

MAINTENANCE STATEMENT

ORDINARY WATERCOURSES



A watercourse includes all rivers, streams, ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers) and passages, through which water flows Land Drainage Act 1991 (as amended) (LDA). An **Ordinary Watercourse** is defined by the LDA (s72) as any watercourse other than a Main River.

Ordinary Watercourses within a Drainage District are subject to the permissive powers of an Internal Drainage Board ("IDB") under the LDA and Byelaws. Those outside a Drainage District are subject to powers of the local authority.

The IDB has general powers of supervision over Water Level Management within the Internal Drainage District (IDD) and may prohibit placement of obstructions in watercourses (Section 23 LDA), and prohibit development/ obstructions within 9 metres of a watercourse (Section 66 LDA and Byelaws) All works within drains and the 9 metre boundary are subject to Consent, which is obtained from the IDB (see *Information for Applicants under Planning, Consent & Byelaws*).

Ownership and responsibility for the maintenance of Ordinary Watercourses lies with the riparian landowner, established at common law. It has also been established that the same rights and responsibilities are applied to piped Ordinary Watercourses unless otherwise evidenced. The riparian landowner is the owner/occupier of land/property adjoining a watercourse unless otherwise evidenced by deed.

Normally an IDB is not a riparian owner and does not own any Ordinary Watercourse within the Drainage District. The Board may choose to exercise permissive powers of entry to manage identified Ordinary Watercourses that serve an arterial function through the District as identified on the Maintenance Plan (see *News/ Maintenance*). The IDB may choose to exercise its powers of entry for any Ordinary Watercourse within the Drainage District outside the Maintenance Plan e.g. in an emergency.

The Maintenance Plan is dynamic, and may change due to weather patterns, ground conditions, available access, and benefit. If the Board chooses to include an Ordinary Watercourse as part of its annual maintenance plan, it is because it provides water level management benefits to the Drainage District. For clarity, the Board does not 'adopt' any watercourse as this implies ownership.

Ordinary Watercourses identified for maintenance shall be those that generally serve more than one riparian landowner within its catchment, those that present a long term risk to households without regular maintenance, and those arteries flowing to pumping stations.

The level of maintenance undertaken on identified Ordinary Watercourses shall be at the discretion of the IDB and will normally be to de-weed the channel and flail the appropriate bank to improve the line of sight for de-weeding machine operations.

Circumstances may arise where the IDB consider de-silting is required to maintain flow.

The IDB may deposit any matter removed in the course of carrying out maintenance activities on the banks of a watercourse, or such a width of land adjoining a watercourse. The IDB recognises that landowners must comply with Rural Payments Agency Guide to Cross Compliance GAEC14 and will advertise the Board's maintenance programme on the website to enable those in receipt of payments to apply for a derogation of Grant from Natural England.

On those Ordinary Watercourses identified for maintenance by the IDB the riparian landowner is responsible for field drainage outfalls, catchpits, watercourse access structures, stock/ boundary fencing, maintaining/cutting hedges/trees to prevent growth over the watercourse, and preventing damage to banks from livestock and machinery e.g. the IDB is not responsible for hedge cutting and if this extra work is undertaken the riparian landowner will be recharged.

The riparian landowner is also responsible for minor works to remove shoals on the ditch bed, banks slips, fallen trees, accumulations of rubbish, and blown sand which do not obstruct flow unless remediation by the IDB is possible during the planned maintenance season. Riparian landowners should also clear any animal carcasses from their watercourses even if they did not come from their land. Please contact the IDB with regards to planned works after considering the Consent information (see *Information for Applicants under Planning, Consent & Byelaws*) and the IDB will consider whether Consent is required.

Engineering or improvement works on Ordinary Watercourses **will only** be undertaken where a clear benefit for the Drainage District is demonstrated, and after an initial consideration of what the impact [likelihood and severity] of doing nothing would be. These works may require contributions or costs recharged to the riparian land owner(s) or other interested parties.

Major obstructions to flow should be notified to the IDB so that Works may be considered in the Maintenance Plan or appropriate Notices served on riparian landowners e.g. blown sand obstructing the flow within an Ordinary Watercourse is the responsibility of the riparian landowner to remove.

The IDB works with other Public Bodies to provide a public service by continuing to manage water levels for the overall benefit of people, property, commerce, industry, agriculture and the aquatic environment within the defined Drainage District.

Following enactment of the Flood and Water Management Act 2010 (FWMA), an IDB is now considered as a Risk Management Authority (RMA) who has duties under the FWMA including cooperating with other RMAs and to freely share information with regards to its function.

Frequently Asked Questions

<p>Q A</p>	<p>Why must I pay drainage rates when my ditches are not maintained by the IDB? The IDB is responsible in a supervisory capacity for the flow of water through its District, there is no statutory or legal requirement to undertake maintenance work on watercourses, drains or ditches. The majority of monies raised through drainage rates, pay for the management, maintenance/running/repair and refurbishment of pumping stations within the District. There is also a precept paid to the Environment Agency for works and management they undertake on Main Rivers and other important infrastructure. <i>Under the Land Drainage Act the Board has permissive powers, which does not oblige the Board to carry out routine drainage works.</i></p>
<p>Q A</p>	<p>Why must I pay drainage rates when I do not have any watercourses on my land? Drainage rates are payable because you occupy agricultural property within an internal drainage district. These districts are areas where special local measures are required to manage water levels and flood risk. An IDB has power conferred upon it by the Land Drainage Act 1991 to levy a drainage rate within its area. The rate does not depend on the presence of watercourses on your land.</p>
<p>Q A</p>	<p>Who is responsible for maintaining the watercourses running through my land? The riparian landowner; usually the owner of the land adjoining the watercourse.</p>
<p>Q A</p>	<p>Why should I be charged for hedge cutting when it's the IDB that want access? The IDB has legislative power under the Land Drainage Act 1991 to supervise Water Level Management within its District. Access to critical drains can be severely limited if hedges are not maintained. If the Board is unable to access a drain for the purposes of maintenance, its ability to control water levels within its District is impaired.</p>
<p>Q A</p>	<p>Why does my land still flood? Exceptional weather conditions, lack of drain maintenance, soil compaction, land drains set too low in the drain/silted up/ blocked, water levels in rivers which are dictated by tidal conditions and catchment rainfall.</p>
<p>Q A</p>	<p>Can I abstract water for irrigation? Riparian landowners have a right to the water that flows through their land as well as responsibilities to permit water through their land. Entitlement to that water is subject license from the Environment Agency. The IDB will report any illegal abstractions to the Environment Agency (EA).</p>
<p>Q A</p>	<p>Why doesn't the IDB work in Main River doing what the Environment Agency used to do? Main rivers are the primarily the responsibility of the EA. To undertake main river work, the EA applies a benefit/cost Flood Risk Protection analysis to its maintenance activities. As a Public Body an IDB must apply their own benefit/cost assessment. Any expenditure must be justified and the benefits to all ratepayers clearly identified.</p>
<p>Q A</p>	<p>Can IDBs and/or landowners do work in Main River? Defra indicate that this may be possible. However, any work IDBs or landowners wish to undertake will be subject to the same environmental legislation compliance as the Environment Agency.</p>

Glossary of terms

CCTV	Closed Circuit Television
EA	Environment Agency
EU	European Union
FWMA	Flood & Water Management Act 2010
FCERMGiA	Flood & Coastal Erosion Risk Management Grant in Aid
IDD	Internal Drainage District
LDA	Land Drainage Act 1991 (as amended)
LLFA	Lead Local Flood Authority
RMA	Risk Management Authority
SuDS	Sustainable Drainage Systems
WFD	Water Framework Directive
WLM	Water Level Management
WLMP	Water Level Management Plan

Useful terms

Floodplain	Area of land which borders a watercourse, estuary or sea that floods when water levels reach flood stage
Flood Risk	The combination of the probability of a flood and of the potential adverse consequences associated with a flood; for communities, the environment, cultural heritage and economic activity
Flood Risk Management Strategy	Sets out a long-term vision for the overall reduction of flood risk. The strategy will contain a summary of flood risk in each Local Plan District together with the information on catchment characteristics and a summary of objectives and measures for Potentially Vulnerable Areas.
Local Flood Risk Management Plans	Will contain details on the funding, timing and responsibility for actions to reduce flood risk. They will set out how the Flood Risk Management Strategies will be implemented in each Local Plan District and any other locally relevant information.
1 in 200 year flood	A flood that has a probability of being exceeded once every 200 years. It is also expressed as a flood which has a 0.5% probability of being exceeded in the space of one year
Restoration Strategy	A plan to restore the natural features of a body of water or larger catchment area
River Catchments	All areas of land including upstream high ground that drains into a river
Tributary	A small stream or body of water that flows into a larger body of water
Riparian Owner	A person who either: <ul style="list-style-type: none">• Owns land through which a waterbody/watercourse/drain or dyke flows.• Owns land one side of the waterbody/watercourse/drain or dyke and another landowner owns land at the other side. Both are riparian owners and each owns to the centre of the bed of the waterbody/watercourse/drain or dyke.