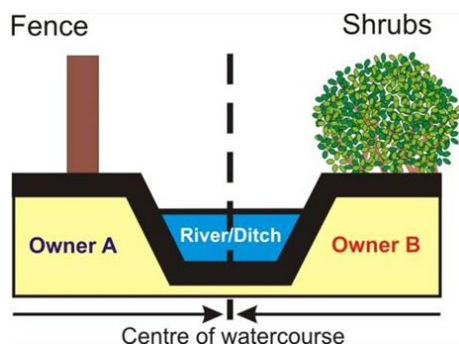


## Who is responsible for maintaining watercourses - Riparian Ownership /Responsibility

### Who is a Riparian Owner?

Under common law the land / property owner(s) is / are the riparian owner(s) of any watercourse if it is within, under or adjacent to the boundaries of their land / property. Where a watercourse is between two or more property boundaries, it is assumed that each owner is responsible for the maintenance of the watercourse to the centre of that watercourse, unless it is known to be owned by someone else. For example, even if the Title Deeds for Owner A's property show the boundary to be the fence, they have riparian rights and responsibilities to the centre of the watercourse.



You have the right to protect your property against flooding from the watercourse and also to prevent erosion of the watercourse banks or any structures.

### Riparian Owner Responsibilities:

As a riparian owner your responsibilities include a duty to maintain the bank and bed of your section of the watercourse or culverted section, to avoid it becoming blocked or overgrown.

### Common Problems Affecting Watercourses:

- Failing to keep vegetation growth and the build-up of silt under control.
- Failing to keep pipes and culverts free of obstruction.
- Failing to obtain consent for installing pipes or culverting of watercourses.
- Disposal or storage of garden or domestic rubbish, waste etc on the banks of watercourses.
- Allowing hedge and vegetation cuttings to fall and be left in the watercourse.

All of which can increase the local flood risk and damage aquatic habitats.

### The Law:

It may be an offence to construct any structure or works such as bridging, culverting, diverting, filling, or creating a pond in, under or over a watercourse which is likely to affect the waterflow without prior consultation and approval from the County Council, the Environment Agency, or the Internal Drainage Board.

For more information about applying for consent to carry out works in an ordinary watercourse, please visit: <http://www.somerset.gov.uk/environment-and-planning/flooding/work-on-an-ordinary-watercourse/>

## **Legislation:**

Your responsibilities as a riparian owner have been established in common law such as:

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

## **Enforcement:**

In an effort to reduce the risk of flooding: the District Council, the County Council, Internal Drainage Board and the Environment Agency aim to improve the watercourse system through a process of cooperation, liaison, advice, collaboration, assistance wherever possible. Any act that damages adjoining land or causes a nuisance could result in private legal actions and lead to claims for damages.

## **What is a Watercourse?**

There are many different types of watercourses: ditch, stream, river, brook, channel, canal. In general terms, a watercourse is a channel that can convey water.

Watercourses occur naturally or can be man-made, they serve to drain the land and assist in supporting flora and fauna. Historically, watercourses have taken surface water run-off from buildings and roads, as well as fields and parks. In the process of development many have been culverted or changed in other ways.

In normal conditions the watercourse may be a dry channel. In storm conditions it may become a raging torrent. Continued development leads to increase the rate at which water is discharged to a watercourse, (even though adequate safeguards to prevent this are available), a process that could lead to increased risk of flooding if not controlled.

## **Bridges / Culverts**

A structure is, usually, an SCC asset if it measures 900mm x 900mm or greater and is the responsibility of the Bridges & Structures team. This responsibility includes the de-silting of the culvert when the build-up of silt is considered to adversely increase the flood risk.

De-silting will only be carried out once both upstream and downstream riparian owners have desilted their sections of the watercourse to a distance equal to the length of the culvert, in this instance 10m. This is necessary to ensure a flow to increase and encourage silt to flow on. If this de-silting were not carried out and the silt in the culvert were cleared, then the culvert would simply silt back up i.e. it would act as a catch-pit.

## **There are Two Main Categories of Watercourses:**

### **Ordinary Watercourses**

An ordinary watercourse can include rivers, streams, ditches, drains, cuts, dykes, sluices, sewers, (other than a public sewer) and passage through which water flows that does not form part of a

Main River. Ordinary watercourses are under the jurisdiction of the Lead Local Flood Authority, in this instance SCC, or the IDB.

### **Main Rivers**

Main rivers are usually larger streams and rivers and are shown on the Environment Agency's Main River Map. The EA have jurisdiction over Main Rivers.

### **Roadside ditches:**

The riparian owner of any ditches alongside roads is normally the adjoining land owner, as the highway boundary is invariably lies along the top of the bank closest to the road. Adjacent owners should not carry out work on the ditch, which would interfere with the waterflow or restrict road surface water draining into it. Although the County Council in its role as the Highway Authority has the right to discharge rainwater from the highway into these ditches, the landowner is responsible for maintaining it. However, if the County Council has created or piped the ditch under their Highway powers, they become responsible for its maintenance. When the condition of a ditch is causing flooding on a highway it will be the County Council that may take action.