



**Cyfoeth
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Wales**

A guide to your rights and responsibilities of riverside ownership in Wales

Proud to be leading the way to a better future for
Wales by managing the environment and natural
resources sustainably.

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1. Introduction

If you own land or property next to a river, stream or ditch you are a 'riparian landowner' and this guide is for you. It has been updated with new information on who to contact for guidance on watercourses.

Your rights as a riparian landowner have been established in common law for many years, but they may be affected by other laws. You may need permission for some activities from a third party, such as your local authority or Natural Resources Wales. These organisations are known as risk management authorities, and their role is described in Appendices 1 and 2.

This guide explains:

- your rights and responsibilities as a riparian landowner. It also explains the roles of your risk management authority and other organisations you may need to work with.
- who is responsible for flood risk management and flood defences, and what that means in practice.
- how you can work with your risk management authority and other organisations to protect and improve the natural environment of our rivers and streams.

Your risk management authority has powers and responsibilities to manage flood risk and work with others to improve the river environment in Wales.

A watercourse is any natural or artificial channel above or below ground through which water flows, such as a river, brook, beck, ditch, mill stream or culvert.

Your risk management authority can give you advice and guidance on managing your watercourse. However, depending on the situation, they will not approve or consent to work that would harm the environment or increase flood risk, even if the works are structurally sound. They will discourage culverting, diverting or channelling watercourses and building into watercourses, known as encroachment. They will promote 'soft engineering' methods to control erosion (see section 11).

From April 2015, all Internal Drainage Districts in Wales are administered by Natural Resources Wales which means that NRW is responsible for all watercourses in these areas'.

If you are not sure who to contact please visit the Natural Resources Wales website: <http://naturalresources.wales> or call 0300 065 3000

2. Your rights and responsibilities

If you own land adjoining, above or with a watercourse running through it, you have certain rights and responsibilities. In legal terms you are a 'riparian owner'. If you rent the land, you should agree with the owner who will manage these rights and responsibilities.



Your rights

- If your land boundary is next to a watercourse it is assumed you own the land up to the centre of the watercourse, unless it is owned by someone else.
- If a watercourse runs alongside your garden wall or hedge you should check your property deeds to see if the wall or hedge marks your boundary. If the watercourse marks the boundary, it is assumed you own the land up to the centre of the watercourse.
- If you own land with a watercourse running through or underneath it, it is assumed you own the stretch of watercourse that runs through your land.
- Occasionally a watercourse, especially an artificial one, will be the responsibility of a third party. This should be noted in your deeds.
- Water should flow onto or under your land in its natural quantity and quality. This means that water should not be taken out of a watercourse if it could lead to a lack of water for those who need it downstream. It also means

that a person cannot carry out activities that could lead to pollution of the water and therefore reduce the natural water quality within a watercourse.

- You have the right to protect your property from flooding, and your land from erosion. However, you must get your plans agreed with the risk management authority before you start work (see section 5).
- You usually have the right to fish in your watercourse using a legal method. Anyone aged 12 or over must have a valid Natural Resources Wales rod licence. It is important to check what your rights are, because fishing rights can be sold or leased.

These rights are affected by your duty to other riparian landowners, the community and the environment.

Your responsibilities

- You must let water flow through your land without any obstruction, pollution or diversion which affects the rights of others. Others also have the right to receive water in its natural quantity and quality as explained in the Your Rights Section. You should be aware that all riparian owners have the same rights and responsibilities.
 - You must accept flood flows through your land, even if these are caused by inadequate capacity downstream. A landowner has no duty in common law to improve the drainage capacity of a watercourse he/she owns.
 - You should keep the banks clear of anything that could cause an obstruction and increase flood risk, either on your land or downstream if it is washed away. You are responsible for maintaining the bed and banks of the watercourse and the trees and shrubs growing on the banks. You should also clear any litter and animal carcasses from the channel and banks, even if they did not come from your land.
- You may need your risk management authority's consent for these works (see section 5). Your local authority can advise you on the removal of animal carcasses.
- You should always leave a development-free edge on the banks next to a watercourse. This allows for easy access to the watercourse in case any maintenance or inspection is required. In some areas local byelaws exist which explain what you can and cannot do within certain distances of a watercourse. For more information on works near watercourses you should contact your risk management authority.
 - You must keep any structures, such as culverts, trash screens, weirs and mill gates, clear of debris. Discuss the maintenance of flood defences, such as walls and embankments, on your property with your risk management authority. They may be vital for flood protection.
 - You should not cause obstructions, temporary or permanent, that would stop fish passing through.

- You have a legal obligation to notify Natural Resources Wales and the relevant risk management authority if you would like to build or alter a structure that acts as an obstruction to a watercourse. Under the Eel Regulations in some cases it may be an offence if you do not notify Natural Resources Wales of the above.
- Please help to protect water quality. Do not use riverbanks to dispose of garden or other waste, where it could be washed into the river. This includes grass cuttings, which pollute the water.
- You are responsible for protecting your property from water that seeps through natural or artificial banks. Where this damages a flood defence, your risk management authority may require you to pay for repairs.
- You must control invasive alien species such as Japanese knotweed. Your local risk management authority can advise you on how to manage and control these species.
- Make sure any work you do on a watercourse fits with the natural river system. Work must not damage wildlife and wherever possible you should try and improve the habitat. Speak to the relevant risk management authority about wildlife and nature conservation.
- If you are not sure what you have to do and/or are new to living near a watercourse, ask your risk management authority for advice.
- Your property may include a watercourse that runs in a culvert. You have the same responsibilities for the upkeep of the culvert as if it was an open watercourse.
- If you do not carry out your responsibilities, you could face legal action.
- If you see any activity that could damage the environment or increase flood risk, please report it to your risk management authority as soon as possible. Water and land pollution or blockages which increase the risk of flooding should be

reported to the Natural Resources Wales incident hotline on 0800 80 70 60 (Freephone*, 24 hour service). Do not report incidents by email as this could delay the response.

* Calls from mobile phones are charged at your network operator's rates.



3. Flood risk management

As a riparian owner you also have a responsibility to manage your own flood risk.

More than two hundred thousand properties in Wales are at risk from flooding from rivers and the sea. Changes in our climate, resulting in fiercer storms and wetter winters, will increase that risk. It will never be possible to prevent flooding but we can all manage flood risk to reduce the likelihood of flooding and its impact.

The term ‘flood risk management’ is used to describe the work of risk management authorities such as Natural Resources Wales and local authorities.

They aim to reduce the likelihood of flooding by:

- managing flood risk from all sources including river and coastal systems, surface runoff and groundwater;
- constructing and managing defences, where appropriate;
- maintaining watercourses

and flood defences, where appropriate.

They work together to reduce the impact of floods through:

- influencing land use planning, what is built and where;
- regulating works carried out in rivers;
- better flood warning;
- faster emergency responses.

There is more information about what Natural Resources Wales and local authorities do in Appendices 1 and 2.

IMPORTANT NOTE

Your risk management authority can designate a feature on your land as a flood risk management asset. Features and structures such as garden walls that were not designed to manage flood risk can still help to do that job.

They will give you at least 28 days notice if they

decide to do this. They will also give you details of the feature and explain why they want to designate it. You have a right to challenge any designation if you do not agree with what is proposed.

Features and structures that have been designated as an asset cannot be altered, removed or replaced without the consent of the responsible authority.

For further information and guidance please contact your risk management authority.

Flood and coastal erosion risk management plans look at flood risk on a large scale. This allows risk management authorities to examine whether reducing risk in one area might change, or even increase, the risk elsewhere.

During a flood, your local authority provides emergency aid to householders, which may include supplying sandbags. Please contact your local authority for further information on its role during a flood.



4. Understanding flood risk

Floodwater can come from overland flow, groundwater, rivers and the sea. Land and property near watercourses and the sea could be at risk from flooding. Natural Resources Wales can tell you about that risk, how flood warnings are issued, and what to do when there is a flood.

Natural Resources Wales maps show the extent of flooding from rivers and the sea in Wales. They are available from Natural Resources Wales local offices or online at <https://naturalresources.wales/our-evidence-and-reports/maps/flood-risk-map/?lang=en>

Our website also provides advice on how to prepare in advance of flooding and what to do when flooding happens.

You can also sign up for our free flood warnings and check for current flood warnings in force <https://naturalresources.wales/flooding/?lang=en>.

For current flood warnings in force you can also call our 24-hour Floodline on 0345 988 1188.

RIVERS CAN BE DANGEROUS

Water may look harmless, but it can hide strong flows. Water can be deep and powerful, especially near weirs and sluices. Always be aware of the risk of possible injury or even death when around water.

5. Flood risk permits/ ordinary watercourse consents

You should discuss your plans to work on or near a watercourse with your risk management authority as early as possible. Submit your plans both to the risk management authority and to your local planning authority. The risk management authority will tell you whether you need its consent before doing the works. It takes many environmental factors into account before authorising work. These include flood risk, wildlife conservation, fisheries, tidal limits and the reshaping of the river and landscape.

Some sites are important for conservation or have archaeological value. If your work would affect one of these sites, you may need other permissions from the relevant Welsh authorities. The type of consent you need will depend on the type of watercourse you want to work in.

1. Flood Risk Activity Permits for activities on main rivers

The Environmental Permitting Regulations for England and Wales and the associated byelaws, require you to apply to Natural Resources Wales for a **Flood Risk Activity Permit** for works in, over, under or adjacent to main rivers. Main rivers are defined in section 13.

Once in possession of a Flood Risk Activity Permit, you may also apply to Natural Resources Wales to change your permit, or give up your permit if your permit contains operational elements that you no longer need to continue. You may also notify Natural Resources Wales if you wish to transfer your permit to someone else.

There is a charge for applying for a Flood Risk Activity Permit. The Natural Resources

Wales Charging scheme that is available on the Natural Resources Wales website contains information on the current application fee.

Depending upon the type, where and when you wish to undertake a flood risk activity, you may not need to apply for a Flood Risk Activity Permit. If your proposed activity meets certain conditions, you may be able to register for an exemption, or undertake your activity as an exclusion. Full details of the conditions relevant to each exemption and exclusion are available on the NRW website. You must ensure that your activity meets the specified conditions as failure to do so may lead to enforcement action.

2. Ordinary Watercourse Consents for works on ordinary watercourses

Under the Land Drainage Act 1991, you need your local authority or Internal Drainage District to approve any works that will create or alter a mill dam, weir or other similar obstruction to the flow of an ordinary watercourse, including any proposals to install culverts or alter them in a manner that would be likely to affect the flow of water. Ordinary watercourses are defined in section 13 below. The current application fee is £50 per structure.



3. Additional information for applying for Flood Risk Activity Permits or Land Drainage Consents

Risk management authorities discourage culverts in watercourses (see section 8).

Contact your risk management authority as soon as possible to discuss your plans. It will need to see detailed proposals for the work and receive your application, including the fee, at least two months before you intend to start work.

When applying for a permit or consent, you may need to complete a Water Framework Directive compliance assessment. This is to ensure your proposal does not harm the environment and helps to deliver the actions set out in your local River Basin Management Plan. Water Framework Directive compliance assessments can be time consuming. Please contact your risk management authority at an early stage to find out if they need an assessment, and agree its scope. This avoids delays and wasted effort. Once preliminary details have been agreed, you can

complete the application form and return it to the authority with the appropriate fee.

The risk management authority will usually decide whether or not they agree to the works within two months. You can appeal against the decision if you think a permit or consent has been refused unreasonably. You will be told more about the appeals procedure if the authority decides to refuse consent. An independent arbitrator will hear the appeal.

You must not do any work without a relevant permit, consent, exemption registration or exclusion. If you do, it could be expensive. The risk management authority can reclaim from you the cost of whatever action they decide is necessary to remove or alter your work. They can also require you to put things right. If you fail to comply with a notice to rectify problems you may face criminal charges. A permit or consent only covers the impact of the structure on flood risk and the environment.

The risk management authority does not assess

or approve the design of a structure or check whether your plan complies with other legislation, such as health and safety. It does not allow you to carry out works on land or rivers that you do not own. You must have the landowner's permission as well as the permit or consent.

If you are a landowner affected by flooding, you may benefit from an environmental stewardship scheme in Wales, which is known as Glastir. The relevant authority can give you advice; or visit Welsh Government website: <http://gov.wales/topics/environmentcountryside/farmingandcountryside/farming/schemes/glastir/?lang=en>

You may also be able to apply to a conservation scheme for the restoration of, or creation of, features in a watercourse or on the floodplain. You will still require a permit or consent for any works and may have to show this consent before a conservation scheme can be agreed.

Contact the funding organisation and the risk management authority's local office before you make a

funding application to avoid delays.

6. Planning permission

Works on a watercourse may require planning permission, as well as flood risk activity permit or ordinary watercourse consent. Your local planning authority can advise whether your proposed works will require planning permission, and possibly a flood risk/flood consequence assessment to support your application.

Your local planning authority may require you to provide an Environmental Statement if your proposed works on a watercourse or lake could have a significant environmental impact. Contact your local planning authority for more information.

Natural Resources Wales is a statutory consultee on planning applications that relate to the environmental matters they are responsible for, including protecting floodplains from inappropriate development. Local Natural Resources Wales staff can advise you

on development issues in the floodplain. Natural Resources Wales comments on planning policies and applications to local planning authorities. But it is the local planning authority that makes these policies and approves these applications.

For details of government policy on development and flood risk, see:

Planning Policy Wales (PPW) 2012 published by the Welsh Government

These publications and other information are available at the Welsh Government website <http://gov.wales/topics/planning/policy/tans/tan15/?lang=en>

7. Water Framework Directive

Like riparian land owners, all risk management authorities must consider the Water Framework Directive when they plan works on a watercourse.

The Water Framework Directive is a European law, which provides a framework for the protection of the water environment (including rivers, lakes, estuaries and other watercourses). It aims to:

- protect and enhance our water environment;
- promote sustainable water consumption;
- reduce water pollution;
- lessen the effects of floods and droughts.

The Water Framework Directive is being applied in Wales and England using River Basin Management Plans. When Natural Resources Wales does flood risk management works, it assesses whether its

proposals could damage the river. If this is the case, it must complete a Water Framework Directive compliance assessment. It must make sure that the proposal does not cause environmental harm, and helps to deliver the actions set out in the local River Basin Management Plan. This also applies to any person who would like to carry out works affecting a watercourse.

Under the Water Framework Directive, a riparian owner who harms a watercourse may be required to put it right.

For more information on how the Water Framework Directive affects you, please visit the Natural Resources Wales website <https://naturalresources.wales/water/resources/water-management/?lang=en>

8. Culverts

A culvert is a watercourse that has been enclosed in a structure such as a pipe.

This is usually done so that the land above the watercourse can be used for other things, for example a driveway or school playground. Culverts do not include sewers. We promote and favour the removal of existing culverts in order to restore a more natural river environment. The legal definition of a culvert is set out in the explanation of terms in section 13.

Risk management authorities discourage the construction of new culverts because they increase flood risk and damage the environment.

They are likely to only allow a culvert to be built for access purposes or where highways cross watercourses. If you want to build a new culvert or alter an existing one, your local risk management authority must consent to the works. Please contact them for more information.

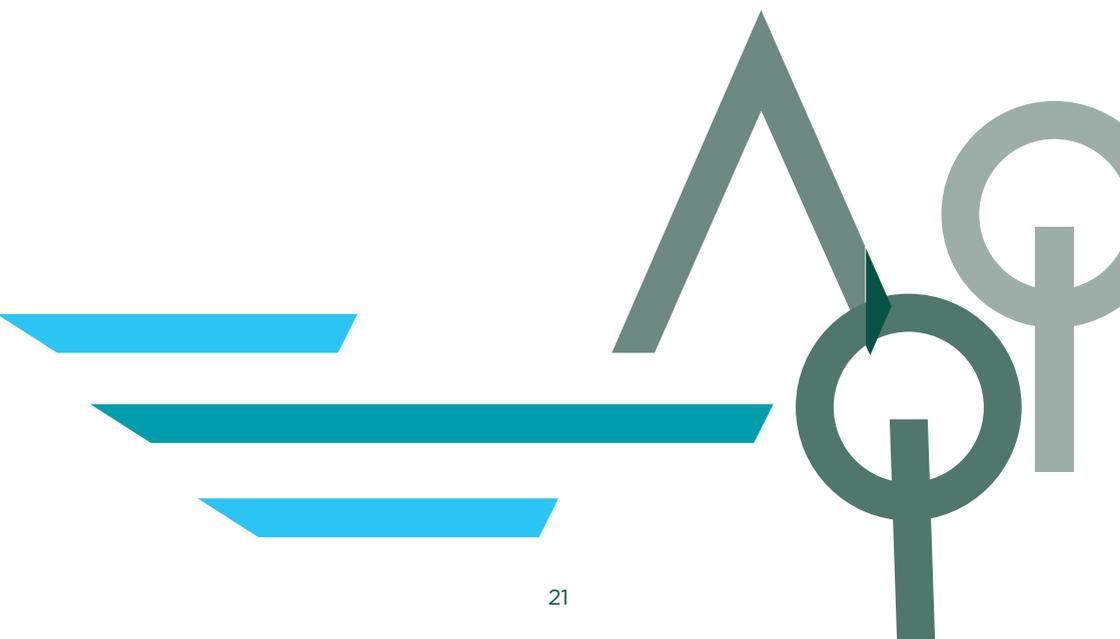
If there is a culvert on your land, you generally own it from where it enters to the point it leaves your land. You are responsible for maintaining culverts on your land. Culverts can collapse and cause the ground above to subside if they are not maintained properly. Water cannot flow through blocked culverts, and may back up and cause flooding above ground.

It is not always easy to find culverts, especially if they were built a long time ago. Maps and records may not be accurate or could have been lost or never made in the first place. If you think you have a culvert on your land, but do not know where it is or are worried about its condition, you should arrange for a professional company to do a survey. Your risk management authority also has some information on culverts.

It is your responsibility to let water flow through your land without obstruction, pollution or diversion affecting the

rights of others. This means you must clear a blocked culvert on your land or under your property.

CULVERTS CAN BE DANGEROUS
You risk injury, drowning or becoming trapped by going into a culvert. Culverts are confined spaces that can contain noxious gases. Only trained, properly equipped people should go inside them.



9. Mills and weirs

A river control structure affects river levels and flow, for example a mill dam or weir. If you own one you are legally obliged to maintain and operate the structure properly.

You must also fulfil your land drainage byelaw obligations which are explained in Appendices 1 and 2. If anyone suffers loss or damage because you have changed or neglected your structure they can take civil action against you. You must:

- keep gates and screens clear of obstructions so that they work properly.
- obtain an abstraction licence if you intend to take water from the river.
- contact your risk management authority if you want to build a weir, sluice gate or other control structure, or if you would like to modify an existing structure. You may need their consent, and possibly an impounding licence from Natural Resources Wales.

Impoundment licenses are needed when you want to dam a watercourse or build a weir. Risk management authorities discourage these obstructions being built because of their environmental impacts.

You may also be required to include a fish pass or screen when a river control structure is built, rebuilt or refurbished to any extent.

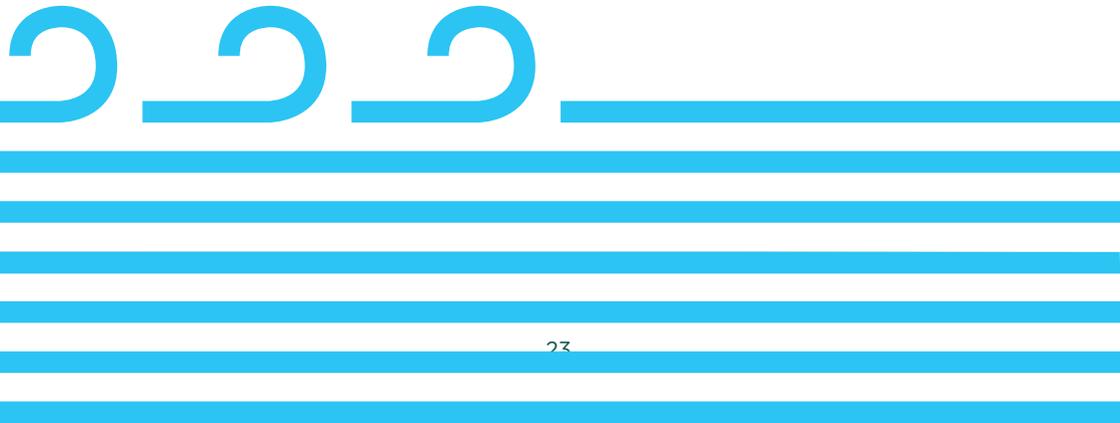
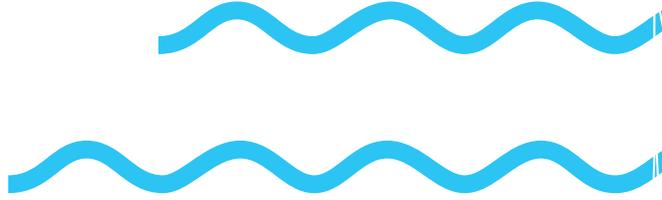
You can discuss the maintenance and operation of river control structures with your risk management authority. If you are buying a property with a river control structure, contact them to introduce yourself. If your structure is on a main river your risk management authority will be Natural Resources Wales and if your structure is on an ordinary watercourse it will be either your local authority or Internal Drainage District. More information on these risk management authorities is available in Appendices 1 and 2. You can find out what you need to know, how you can work with them and what problems may arise.

10. Tidal watercourses

The tide can affect rivers that flow into the sea for large distances inland.

If the watercourse on your land is affected by the tide, your land is downstream of the tidal limit. In this case, you may require a marine licence from Natural Resources Wales before doing some types of work.

For further information on marine licensing in Wales visit <http://naturalresourceswales.wales/apply-for-a-permit/marine-licensing/marine-licences/?lang=en>



11. Erosion of river banks

Moving water naturally wears away riverbanks causing erosion. Narrowing the river channel, reinforcing the banks in the wrong place and overgrazing the banks can cause more erosion.

The landowner is usually responsible for work to reduce bank erosion. Risk management authorities usually only get involved where natural erosion

threatens a flood defence. The local risk management authority will probably need to agree to any bank protection work. They will encourage you to use soft engineering techniques, where possible. This means using natural materials such as woven willow spiling or planting to limit erosion, rather than blockstone or steel sheet piles.



12. The role of other organisations

Archaeology

Your local authority is responsible for making sure that areas of archaeological importance are protected from damage that could be caused by works in or near watercourses. If your proposed works may affect archaeological remains, or if you discover archaeological remains on your land during the works, you should contact your local authority. The local archaeological officer will be able to advise you further.

Nature conservation

You will need permission for works in or near a watercourse from a conservation body as well as the risk management authority if your proposed works:

- are on or may affect a site protected by law, such as a Site of Special Scientific Interest (SSSI) or Special Area of Conservation; or

- are on a site which supports a legally protected species, such as otters or water voles.

In these circumstances you must contact Natural Resources Wales on 0300 065 3000.

Navigation

The tidal reaches of many rivers, where the sea flows in and out of the mouth of the river, have public rights of navigation. Harbour authorities may have some control in these reaches. However, there is no public right of navigation on most non-tidal watercourses, but the public can use some specific rivers and canals administered by navigation authorities, private companies or Natural Resources Wales.

13. Explanation of terms

Main rivers

Main rivers are usually larger streams and rivers, but some of them are smaller watercourses of local significance. Natural Resources Wales decides which watercourses are the main rivers.

Main rivers are marked on an official document called the main river map.

Main rivers can include any structure that controls or regulates the flow of water in, into or out of the channel.

Ordinary watercourse

An ordinary watercourse is every river, stream, ditch, drain, cut, dyke, sluice, sewer (other than a public sewer) and passage through which water flows, but which does not form part of a main river. The local authority or Internal Drainage District has powers on ordinary watercourses similar to Natural Resources Wales powers on main rivers.

Lead local flood authority means – the unitary authorities of Wales.

Internal Drainage District

Internal Drainage Districts (IDDs) are established as areas of special drainage. NRW acts as the board for all drainage districts within Wales. The functions include supervision of land drainage, water level management and flood risk management.

Culvert

A covered channel or pipe designed to prevent the obstruction of a watercourse or drainage path by an artificial construction.

Flood defence

Some legislation still uses the terms ‘flood defence’ or ‘land drainage’. We now refer to these activities as ‘flood risk management’, but may use the other terms for legal purposes.

Floodplain

A floodplain is an area of land over which river or sea water flows or is stored during a flood. Floodplains usually extend beyond the

land immediately next to a watercourse. There is often pressure to build on them. However, buildings or other artificial objects can obstruct floodplains, block the flow of water and make flooding worse.

Groundwater

Groundwater is all water which is below the surface of the ground and in direct contact with the ground or subsoil.

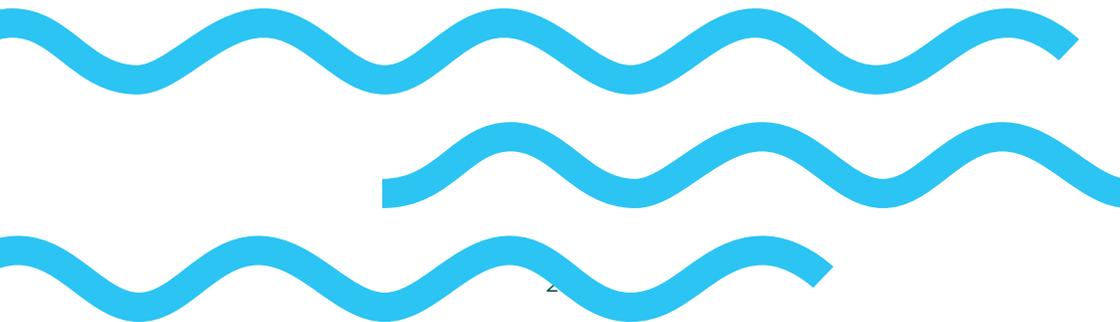
Surface water runoff

Surface water runoff is rainwater, including snow. It is water on the surface of the ground, whether or not it is moving, which has not entered a watercourse, drainage system or public sewer.

Risk management authority

The following risk management authorities have powers over and responsibilities for watercourse management:

- Natural Resources Wales (NRW)
- Lead Local Flood Authorities (LLFAs);



Appendix 1

The role of Natural Resources Wales

Natural Resources Wales is one of the risk management authorities as defined by the Flood and Water Management Act 2010. Protecting the river environment and managing flood risk is part of its job. This means that some of its duties and powers affect riparian owners.

Natural Resources Wales is the risk management authority you need to contact if you would like more information on main rivers and matters relating to flooding from main rivers and the sea.

Powers

Natural Resources Wales has powers to work on main rivers (defined in section 13) and the sea to manage flood risk.

These powers allow it to do work. However, it does not have to maintain or construct new works on main rivers or the sea. It is unlikely to maintain a watercourse to

improve the amenity of the river or to stop erosion that does not increase flood risk.

Flood risk management works can include:

- constructing and maintaining flood risk management assets, for example flood banks, and works on main rivers to manage water levels and make sure flood water can flow freely.
- operating flood risk management assets during a flood.
- dredging the river. Natural Resources Wales can dispose of the material on land within reach of the dredging machine's boom.
- issuing flood warnings.

It can also do work to prevent environmental damage to watercourses, or to restore conditions where damage has already been done.

Natural Resources Wales has the power to make byelaws. Natural Resources Wales office can provide you with the relevant byelaws for where you live.

Natural Resources Wales can serve notice on you if you have not maintained a watercourse on your land that is causing problems, such as increasing flood risk.

Duties

Natural Resources Wales has a strategic role for all sources of flooding and coastal erosion in Wales. It has worked with the Welsh Government on a national strategy for Wales. The strategy shows how communities, the public sector and other organisations can work together to manage the risk. This includes the development of local flood risk management strategies by lead local flood authorities such as county councils.

Information on the National Strategy for Wales can be found at <http://gov.wales/topics/environmentcountryside/epq/>

[flooding/nationalstrategy/strategy/?lang=en](http://gov.wales/topics/environmentcountryside/epq/flooding/nationalstrategy/strategy/?lang=en)

Natural Resources Wales also has a duty to promote the conservation of the water environment, the natural beauty of rivers and wetlands, and the wildlife that lives there. It assesses the impacts of any proposal on the whole environment. For riparian owners, this means that Natural Resources Wales will assess the environmental impacts of proposals for any works in or adjacent to rivers. It will discuss how and when the work might be done to protect the environment.

Appendix 2

The role of your local authority (LA) and internal drainage district (IDD)

Certain local authorities (LAs) as well as Internal Drainage Districts (IDDs) are risk management authorities. They have powers to manage flood risk from ordinary watercourses. In their flood risk management role LAs are known as Lead Local Flood Authorities (LLFA).

In areas known as internal drainage districts the risk management authority is Natural Resources Wales and they have powers on ordinary watercourses instead of the LA.

IDDs are established in areas of special drainage that need management of flood risk and water levels on behalf of their community.

For more information or to determine whether your property lies within an internal drainage district please contact Natural Resources Wales.

For more information contact our customer care number or enquiry line 03000 65 3000.