drainage Consent from the County Council's FRM team (or the Environment Agency- Main River). When undertaking any works, you should have due regard to the water environment (wildlife, habitat, and invasive plants).

Is a culvert or land drain classed as an ordinary watercourse? The culvert/land drain passes beneath my property, who is responsible to maintain it?

An 'ordinary watercourse' is a watercourse that is not part of a main river and includes rivers, streams, ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Water Industry Act, 1991) and passages, through which water flows.

Sometimes there are networks of isolated land drainage located within agricultural land which discharge to ground and have no connectivity to a waterbody. Such drainage is not classified as an ordinary watercourse.

The riparian landowner is responsible for maintaining the section or ordinary watercourse which passes through their land.

Can I fill in a section of ditch that flows only for part of the year or divert the flow of a culvert or ditch within my property boundary?

If you wish to make an amendment to or work within close proximity to a ditch, dyke, culvert, river or watercourse then you may require consent under the Land Drainage Act (1991). Please contact the FRM team or visit the website www.derbyshire.gov.uk/flooding for further guidance.

There is a blocked ditch which is threatening to cause flooding to my property/land. What can I do?

It may be that the ditch is designed to intercept water and then allow water to naturally filtrate into the ground. These types of ditches are not connected to the wider river network and therefore are not governed under the Land Drainage Act (1991).

If the ditch is connected to a watercourse, it legally forms part of an ordinary watercourse under the Land Drainage Act (1991) and should be maintained to allow the natural flow to continue downstream. If you feel that your property may be at risk, you are advised to liaise with the relevant landowner and request that they maintain the ditch.

For more guidance on surface water flooding and steps you may wish to take to help mitigate an impact please refer to the **Surface Water Guidance Notes**.

I would like to speak to an expert about possible amendments to a watercourse within my land. Who shall I call?

If you wish to make an amendment to or work within close proximity to a ditch, dyke, culvert, river or watercourse then you may require consent under the Land Drainage Act (1991). Please contact the FRM team or visit the website www.derbyshire.gov.uk/flooding for further guidance.