

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. New legislation in the form of the Flood & Water Management Bill 2010 has incorporated and amended much of this previous legislation.

Definitions:

- ‘Watercourse’** 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 river’** Specifically designated lengths of watercourse and are generally the larger arterial watercourses. Main rivers fall under the jurisdiction of the Environment Agency.
- ‘Ordinary watercourse’** 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.

Organisation	Responsibilities, Powers, Rights and Roles
<p>Environment Agency</p>	<ul style="list-style-type: none"> a) general supervisory/strategic role over all aspects relating to flood defence with a more specific role in respect of ‘main rivers’. b) regulating authority for works/activities in and alongside main rivers. c) influence, through the planning application process, land use and development particularly within flood plain areas. d) produce Flood Risk mapping. e) install and operate flood warning systems. f) protection and conservation of the natural environment, whilst carrying out flood risk management activities.
<p>Internal Drainage Boards</p>	<p>Designated as a ‘drainage body’ under the terms of the Land Drainage Act 1991. Drainage Boards have jurisdiction over certain, specific, generally low-lying areas. Their powers include:</p> <ul style="list-style-type: none"> a) Consenting/enforcement powers for structures in ordinary watercourses within their area. b) Power (discretionary) to serve Notice on owners requiring them to remove obstructions from ‘ordinary watercourses’ (S25 LD Act). c) The IDB’s principal interest is in the protection of agricultural land from flooding and to achieve this they undertake maintenance work or improvements on certain ‘viewed rhynes’

<p>County Council As the designated 'Lead Local Flood Authority (LLFA).</p> <p>As the Highway Authority</p>	<ul style="list-style-type: none"> a) Strategic co-ordinating function b) Duty to investigate flooding incidents to determine responsibility. c) Consenting/enforcement powers for structures in 'ordinary watercourses' (previously EA role) d) Powers (discretionary) to serve Notice on owners requiring them to remove obstructions from 'ordinary watercourses' (S25 LD Act). e) Powers (discretionary) to deal with surface water flooding. f) SUDs Approval Body (SAB) for approval and adoption of surface water control measures on new development. <ul style="list-style-type: none"> a) keep roads free from flooding b) powers to drain water from a highway into a nearby watercourse c) powers to prevent water flowing on to a highway - this latter power is often difficult to enforce.
<p>District Council</p>	<p>Designated as a 'local authority' under the terms of the Land Drainage Act 1991.</p> <p>Discretionary powers exist to carry out improvement works on 'ordinary watercourses' to prevent, mitigate or remedy flood damage – subject to consent by the LLFA</p> <p>SSDC's policy is to exercise these powers, subject to availability of finance, where property is at risk of internal flooding.</p> <p>The District Council may also give guidance/assistance to the public in respect of flooding issues and issue sandbags in times of flooding.</p>
<p>Landowners (Riparian owners)</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> <ul style="list-style-type: none"> a) Receive flow of water in its natural state, without undue interference in quantity or quality b) Protect their property from flooding and their land from erosion <p>They also have a responsibility to:</p> <ul style="list-style-type: none"> a) Pass on flow without obstruction, pollution or diversion affecting the rights of others. b) Accept flood flows through their land, even if caused by inadequate capacity downstream. 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 d) Keep the bed and banks clear from any matter that could cause an obstruction. <p>Whilst riparian owners are under no common law duty to clear a watercourse that becomes silted or obstructed through natural causes, under statute law (S25 of the LD Act 1991) the EA, LLFA or IDB's <u>may</u> require and enforce them to carry out such works.</p>