

## Who regulates the different types of watercourses?

Different watercourses are regulated by different Risk Management Authorities (RMAs).

The Environment Agency is the RMA for watercourses designated as 'Main River'. If you are planning to carry out work on, over, under or near a main river, you will need to discuss your plans with them.

Internal Drainage Boards (IDBs) are the RMA for ordinary watercourses within their rateable areas. If you are planning to carry out work near or within an ordinary watercourse in an IDB area, you will need to discuss your plans with them before you start work.

If you are planning any work near or within an ordinary watercourse but outside of an IDB rateable area you need to speak with the Flood and Water Team within Cambridgeshire County Council to discuss your plans. The County Council has taken on the role for consenting and enforcement of works to ordinary watercourses in non IDB areas since 6th April 2012.

## What is a Watercourse?

A watercourse is defined as any channel through which water flows. It may range from a reasonable-sized ditch with a constant flow to nothing more than a depression which carries water infrequently. Within the meaning of the Act "watercourses" may also be piped. Whilst watercourses may take runoff from the highway, the originating flow will normally be from a land drainage source

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## Watercourses are classified as either:

**Main Rivers:** Managed by the Environment Agency. The responsibility for their maintenance and repair lies with the "Riparian Owner(s)", although the EA also have 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 the Environment Agency website.

**Ordinary Watercourses:** The responsibility for their maintenance and repair lies with the "Riparian Owner(s)"

**Awarded Watercourses:** The responsibility for the maintenance lies with the Local District or City Councils (or another relevant authority).

The expression "riparian rights" refers to those common law powers and duties relating to the use of water associated with the ownership of the bank or bed of a watercourse. The deeds to a property may indicate who the riparian owner is but this is not always the case. The law therefore presumes, in the absence of contrary evidence, that land adjoining a watercourse includes the watercourse. If there is nothing specific in the property deeds and unless there is something to establish contrary intention, the riparian owner is responsible for the watercourse. A ditch alongside a road is normally owned by the adjacent landowner.

Ditches that run alongside a highway generally do not form part of the highway (since they do not assist the free passage along the highway) and remain the responsibility of the landowner or occupier.

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## The rights and responsibilities of a riparian owner



If you own land adjoining, above or with a watercourse running through it, you have certain rights and responsibilities. In legal terms you are a “riparian owner”. If you rent the land you should agree with the owner who should manage these rights and responsibilities. Smaller watercourses, ditches and drains, known as “ordinary watercourses” play a crucial role in managing flood risk to people and property in Cambridgeshire. That is why it is important to ensure that they are well maintained and kept free from debris, obstructions and do not become overgrown. Cambridgeshire County Council, under the Flood and Water Management Act (2010), is a Lead Local Flood Authority, and responsible for regulating ordinary watercourses outside of Internal Drainage Board’s rateable areas

### **What are your rights as a riparian owner?**

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 owned by someone else. If a watercourse runs alongside your garden wall or hedge you should check your property deeds to see if your wall or hedge marks the boundary. If the watercourse marks the boundary it is assumed you own the land up to the centre of the watercourse.

If you own land with a watercourse running through or underneath it, it is assumed you own the stretch of watercourse that runs through your land. Occasionally a watercourse especially an artificial one, will be the responsibility of a third party. This should be noted in your deeds.

Water should flow onto or under your land in its natural quantity and quality. This means that water should not be taken out of a watercourse if it could lead to a lack of water for those downstream. It also means that a person cannot carry out activities that could cause pollution to a watercourse.

You have the right to protect your property from flooding, and your land from erosion. However you must get your plans agreed by the relevant Risk Management Authority (RMA) before you start work.

Please remember these rights are affected by your duty to other riparian landowners, the community and the environment

### **What are your responsibilities as a riparian owner?**

You must let water flow through your land without any obstruction, pollution or diversion which affects the rights of others. Others also have the right to receive water in its natural quantity and quality. Riparian owners all have the same rights and responsibilities.

You must accept flood flows 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 he/she owns.

You should keep the banks clear of anything that could cause an obstruction and increase flood risk, either on your land or downstream if it is washed away. You are responsible for maintaining the bed and banks of the watercourse and the trees and shrubs growing on the banks. You should also clear any litter, debris or animal carcasses from the channel and banks, even if it did not originate from your land.

You should always leave a development-free edge on the banks next to the watercourse. This allows easy access to the watercourse in case any maintenance or inspection is required.

In some areas local byelaws exist which explains what you can or cannot do within certain distances of a watercourse. For more information on works near watercourses contact the relevant risk management authority

You must keep structures such as culverts, trash screens, weirs and mill gates, clear of debris. Discuss the maintenance of flood defences such as walls and embankments on your property with your RMA. They may be vital for flood protection.

You should not cause obstructions, temporary or permanent that would stop fish passing through.

Please help us to protect water quality. Do not use riverbanks to dispose of garden or other waste where it could be washed into the river. This includes grass clippings, which pollute watercourses.

You are responsible for protecting your property from water that seeps through natural or manmade banks. Where this damages a flood defence, your RMA may require you to pay for repairs.

Your property may include a watercourse that runs through a culvert. You have the same responsibilities for the upkeep of a culvert as if it was an open watercourse.

### **What happens if I do not undertake my riparian responsibilities?**

If you do not carry out your riparian responsibilities, we can request you to maintain the watercourse and you could face legal action under The Public Health Act 1936, The Land Drainage Acts 1991 and 1994, the Water Resources Act 1991 and the Environment Agency Land Drainage Byelaws 1981