

# Watercourses

**Amy Husk, Senior Associate Solicitor**  
T 01233 664711 | E amyhusk@girlings.com

girlings.com



## Ownership and Responsibility

### Land Registry Title

The first step is to check the Land Registry title to the land or check the deeds if the land is unregistered. These documents will show whether the watercourse is wholly within your ownership or on your boundary. If the watercourse is along a boundary, the documents may refer to the status of the boundaries or there may be plans attached that make the position clear. If the documents do not make the situation clear, there are some general assumptions relating to watercourse boundaries that may apply, although the history and layout of the land will play a big part in determining the legal position.

### Non Tidal Watercourse

Where a non tidal natural watercourse forms a boundary feature the general assumption is that each owner owns the bed and soil to the middle of the watercourse. The middle is generally half way at normal winter water level. There is a grey area in relation to diverted or culverted watercourses and the position would depend on the specific facts and history of the land.

### Artificial Watercourses

The general assumption in relation to artificial watercourses is that the ditch or other watercourse was built by a person on his or her own land for their own purposes. If there is a hedge and/or bank then the "hedge and ditch rule" is likely to apply. The boundary is assumed to be on the edge of the ditch on the far side from the hedge. It is assumed that when digging a ditch the owner dug to the extremity of their land, put the soil on their own land and planted a hedge on that soil.

### Maintenance

You should check whether the watercourse is managed by an authority first. If the land is in an area of special drainage need, management may be undertaken by an Internal Drainage Board. Main rivers are supervised by the Environment Agency, which has a map on its website showing designated statutory main rivers. Highway culverts may fall within the responsibility of the highway authority.

Generally, water should be kept flowing naturally. If a watercourse on your land becomes blocked it is important to either:

- if an authority manages the watercourse, report problems such as blockages; or
- if maintenance is your responsibility, take steps to safely clear blockages.

Where maintenance is the landowner's responsibility, neighbouring landowners could potentially take action for 'flood nuisance' if blockages cause flooding on neighbouring land. A separate statutory regime governs flood defence and flood management more widely.

You should check with the Environment Agency, Internal Drainage Board or local authority (as applicable) before carrying out any works to a watercourse as a permit may be needed, depending on the nature of the works. Further, all legal requirements should be complied with and best practice applied in relation to wildlife and protected species.

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