



BEDFORD
BOROUGH COUNCIL

Watercourse, Ditch or Drain near your Property?

Is it your responsibility?

Riparian Ownership Clarified

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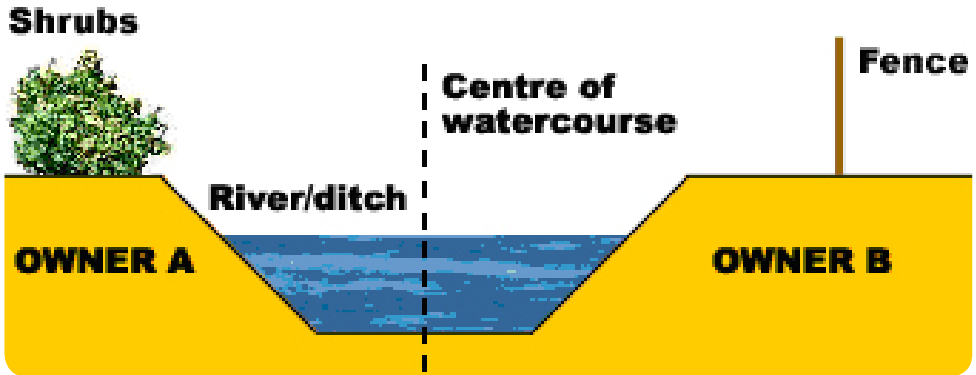
What is a watercourse?

A watercourse is every river, stream, ditch, drain, cut, dyke, sluice, rill, sewer (other than a public sewer) culvert, pipe or passage through which water flows. A watercourse may be very small and need not always contain water all year round, nor do the banks need to be clearly or sharply defined.



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 and as such you have certain rights and responsibilities which you should be aware of. Even if you have a fence along the boundaries of your garden you may still be responsible for the watercourse beyond it.



If the watercourse forms a boundary between properties you generally are responsible up to the centre of the watercourse. For example, even if the Title Deeds for Owner B's property show their boundary to be the fence, they have riparian rights and responsibilities up to the centre of the watercourse.

Watercourses that have been enclosed underground (culverted) are still considered to form part of an ordinary watercourse or main river and it is still your responsibility as a riparian owner if it runs through your land.

What is the difference between a main river and ordinary watercourse?

Main rivers – such as the River Great Ouse, are designated and mapped as such on the Environment Agency's official 'Flood Maps'.

(<http://bit.ly/1n8MnXZ>)

Ordinary watercourses – any watercourse not shown as a main river. It could be a road side ditch, a drain, stream, culvert or a combination of these.

Who are the Regulating Bodies?

'Regulation' is the management of certain activity that could cause an obstruction to the flow of water in a watercourse. The regulating body gives consent for acceptable works to be carried out and can take enforcement action if work is unacceptable. This process ensures that the risk of flooding from watercourses is managed appropriately and that any works undertaken on the watercourse will not negatively affect the environment.

Bedford Borough Council and the Bedford Group of Internal Drainage Boards (IDB) regulate ordinary watercourses in the Borough. The Environment Agency regulates main rivers.



Riparian Owner Legal Rights and Responsibilities

Riparian owners all have the same rights and responsibilities. These are in place to protect you from the actions of fellow riparian owners, but also outline your duty to other owners, the community and to the environment.

Your Rights:

- Right to receive flow of water in its natural state, without undue interference in its quantity or quality.
- Right to protect your property from flooding, and your land from erosion (subject to approval by regulating bodies).
- Use of the watercourse including the right to fish in the watercourse (you must have a valid Environment Agency rod licence). This right may be sold or leased.

There may be some circumstances in which these rights are affected by other laws or environmental considerations, for example you are not allowed to fish out of season even if you have a license.

Your Responsibilities:

- To pass on the flow of water without obstruction, pollution or diversion affecting the rights of others.
- To accept flood flows, even if caused by inadequate capacity downstream.
- To maintain the bed and banks of the watercourse and to clear any debris, whether natural or man-made.
- To keep any culverts, rubbish screens, weirs and mill gates clear of debris.
- To be responsible for the protection of your land from flooding (you may need consent before undertaking works).
- To not cause any obstructions, either temporary or permanent, that could prevent the free passage of fish.
- To comply with any other Acts or environmental good practice measures that may apply.

Riparian responsibility for road side ditches

Riparian owners should note that ordinary watercourses include road side ditches; you may therefore be responsible for the maintenance of these where they border your land. This applies to the entire width of the channel, not just to the centre point. If flooding on the highway occurs due to an obstruction in the ditch, or drainage of the road into the ditch is prevented, the Council as the Highway Authority may exercise legal powers requiring riparian owners to clear it.



What can I do to ensure I am maintaining my watercourse?

Keep vegetation growth under control

- When trimming vegetation it is important to consider any impact on biodiversity. Mowing of banks around ditches should be minimised during the animal spawning season of March to mid July.
- It is recommended to cut to just above the water level on one side of the watercourse, leaving the fringe of the bank uncut and maintaining some habitat whilst enabling a clear flow in the ditch.
- Cuttings from any clearance work should be removed and kept clear of the watercourse or disposed of to avoid re-entry (causing blockages downstream).

Keep watercourses free of debris (e.g. litter, grass cuttings, and fallen trees)

- Any waste resulting from the maintenance of ditches should be left on top of the bank for a few days to allow any organisms within the waste to migrate back into the ditches, after which the waste should be removed. Silt should be spread onto the adjacent land.
- All non-organic waste should be completely removed off site and disposed of in an appropriate manner.
- If the watercourse you are responsible for is subject to Fly Tipping report this to Bedford Borough Council (Anti Social Behaviour Hotline 01234 276037). As the riparian owner it is your responsibility to clear the obstruction.
- In the case of culverted (piped) watercourses, blockages within the pipe or at an inlet can cause flooding problems. These blockages can be minimised by regular inspection and the removal of debris. Culvert inlets often have protective grills to prevent debris entering the pipe and so causing blockages, these should be cleared regularly, especially during periods of heavy rainfall when debris can accumulate very quickly.

Removal of excess silt

- Where possible, try to maintain the original profile and cross section of the ditch when de-silting. If the gradient is altered it can change the flow pattern and increase flood risk either upstream or downstream.

- Temporarily depositing silt on top of the banks of the watercourse allows for organisms to migrate back into the ditch. It is however essential that this material does not then block the highway grips (shallow ditches between the road and watercourse) and that the material is not carried on to the road.

Consider the environment

- Ensure that you undertake the majority of your clearance works after the vegetation has begun to die back in late September/October. At this time of year there should be no wildlife nesting or breeding in or near ditches.
- The impacts of maintenance can be minimised by using hand tools to regularly remove obstructions to the flow of water, rather than using heavy machinery that removes all vegetation.
- Plan your maintenance to ensure that stretches of habitat are left intact, for example by trimming alternate banks or lengths of the ditch each year. This ensures that there is always a healthily vegetated area where fauna disturbed by maintenance can migrate to without being forced to leave the ditches.
- If protected species have been recorded in your ditches you must ensure their habitats are not adversely affected. To find out if protected species have been recorded on or near your land contact the Environment Agency's Local Fisheries and Biodiversity team.

Remember to stay safe

- When undertaking works within or adjacent to a watercourse, landowners must assess their works to ensure that they can be undertaken without putting themselves or others at any kind of risk.
- Due to the range of risks posed by both open and culverted watercourses, landowners should assess this on a case-by-case basis.



Consenting for works on a watercourse

If you wish to carry out any alterations to a watercourse other than general cleaning and routine maintenance, you will need consent from your regulating body (under Section 23, Land Drainage Act 1991 - www.legislation.gov.uk/ukpga/1991/59/contents). This must be secured before going ahead with any such works.

This includes any modifications that might affect the flow characteristics or capacity of a watercourse, such as dams, weirs, mills, channel diversions, culverting or piping, and works on or adjacent to the banks. In some cases planning and/or building regulation consents may also be required.


How do I get consent for work to be carried out?

For an ordinary watercourse in the IDB area please contact the Bedford Group of IDBs:

 **01234 354396**

 contact@idbs.org.uk

For an ordinary watercourse in any other area please contact Bedford Borough Council:


 **01234 276808**

 allan.burls@bedford.gov.uk

We recommend that you contact us as early as possible to discuss your plans before you apply for consent. We also offer advice on what to include with your application, other organisations that you may need to consult and how long it is likely to take to determine your application.

When all the preliminary details have been agreed we will ask you to fill in an application form. Please note that there is a fee of £50 per application, we do not charge for enquiries.

For main rivers please contact the Environment Agency:

 **0870 850 6506**

 enquiries@environment-agency.gov.uk

Where can I get more information?

For questions relating to riparian ownership call our Customer Services on **01234 267422**, your call will be logged and passed on to an officer that can help. You can also visit our website at www.bedford.gov.uk to find out more.

More information on waterside living is available in the Environment Agency's leaflet 'Living on the Edge', you can also direct your enquires to the EA using enquiries@environment-agency.gov.uk

Frequently Asked Questions

What if the watercourse is between my property and a park or other leisure area?

If the ditch borders your property then you are the riparian landowner. If the land on the other side of the ditch is council owned, you share the responsibility with the council.

There is a watercourse on my land, can I fill it in or pipe it?

No, not without the consent of the regulating body (Environment Agency, Borough Council or IDB if in an IDB area).

Why won't the Council keep the ditch clear that runs between my property and the adopted highway?

A roadside ditch which conveys water away from the adopted highway is classified as a watercourse and as such remains the responsibility of the riparian owner.

How important can the ditch be, it rarely has water in it?

Even if the ditch is often dry the responsibility of maintenance still applies. The ditch may form an important function in holding water in times of flood.

How is the maintenance of watercourses enforced?

The Land Drainage Act 1991 places responsibility for maintaining water flows in watercourses on landowners. Under the Act the Council has powers to serve notice on landowners to ensure that works are carried out to maintain a sufficient flow.

What if I share responsibility with another owner but they won't co-operate?

Give them this leaflet, if they require further information or you feel that your rights are being impinged contact the relevant regulating body for advice.

How do I find out if I am in an IDB area?

To see if you live in an IDB area visit www.idbs.org.uk

Information leaflets for IDB areas are also available from their web site.

For more information



Corporate Safety & Resilience

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floodrisk@bedford.gov.uk