Land Drainage

Information for those living near a watercourse
Purpose

- The information within this leaflet is aimed at those who own property or land that is alongside a watercourse.
- It explains the responsibilities that a land owner have
- Aims to give you information to help you understand your rights and involvement of other Authorities and Mole Valley District Council

This information has been compiled from information contained in the Environment Agency’s document “Living on the edge” which can be found on the Agencies website under “Flood” or a copy can be obtained from the Council Offices (subject to availability).
Introduction

Land Drainage is a complex area of responsibility, but in short a landowner is responsible for the drainage of their land. By law a person owning lower-level land has to accept natural land drainage water (that is spring water, ground water or surface water run-off) from adjacent land at a higher level. ‘Natural’ run-off does not include water from gutter down pipes.

In the case of ditches, streams and rivers it is the landowners each side of the watercourse (known as “riparian owners”) who are responsible for the maintenance of the watercourse itself and the flow within it.

Certain important streams and watercourses are known as Main Rivers and in these instances the Environment Agency have additional responsibility to maintain water flow and carry out flood defence works. The term ‘Main River’ does not reflect the actual size of the watercourse but the overall effect of that watercourse on the drainage system of the area.

The landowner is still responsible for the physical maintenance of any watercourse known as a Main River.

Main Rivers for the Mole Valley area are: -
The River Mole
The Pipp Brook
The Rye Brook
The Bents Brook
The Whithey Brook
The Dolby Brook.
The rivers, streams and ditches are the responsibility of the ‘riparian’ landowners who own land on either side of the watercourse in question.

If your property is adjacent to a watercourse of any description you are presumed to be a riparian owner and should be maintaining it regularly. This will have the benefit of reducing the risk of flooding from the watercourse at times of bad weather for both you and your neighbours.

So for example, in the diagram shown, even if the title deeds for property owners A and B indicate that the extent of ownership of their respective lands is only to the boundary fence of hedge, those owners may still have riparian rights and responsibilities up to the centre of the watercourse, if the land between the water’s edge and their boundary is regarded as the bank of the watercourse and no one else owns that land.
Explaination of terms

Riparian Owner

A Riparian Owner is a land owner who owns land adjoining a watercourse, there may be a fence of hedge line which marks the edge of your land but you are presumed to own the land up to the centre of the watercourse.

Ordinary Watercourse

An ordinary watercourse is every river, stream, ditch, drain, cut, dyke, sluice, sewer (other than public sewer) and passage through which water flows which does not form part of a Main River.

Culvert

A man-made structure, for example a pipe, carrying a watercourse under ground.

Main Rivers

Main rivers are decided by Defra (Department for Environment, Food and Rural Affairs) and are usually larger streams and rivers, but also include smaller watercourses of strategic drainage importance. The Environment Agency’s powers to carry out flood defence works apply to ‘Main Rivers’ only. A list of Main Rivers for the Mole Valley area is shown on page 2.

Floodplain

Floodplain is the area of low-lying land adjacent to a river over which water flows in times of flood. Areas of floodplain are often under pressure for development. However, if floodplains are obstructed by buildings or other man-made objects water cannot flow away efficiently and the effects of flooding are made worse.
Yours rights

- You are presumed to own the land up to the centre of the watercourse, unless it is owned by someone else.

- Water should flow onto your land 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.

- Your usually have the right to fish in your watercourse although this must be by legal methods and with an Environment Agency rod licence.

- You can abstract a maximum of 20 cubic metres per day of water for the domestic purposes of your own household or for agricultural use, excluding spray irrigation, from a watercourse at a point which directly adjoins your land without the need for a licence. Most other types of abstraction will require a licence from the Environment Agency. A separate guide for potential abstractors is available on request.

These rights will be affected by your duty to other riparian landowners, the rest of the community and to the environment.

Before starting any work on or adjacent to a watercourse you must submit the plans of any work to the Environment Agency and the Council for them to determine whether you require a land drainage consent and/or planning permission. Environmental issues including flood risk, wildlife conservation, fisheries, reshaping of the river and landscape must all be considered.
Your responsibilities

- You have the responsibility to pass on flow without obstruction, pollution or diversion affecting the rights of others.

- You must accept flood flows through your land, even if caused by inadequate capacity downstream. There is no common law for a landowner to improve the drainage capacity of a watercourse.

- You must 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. Advice on the removal of animal carcasses may be obtained from the Environmental Health Department.

- You must not cause any obstructions either temporary or permanent that would prevent the free passage of fish.

- You are responsible for keeping the bed and banks clear from any matter that could cause an obstruction either on your land or by being washed away by high flow to cause an obstruction at a structure downstream. Rivers and their banks should not be used for the disposal of any form of garden or other waste.

- You must keep any structures that you own clear of debris. These structures include culverts, trash screens, weirs and mill gates.

- You have the responsibility 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.

- If you do not carry out your responsibilities, you could face legal action.
Roles and Consents

The Environment Agency

- The Agency aims to protect the river environment through a number of duties and powers affecting riparian landowners. These can be found on the Environment Agencies website, www.environment-agency.gov.uk.

- The Agency is a statutory consultee in the town and country planning process. As such it makes representations to local planning authorities on matters in development plans and certain planning applications that are of concern to its functions.

- The Agency’s advice is aimed at protecting flood plains from inappropriate development.

- All discharges of trade or sewage effluent to “controlled waters” (these include main rivers, ordinary watercourses, lakes, ponds, reservoirs and underground sources) require a Discharge Consent from the Agency in addition to any possible land drainage consent.

- Pollution of a watercourse should be reported to the Environment Agency on their 24hr emergency hotline 0800 807060.

Surrey County Council

- Roads are generally drained through road gullies situated at the side of the road, these are then connected to either a public surface water sewer, directly to a watercourse or a private surface water sewer before connecting to a public surface water sewer or watercourse.

- If the highway is public highway (adopted by the highway authority) then the gullies and the drainage to the public surface water sewer or watercourse are the responsibility of the highway authority which in Mole Valley is Surrey County Council. These blocked gullies should be reported to Surrey County Council.

- If the highway is private then the gullies and their connection to the public sewer or watercourse are the responsibility of the owners or occupiers of the highway or area being drained.
The Council will always try to seek an amicable solution to flooding problems.

As a last resort The Council can serve notice on individuals and carry out works in default if watercourses have become blocked resulting in a flood risk or a health hazard.

These powers are contained in the Land Drainage Acts 1991 and 1994, and sections 259 – 265 of the Public Health Act 1936, these are not instantaneous. The process between first notification of a problem and serving a notice can take some months, and further stages are required if the landowner defaults on the notice.

The costs involved in carrying out any such works, plus the administration costs associated with serving the notice are reclaimed from the landowners.

For further information please contact the Council on 01306 879184 or facilitiesmanagement@molevalley.gov.uk

A limited service for the provision of sandbags to help prevent flooding to a property is available during times of heavy rain. To request sandbag delivery during office hours please call 01306 873547 or email dave.parr@molevalley.gov.uk, out of hours call the emergency number 01372 736533.

All watercourses of any description fall to the landowner to maintain, which in some instances may be the Council but more often will be private landowners. The Council budgets to meet its own responsibilities on its own land, but has no monies available to carry out works on privately owned land.

Works on any watercourse may require planning permission from the Council as well as Land Drainage consent from the Environment Agency.
Contacts

Environment Agency
Regional Office
Southern Regional Office,
Guildbourne House,
Chatsworth Road,
Worthing,
Sussex,
BN11 1LD

Tel 08708 506506
Flood Line 08459 881188
24hr Hotline 0800 807060
Website
www.environment-agency.gov.uk

Surrey County Council
Office
Contact Centre
Floor 3
Conquest House
Wood Street
Kingston upon Thames
KT1 1AB

Tel 08456 009009
Website
www.surreycc.gov.uk

Mole Valley District Council
Office
Pippbrook
Dorking,
Surrey,
RH4 1SJ
Tel 01306 885001

Emergency Line Tel 01372 376533
Website
www.molevalley.gov.uk

Disclaimer

This advice has been provided merely to assist members of the public as a guide to their rights and responsibilities. No responsibility is accepted by the Council for any inaccuracy contained in it and you are strongly advised, before taking action, to seek independent legal advice.
Summary

- Land Drainage is a complex area of responsibility, but in short a landowner is responsible for the drainage of their land.

- By law a person owning lower-level land has to accept natural land drainage water (that is spring water, ground water or surface water run-off) from adjacent land at a higher level.

- In the case of ditches, streams and rivers it is the landowners each side of the watercourse (known as “riparian owners”) who are responsible for the maintenance of the watercourse itself and the flow within it.

- Before starting any work on or adjacent to a watercourse you must submit the plans of any work to the Council and the Environment Agency for them to determine whether you require a land drainage consent and/or planning permission.

- You have the responsibility for maintaining 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.

- Land and property adjacent to rivers could be at risk from flooding. The Environment Agency will be able to tell you what that risk is and make you aware of how flood warnings will be issued and what to do when a flood occurs.

- As a last resort The Council can serve notice on individuals and carry out works in default if watercourses have become blocked resulting in a flood risk or a health hazard.

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Alternative formats

If you would like this document in another format or language please visit the Council’s main reception in Dorking or the Leatherhead HelpShop. Alternatively you can contact us by:

Fax: 01306 876821
E-mail: alternative.formats@molevalley.gov.uk
Website: www.molevalley.gov.uk

Si desea este documento en otro formato o idioma sírvase visitar la recepción principal del Consejo en Dorking o el Leatherhead Helpshop. También puede comunicarse con nosotros por:

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Website: www.molevalley.gov.uk

আপনি যদি এই ডকুমেন্ট অন্য কোন ধরনে অথবা ভাষায় চান তাহলে অনুগ্রহ করে কাউন্সিলের প্রধান রিসেপশন ডারিংক অথবা লেডারহেড হেল্পশপে দেখা - সাক্ষাৎ করুন।
বিকল্পভাবে আপনি অন্য মাধ্যম উপায়ে যোগাযোগ করতে পারেন সেকেলে হলো:
ফ্যাক্স: 01306 876821
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