

**MIDDLE LEVEL COMMISSIONERS AND
ASSOCIATED INTERNAL DRAINAGE BOARDS**

(see list at end)



**Land Drainage Maintenance & Consents Rights And
Responsibilities**

April 2013

What is land drainage?

For the purposes of this leaflet, land drainage (sometimes termed “flood defence” or “flood risk management”) is the disposal of precipitation, usually rainwater, achieved by a network of watercourses of various types. The law on land drainage is complex and few people are aware of its provisions.

Main River or Ordinary Watercourse?

Major rivers such as the Rivers Great Ouse, Nene, Old and New Bedford and Bury Brook are designated “**main rivers**” and are under the control of the Environment Agency (the Agency). They are shown on the Main River Map held at the Agency or local Council Offices and available for inspection during normal office hours. Any queries concerning main rivers should be referred to the Agency. The consent of the Agency is required for work or other activities in and around such watercourses.

All other watercourses, including streams, ditches (whether dry or not), ponds, culverts, drains and any other passage through which water may flow, are classified as “**ordinary watercourses.**”

Surface water sewers, draining the curtilages of buildings are not watercourses. ‘Public surface water sewers’, are the responsibility of the sewerage undertaker (Anglian Water) and are shown on the public sewer maps held at the local Council Offices. ‘Highway drains’ which serve public highways only, are maintained by the County Council’s Highways Department or, in relation to certain trunk roads, the Highways Agency. The County Council is responsible for the drainage of most public highways.

Protected watercourses

(a) Middle Level Commissioners’ watercourses (Commissioners’ watercourses)

The Commissioners exercise jurisdiction over the major watercourses of the Middle Level Area, such as the Forty Foot, Sixteen Foot, Pig Water, Catchwater Drain, Great Raveley Drain, Whittlesey Dyke, Kings Dyke, River Nene (Old Course), Twenty Foot, Well Creek and the Middle Level Main Drain.

(b) Internal Drainage Board drains

The more important ordinary watercourses within an internal drainage board district are designated ‘Board’s Drains’.

The Commissioners or the relevant drainage board as appropriate will normally carry out necessary maintenance or improvement work on the Commissioners’ watercourses or Board’s Drains. They are shown on maps held at the Middle Level Offices and are available for inspection during normal office hours or on our website at www.middlelevel.gov.uk under the relevant Board. Any queries concerning Commissioners’ watercourses or Board’s Drains should be referred to the Middle Level Offices.

Who owns a watercourse?

The person who owns the land on or adjacent to which a watercourse flows through is commonly known as the “**riparian owner**” of the watercourse. Often a watercourse may form the boundary between two properties but sometimes the actual watercourse is found to be within only one ownership. The deeds of the property may indicate who is the riparian owner but are often silent. The law therefore presumes, in the absence of contrary evidence, that land adjoining a watercourse includes the watercourse to its mid point. A ditch alongside a road is normally owned by the adjacent landowner. The principles of ownership apply to main rivers and Board’s Drains as well as other watercourses. Generally, the Middle Level Commissioners own the channels of the Commissioners’ watercourses but where this does not occur, particularly on the Old Course of the River Nene and Well Creek, the above principle will equally apply.

What are the responsibilities of a riparian owner?

Land drainage law provides that a watercourse cannot be obstructed and that the riparian owner must accept water flowing onto his land in the normal course from upstream. The Agency, the Commissioners and Boards and other statutory bodies generally have powers to work on watercourses under their jurisdiction BUT cannot be compelled to do so. The primary responsibility for the maintenance of any watercourse, including the removal of obstructions in the channel, is on the riparian owner.

How is the operation of the land drainage network maintained?

There are a number of laws designed to ensure that land drainage systems operate satisfactorily.

- (1) If a riparian owner fails to carry out his above obligations, or if anyone causes or allows (even by inactivity) a watercourse to become blocked or obstructed, a relevant Authority may serve a notice to enforce these laws. If the notice is ignored the Authority may carry out the necessary work itself. The person on whom the notice was served will then be re-charged for the full cost incurred. The relevant Authority will be the Commissioners, the local internal drainage board or the county council in respect of ordinary watercourses. Any queries concerning this can be made to the Middle Level Offices.
- (2) Anyone wishing to carry out certain types of work in or around an ordinary watercourse must apply for consent from the Commissioners, or the relevant internal drainage board and in certain cases the local district or county council so that the proposals can be assessed for their effect on the network and the environment. There are statutory byelaws widths applicable to Commissioners' watercourses (20 metres) and Boards' Drains (9 metres) within which all development is prohibited unless the consent of the Commissioners or Board has been obtained. This is still the case, even where planning permission has been obtained.
- (3) You may have flood defences such as walls and embankments on your property, which are vital for the protection of both yourself and others. You must not do anything to damage them. Such structures or other features may also be designated by the Commissioners/Boards or by the Agency or the relevant Lead Local Flood Authority in this area the Cambridgeshire and Norfolk County Councils and Peterborough City Council. Such designations are local land charges and it is then an offence to damage or alter the structure or feature.

What consents are required for such work?

- (1) If you wish to pipe, bridge or cover an ordinary watercourse you must submit details of your proposals and obtain consent in writing from the local District Council. Application forms and advice are available from them.
- (2) In addition, should you wish to place, construct or alter anything, such as a dam, weir, headwall or culvert, which may affect the flow in a watercourse you must obtain written consent from the Commissioners or the relevant Board or if outside the areas of the Commissioners or a Board, the Lead Local Flood Authorities. In the case of a main river any application for such consent must be made to the Agency. In respect of the Commissioners' watercourses or Board's drains such consent is also required for any work in on under over or adjacent to such watercourses or drains. Application forms for Byelaw Consent and advice are available from the Middle Level Offices and the forms are available on our website at: www.middlelevel.gov.uk

There is nowadays a general tendency not to grant consent to the piping of ditches without good reason. While a pipe may allow the flow of water, it is not able to provide the storage of an open ditch in times of heavy rain and may be more difficult to maintain. In addition, environmental considerations favour the retention of open streams and ditches and in appropriate cases, the impact of the Water Framework Directive must also be taken into account.

What other legislation applies to ordinary watercourses?

Watercourses are also subject to various other laws, particularly the Byelaws made by the Commissioners and the internal drainage boards which apply mainly to Commissioners' watercourses and Board's Drains respectively. Details of such Byelaws are available from the Middle Level Offices or on www.middlelevel.gov.uk under the relevant Board.

- (1) **Discharges**
Discharges to watercourses require the consent of the Commissioners or the relevant internal drainage board who will be able to advise you on this subject. This consent relates to the quantity or rate of flow of discharge. Discharges in many cases will also need the consent of the Agency, which considers the water quality aspect.

(2) **Pollution**

If you think that a watercourse may be polluted you should contact the Agency or the Environmental Services Section of the local district Council who will investigate. Rivers and ditches should not be used for the disposal of gardening or other types of waste as this could lead to flooding.

(3) **Planning**

If you propose to discharge surface water from a new building or development into an existing watercourse you should contact the Middle Level Offices at as early a stage as possible to discuss whether this will be permissible. This is the case whether the discharge is directly or only indirectly to a Commissioners' watercourse or a Board's drain or whether the discharge rate will make use of the public sewer system. The Commissioners and Boards encourage applicants to undertake pre-application discussions at the earliest practicable stage so that flood risk management issues raised can be highlighted and dealt with.

See our Pre-Application Discussion Request form on our website at: www.middlelevel.gov.uk.

(4) **Waste Disposal**

Watercourses are not waste disposal sites and should not be used to dispose of rubbish or refuse as this could lead to flooding. Ditches and drains exist to assist with the removal of surplus water and serious consequences can follow if they are blocked. Action can be taken against those responsible if dumping in a watercourse occurs.

Associated Drainage Boards administered at the Middle Level Offices

- Benwick Internal Drainage Board
- Bluntisham Internal Drainage Board
- Churchfield & Plawfield Internal Drainage Board
- Conington & Holme Internal Drainage Board
- Curf and Wimblington Combined Internal Drainage Board
- Euximoor Internal Drainage Board
- Haddenham Level Drainage Commissioners
- Hundred of Wisbech Internal Drainage Board
- Hundred Foot Washes Internal Drainage Board
- Manea & Welney District Drainage Commissioners
- March East Internal Drainage Board
- March Third District Drainage Commissioners
- March Fifth District Drainage Commissioners
- March Sixth District Drainage Commissioners
- March West & White Fen Internal Drainage Board
- Needham & Laddus Internal Drainage Board
- Nightlayers Internal Drainage Board
- Nordelph Internal Drainage Board
- Over & Willingham Internal Drainage Board
- Ramsey First (Hollow) Internal Drainage Board
- Ramsey Fourth (Middlemoor) Internal Drainage Board
- Ramsey, Upwood & Great Raveley Internal Drainage Board
- Ransonmoor District Drainage Commissioners
- Sawtry Internal Drainage Board
- Sutton & Mepal Internal Drainage Board
- Swavesey Internal Drainage Board
- Upwell Internal Drainage Board
- Waldersey Internal Drainage Board
- Warboys, Somersham & Pidley Internal Drainage Board

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