

## Guidance notes for riparian owners

**Norfolk County Council (NCC)** is the **Lead Local Flood Authority (LLFA)** for Norfolk. An LLFA's role is defined under the Flood and Water Management Act 2010 and this piece of legislation has changed the Land Drainage Act 1991 to give LLFAs powers with regard to "ordinary watercourses".

What is an "ordinary watercourse"?

It can be a river, stream, ditch, drain or passage through which water flows, and does not form part of a main river system. "Main rivers" are usually larger streams and rivers, but can also include smaller watercourses of strategic drainage importance and these are controlled by the **Environment Agency (EA)** and **Internal Drainage Boards (IDBs)**.

NCC as the LLFA has the power to serve notice on riparian owners for the removal of any blockages to any ordinary watercourse which it deems is interfering with the natural flow. In practice the use of such powers are not usually called upon as such problems are often resolved through discussion. However, should the riparian owner fail to rectify the problem within a specified time frame, then the LLFA has the power to undertake the work itself and recharge the full costs to the riparian owner.

### Riparian Ownership

If you have an ordinary watercourse or a main river running through your land or along the boundary of your property you are likely to be the riparian owner or joint riparian owner, unless the watercourse is known to be owned by someone else. If the land on the other side of the watercourse is not in your ownership you are presumed to be the joint riparian owner together with the landowner on the other side. In the case of joint riparian ownership each party is presumed to own up to the centre line (the middle) of the watercourse and therefore is responsible up to this point.

### Your responsibilities as a riparian owner

As a riparian owner you have responsibilities in relation to the watercourse flowing through or adjacent to your property. Your legal duties are to:

- Pass on flow without obstruction, pollution or diversion affecting the rights of others.

- Accept flood flows through your land, even if caused by inadequate capacity downstream, as there is no common law duty to improve a watercourse.
- Maintain the bed and banks of the watercourse (including trees and shrubs growing on the banks), and for clearing any debris, natural or otherwise, including litter and animal carcasses, even if it did not originate from your land. (Your local District Councils can give you advice on the removal of animal carcasses.)
- Not cause any obstructions to the free passage of fish.
- For keeping the bed and banks clear of any matter that could cause an obstruction, either on your land or by being washed away by high flow to obstruct a structure downstream. Rivers and their banks should not be used for the disposal of any form of garden or other waste.
- For keeping clear any structures that you own such as culverts, trash screens, weirs and mill gates.
- For protecting your property from seepage through natural or man-made banks. Where such seepage threatens the structural integrity of a flood defence, it may become the concern of the Environment Agency. You may have flood defences such as walls and embankments on your property, which are vital for the protection of both yourself and others. You should discuss the maintenance of such defences with the Environment Agency if you have any concerns relating to these.

These are some but not all of your responsibilities, and failure to carry these out could result in possible civil action from others up stream of the water course. Your responsibilities as a riparian owner are based on the following legislation:

- Flood and Water Management Act 2010
- The Land Drainage Acts of 1991 & 1994
- Water Resources Act 1991
- National Rivers Authority (now the Environment Agency) Land Drainage byelaws 1981
- The Public Health Act 1936

### Your rights as a riparian owner

As a riparian owner:

- You are presumed to own the land up to the centre of the watercourse, unless it is known to be owned by others.
- You have the right to receive flow of water in its natural state, without undue interference in quantity or quality.
- You have the right to protect your property from flooding, and your land from erosion. You may need the consent of the LLFA or EA for such works.
- You have the right to fish in your watercourse, but this must be by legal methods and with a valid EA rod licence.
- Without needing a licence, you can abstract a maximum of 20 cubic metres of water per day for the domestic purposes of your own household or for agricultural use, excluding spray irrigation; from a watercourse at a point that directly adjoins your land. Most other types of abstraction will require a licence from the Environment Agency.
- Before starting any work on or adjacent to a watercourse, you must submit plans to the LLFA to determine whether you require our consent or that of other authorities. You may also require planning permission if you propose to go beyond the curtilage of your boundary.
- If the work affects sites of known conservation or archaeological value, you may need further permissions from the relevant Authorities. Environmental issues, including flood risk, wildlife conservation, fisheries, and reshaping of the river and landscape, must all be considered.

## What is the Council responsible for?

Under the Land Drainage Act 1991, NCC is the "operating authority" for ordinary watercourses in 79.3% of Norfolk (the rest is maintained by the IDB). While riparian owners are responsible for maintaining watercourses, Norfolk County Council may take action where an event has or is likely to increase flood risk and relates to:

- Internal flooding of a residential property which can include an attached garage (please note - a detached garage or shed is not considered internal)
- Flooding of critical infrastructure e.g. hospitals

- Flooding of main roads e.g. priority 1 and 2 winter gritting routes

In such circumstances the Council will, in line with the Council's Flood and Water Management Enforcement Protocol:

- Inspect ordinary watercourses.
- Contact riparian owners where maintenance is required and if necessary, serve notice to require maintenance if water flow is seriously impaired.
- Co-ordinate work along a watercourse where a number of residents
- Take action to prevent unauthorised piping or culverting of watercourses.

Before carrying out **any** works to a watercourse, such as altering a structure on or near a watercourse, building a retaining wall or laying pipes (culverting) in a ditch, **you must contact us. Failure to do so could, if consent to undertake works is required, result in legal action being taken.** If you are in any doubt, contact Norfolk County Council, details below.

**For further information please see the following:**

Environment Agency website:

[www.environment-agency.gov.uk/flood](http://www.environment-agency.gov.uk/flood)

Norfolk County Council website:

[www.norfolk.gov.uk/watermanagement](http://www.norfolk.gov.uk/watermanagement)

Look for a leaflet called:

[Living on the edge](#) (hyper link for electronic version)

## Useful Contacts

Flood and Water Management  
County Hall  
2nd Floor  
Martineau Lane  
Norwich  
NR1 2SG  
Email: [water.management@norfolk.gov.uk](mailto:water.management@norfolk.gov.uk)  
Telephone 0344 800 8020

Environment Agency  
National Customer Contact Centre  
PO Box 544  
Rotherham  
S60 1BY  
Web: [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)  
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