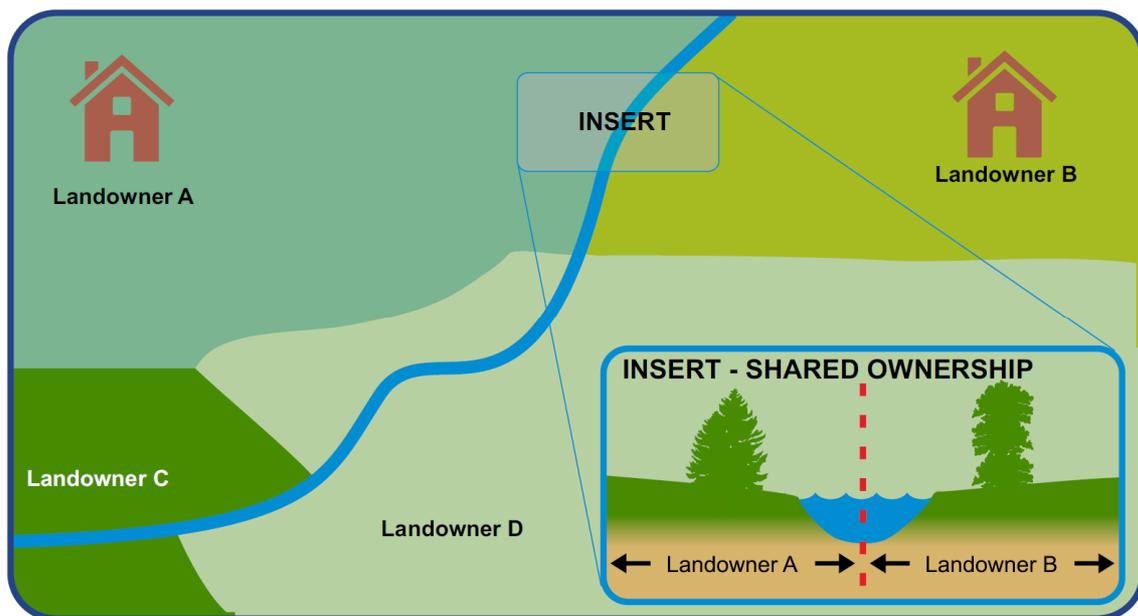


## Guidance Notes: RIPARIAN LANDOWNERSHIP

*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 riverside ownership called '**Living on the edge**'<sup>1</sup> available online.

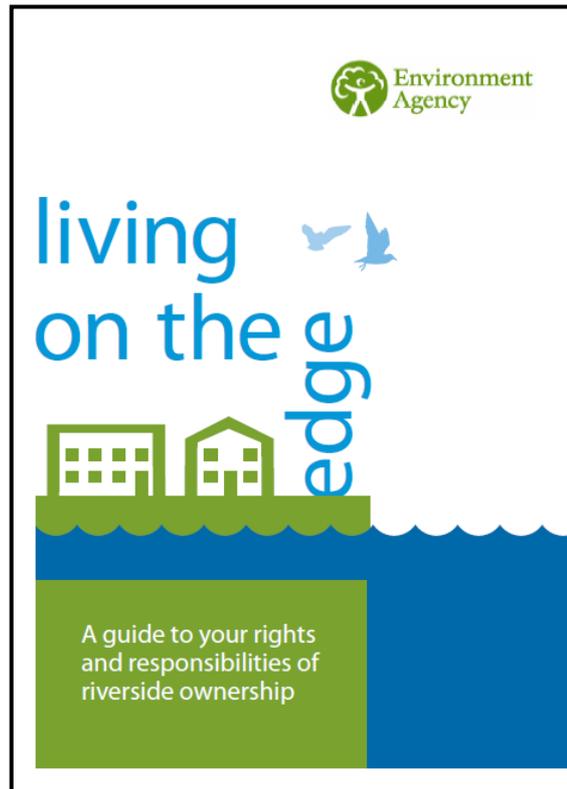
'Living on the edge' also summarises the role of Risk Management Authorities (RMAs), who are responsible for flood risk management and flood defences and explains how you can work with these organisations to protect and enhance the natural water environment.

## Rights and Responsibilities

All riparian landowners have the same rights and responsibilities.

### *Your rights as a riparian landowner*

- Water should flow onto or under your land in its natural quantity and quality. The water should not be taken out of a watercourse if it could lead to a lack of water for those who need it downstream. It also means that a person cannot carry out activities that could lead to pollution of the water and therefore reduce the natural water quality within a watercourse.
- You have the right to protect your property from flooding, and your land from erosion. However, you should check with the County Council or Environment Agency before you start any work, particularly if you propose undertaking works on or adjacent to a watercourse or river.
- You may have a right to abstract a certain volume of water from the watercourse. You are advised to check with the Environment Agency.
- You may have the right to fish in your watercourse. You are advised to check with the Environment Agency as to whether you require a licence.



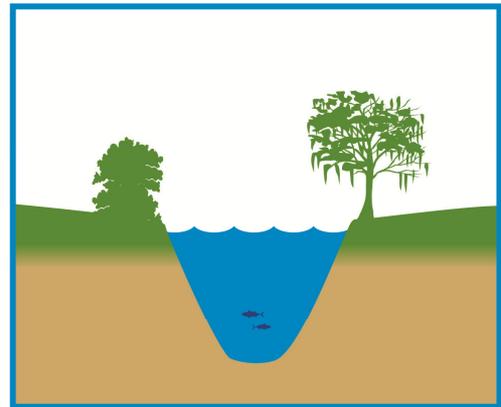
<sup>1</sup> [www.gov.uk/government/publications/riverside-ownership-rights-and-responsibilities](http://www.gov.uk/government/publications/riverside-ownership-rights-and-responsibilities)

### *Your responsibility as a riparian landowner*

- You have a duty to pass on water through your land without any obstruction, pollution or diversion which may affect the rights of others. Others, including adjoining riparian landowners also have the right to receive water in its natural quantity and quality.
- You must accept floodwater through your land, even if these are caused by inadequate capacity downstream. A landowner has no duty in common law to improve the drainage capacity of a watercourse they own.
- You are responsible for maintaining the bed and banks of the watercourse and the trees and shrubs growing on the banks and must clear anything that could cause an obstruction and increase flood risk.
- You must keep any structures, such as culverts, trash screens, weirs and mill gates clear of debris. They may be vital for flood protection.
- You are responsible for protecting your property from water that seeps through natural or artificial banks. Where this damages a flood defence, you may be required to pay for repairs.
- You must control invasive alien species such as Japanese knotweed.
- As a riparian landowner you also have a responsibility to manage your own flood risk.



**Poorly maintained watercourse**



**Well maintained watercourse**

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. The County Council would not own that section of land however. 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'. If you wish to obtain further support and guidance you can 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. The County Council would only consider exercising their permissive powers once all other forms of communication had been exhausted and would not be undertaken without a full understanding of the benefits/risks involved and relevant internal approval gained. 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' or contact the FRM team on the details at the end of this guidance.

Please remember that any works may require Land Drainage Consent from the County Council's FRM team (or even in some cases the Environment Agency) and when undertaking any works you should have due regard for the water environment (wildlife, habitat and invasive plants). For information relating to invasive plants please refer to the **government website**<sup>2</sup>.

If you have any concerns or doubt then please contact the FRM team.

*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 to maintain 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](http://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?*

If the ditch is connected to a watercourse it legally forms part of an ordinary watercourse under the Land Drainage Act (1991).

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

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<sup>2</sup> <https://www.gov.uk/wild-plants-dangerous-invasive-and-protected-species>

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](http://www.derbyshire.gov.uk/flooding) for further guidance.

For information relating to experts for flood risk management please refer to the [Using Experts Guidance Notes](#).

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