



## Roadside Ditches

There are 3 categories of roadside ditch:

- A ditch created by the Highway Authority and owned by them solely for draining the highway, which is the responsibility of the Highway Authority
- A ditch on the road side of fences and hedges taking land drainage as well as highway drainage, which is the responsibility of the Riparian Owner
- A ditch on the field side of a fence or hedge taking land drainage as well as highway drainage, which is a responsibility of the Riparian Owner

The Highway Authority has a prescriptive right to drain the highway to adjoining roadside ditches. Rural roads rely to a great extent on ditches to remove water and their effectiveness is vital to keeping them in good condition. Common Law imposes a duty on the owner of land adjoining a highway to maintain these ditches that provide natural drainage for both the land and highway. In the majority of cases the responsibility for ditch maintenance rests with the adjacent landowner.

## Common problems affecting watercourses are:-

- Allowing silt to build up which can reduce the capacity of, or block watercourses
- Failing to keep vegetation growth under control
- Disposal or storage of garden or domestic rubbish or waste on the banks of watercourses
- Failing to clear the entrances to piped watercourses
- Failing to obtain consent for any building, planting or alterations within eight metres of the bank

## What are the consequences of a Riparian Owner's failure to look after a watercourse?

- A drainage problem for the property owner and neighbouring land owners.
- Potential flooding of properties, the highway and surrounding land.
- Possible enforcement action taken against the Riparian Owner by West Berkshire Council under the Land Drainage Act 1991.

We are happy to discuss any problems with you. To contact us, please telephone Customer Services on **01635 519080**.

Your call will be logged and will be passed on to an officer who can help.

*Thank you for your co-operation*

If you require this information in a different format, such as audio tape, or in another language, please ask an English speaker to telephone the Council on 01635 519080, who will be able to help.

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# Riparian Owner Responsibilities & Roadside Ditches



West Berkshire Council is committed to reducing the risk of flooding and has prepared this leaflet to provide information for landowners. It outlines their responsibilities for the maintenance of watercourses on or adjacent to their land as set out in the Land Drainage Act 1991 ("The Act").



## 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 run-off from the highway, the originating flow will normally be from a land drainage source.

Watercourses are classified as either:

- Main Rivers – These are 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 EA website.
- Ordinary Watercourses – These are managed by the local Land Drainage Authority. The responsibility for their maintenance and repair lies with the "Riparian Owner(s)"

## Land Drainage Authority

West Berkshire Council is the local Land Drainage Authority and has resolved to exercise its powers under the Land Drainage Act 1991 when necessary. The Act gives local authorities powers to deal with obstructions in ordinary watercourses where that obstruction to the flow of water creates a risk of flooding.

If the obstruction impedes the flow, the Council may serve notice on the Riparian Owner to remove the obstruction. If no action is taken, the Council may carry out the work itself and recover the cost from the Riparian Owner.



## Who is a Riparian Landowner?

Under common law you as the property owner are the Riparian Owner of any watercourse within or adjacent to your property. Where a watercourse is sited between two or more properties, each owner will be equally responsible.

## What are the responsibilities of landowners?

Landowners have a responsibility to accept the natural flow of water across their land.

This water must not be diverted or obstructed in any way without the permission of the Environment Agency. For example, consent would be required from the Environment Agency to pipe a watercourse. Inadequately piped watercourses can create flooding, safety, maintenance and environmental problems.

The Environment Agency are generally opposed to the piping of watercourses and consent will usually only be granted if there is no practical alternative.

## What is a Riparian Owner responsible for?

- Accepting water from an upstream neighbour and transferring this, together with drainage from their own property, to their neighbour downstream. You have the responsibility to accept water ponding on your land even if caused by inadequate capacity downstream, as there is no common law duty to improve a watercourse downstream.
- Carrying out at their own expense any necessary maintenance of the watercourse to the satisfaction of the local Land Drainage Authority.
- Maintenance of the banks and bed of the watercourse or of the piped sections to avoid any obstruction to the flow of water.