

## Appendix A

### Land Drainage Responsibilities, Powers, Rights and Roles.

There are, at the local level, a number of organisations that have a role in respect of land drainage and flooding. The statutory powers relating to these are generally embodied in the Water Resources Act 1991 and the Land Drainage Act 1991 although certain functions are also contained within the Public Health Act 1936 the Environmental Protection Act 1990 and the Highways Act 1980.

| <b>Definitions</b>                      |  |
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| 'Watercourses'                          | Defined under the Land Drainage Act 1991 as "all rivers and streams and all 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".  |
| 'Main rivers'                           | Specifically designated lengths of watercourse and are generally the larger arterial watercourses.<br>Main rivers fall under the jurisdiction of the Environment Agency.   |
| 'Ordinary watercourses'                 | Watercourses that do not form part of a main river. They are generally under the jurisdiction of 'drainage bodies' although the EA act as the consenting authority in respect of any works involving culverting, diversion, abstraction, etc.  |
| 'Critical Ordinary Watercourses' (COWs) | Ordinary watercourses which the Environment Agency and other operating authorities agree are critical because they have the potential to put at risk from flooding large numbers of people and property. From April 2006, COWs were re-designated as main rivers and from that date were under the jurisdiction of the EA. |

| <b>Organisation/Group</b>                | <b>Responsibilities, Powers, Rights and Roles</b>  |
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| <b>Environment Agency</b>                | <ul style="list-style-type: none"> <li>a. general supervisory role over all aspects relating to flood defence with a more specific role in respect of improvements or maintenance to designated 'main rivers'.</li> <li>b. regulating authority for works/activities in and alongside watercourses (except in internal drainage board areas).</li> <li>c. influence, through the planning application process, land use and development particularly within flood plain areas.</li> <li>d. produce Flood Risk mapping and manage historical flood records/data</li> <li>e. install and operate flood warning systems.</li> <li>f. protection and conservation of the natural environment, whilst carrying out flood risk management activities.</li> </ul> |
| <b>Local Authorities: County Council</b> | <p>The County Council has two distinct roles:</p> <ul style="list-style-type: none"> <li>a) Designated as a 'local authority' under the terms of the LD Act with discretionary power to serve Notice on owners requiring them to remove obstructions from 'ordinary watercourses' (S25 of the LD Act). The County Council's powers under the</li> </ul>  |

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| <p><b>District Council</b></p>             | <p>Land Drainage Act are discretionary.</p> <p>b) As a Highway Authority with responsibility under the Highways Act 1980 to keep roads free from flooding with powers to drain water from a highway and to prevent water flowing on to a highway.</p> <p>The Highway Authority has a duty to remove obstructions from the highway (S150 Highways Act 1980) if it causes a hazard or obstruction to the travelling public. This is understood to include soil flowing off adjoining land where the Highway Authority can recover expenses of clearance work but only if the owner did not take reasonable care to prevent it.</p> <p>The Highway Authority may serve notice (S151 HA 1980) on a landowner requiring him to execute works to prevent soil flowing onto the highway but legal advice is apparently such that this Notice must include a practical solution to the problem.</p> <p>Designated as a 'local authority' under the terms of the Land Drainage Act 1991, District Councils have a role in alleviating flooding problems where possible. Powers exist to:</p> <p>a) implement works to prevent, mitigate or remedy flood damage (S14 of the LD Act)– subject to consent by the EA and</p> <p>b) serve Notice on owners requiring them to remove obstructions from 'ordinary watercourses' in order to secure a proper flow (S25 of the LD Act).</p> <p>These powers are discretionary and the Council's policy is to exercise them where property is at risk of flooding. The District Council may also give guidance/assistance on flooding issues and issue sandbags under certain circumstances in times of flooding.</p> |
| <p><b>Internal Drainage Boards</b></p>     | <p>Designated as a 'drainage body' under the terms of the Land Drainage Act 1991, Drainage Boards have similar powers to District Councils for certain, specific, generally low-lying areas. Their principal interest is in the protection of agricultural land from flooding and they undertake maintenance work or improvements on certain 'viewed rhynes' with this in mind although they do also carry out works to protect properties from flooding.</p> <p>Again, these powers are discretionary.</p>  |
| <p><b>Landowners (Riparian owners)</b></p> | <p>The role of Riparian Owners (<i>the owner of land containing or adjoining a watercourse</i>) is generally not fully understood. Among other things they have the right to:</p> <p>a) Receive flow of water in its natural state, without undue interference in quantity or quality</p> <p>b) Protect their property from flooding and their land from erosion</p> <p>They also have a responsibility to:</p> <p>a) Pass on flow without obstruction, pollution or diversion affecting the rights of others.</p>   |

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|  | <ul style="list-style-type: none"><li>b) Accept flood flows through their land, even if caused by inadequate capacity downstream.</li><li>c) Maintain the bed and banks of the watercourse (including trees and shrubs growing on the banks, and for clearing any debris, natural or otherwise, even if it did not originate on their land</li><li>d) Keep the bed and banks clear from any matter that could cause an obstruction.</li></ul> <p>Whilst riparian owners are under no common law duty to clear a watercourse which becomes silted or obstructed through natural causes, under statute law (S25 of the LD Act 1991) drainage authorities may require and enforce them to carry out such works. This legislation is seldom enforced as problems are generally dealt with by negotiation.</p> |
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