# Flood Risk Management Roles & Responsibilities

The roles and responsibilities for flood risk management are varied and often complicated by systems having multiple owners.

## Sefton Council

Sefton Council is the Lead Local Flood Authority (LLFA) for the Sefton borough area and its primary purpose is to oversee flood risk from local sources of flooding; defined as flooding from surface water, groundwater or ordinary watercourse sources.

Sefton Council is also the Highway Authority, Local Planning Authority, Coastal Protection Authority and a land owner.

* **Highway Authority** - Sefton Council has the lead responsibility for providing and managing highway drainage and roadside ditches under the Highways Act 1980.
* **Lead Local Flood Authority -** The Council is the Land Drainage Body for consenting and enforcement activities on ordinary watercourses, in accordance with the Land Drainage Act 1991.
* **Local Planning Authority** – In this capacity, Sefton Council has a duty to prepare and adopt an up-to-date Local Plan for the area and also to determine planning applications in accordance with planning legislation and regulation.
* **Coastal Protection Authority** – Sefton Council has responsibilities for managing flood risk from the sea under the Coast Protection Act 1949.
* **Land Owner** – where watercourses pass through land that is owned by Sefton Council or under the highway (adopted roads and pavements) we are the riparian owners for those sections and responsible for their maintenance.

## Environment Agency

The Environment Agency is an executive, non-departmental public body responsible to the Secretary of State for Environment, Food and Rural Affairs. Its principal aims are to protect and improve the environment, and to promote sustainable development.

The Environment Agency has strategic roles for all sources of flooding and coastal erosion in England and Wales. The Environment Agency also provide river flood warnings.

They have the power to undertake work on main rivers to prevent or fix a flooding issue at their discretion, but may choose to charge this cost to the Riparian Owner.

## United Utilities

United Utilities is the water and sewerage undertaker for the Sefton area and holds an appointment and licence under the Water Industry Act 1991, to have regard to local strategies. United Utilities is the responsible risk management authority for the risks of flooding from their water supply, surface, foul or combined sewer systems.

Other risk management functions include planning the future development and maintenance of its services, taking account of flood and coastal erosion risk management plans in their own planning processes, ensuring their assets and systems are resilient to flood and coastal risks and ensuring the required level of service can be maintained in the event of a flood incident. In addition, they should also work with developers and landowners to reduce the input of rainfall into sewers through the use of storage, source control and sustainable drainage systems (SuDS)

**Riparian owners**

Riparian owners are responsible for maintaining the watercourse (piped/culverted or open ditch) running through or adjacent to their land, to allow the free flow of water. Riparian owners can face legal action if the lack of maintenance of their watercourse causes flooding.

Land ownership is sometimes unknown, disputed or difficult to work out. To find out who owns certain parcels of land (and therefore whether or not they have a riparian responsibility), title registers and title plans can be obtained from the Land Registry online services. Often developers will leave a strip of land (this can be several metres wide) behind a property to allow for watercourse maintenance, but the land is normally registered to the adjacent property and as such they are still the riparian owner.

## Canal and Rivers Trust

Operate and manage the canal network in England and Wales. They perform inspections and maintenance of canals, bridges, towpaths etc., and monitor water levels. They will respond to flooding from canal breaches.

## Other Organisations

There are many other organisations, asset owners and land owners who have a role to play in flood risk management and its impacts. This will include transportation agencies, emergency services and developers.

**Riparian Owners**

Under Common Law if a watercourse, whether open or piped/culverted, runs through or borders a person’s property, that person is defined as a riparian owner and as such has a responsibility to maintain that watercourse and keep it free of obstructions to the flow.

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* 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, though this may not always be the case.
* If you rent your property your tenancy agreement should detail whether the maintenance responsibility lies with yourself or the landlord.

**Your rights and responsibilities**

**Your rights**

* You have the right to discharge your surface water drains into the watercourse, this will need consent. This could reduce your water rates.
* You have the right to receive water in its natural quantity and quality from upstream. 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

**Your responsibilities**

* You must let water flow through your land without any obstruction, pollution or diversion which affects the rights of others. 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 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.
* 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 have a legal obligation to notify and gain consent from Sefton Council or the Environment Agency if you would like to build or alter a structure that acts as an obstruction to a watercourse.
* Do not use the banks to dispose of garden or other waste, where it could be fall into the river causing blockages and pollution. 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.
* 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.

**Watercourse Maintenance**

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.

In order to prevent flooding, it is essential that watercourses are kept in good condition. Maintenance of the bank and bed, as well as any trees and shrubs growing on the banks should be undertaken regularly. Any debris must also be cleared by the owner of the section, even if it did not originate from their land.

**Maintenance Activities**

The maintenance of watercourses plays a key role in flood risk management. Most watercourses will require annual maintenance. It is important to plan when and how this is done.

**Maintaining Open Watercourses (including ditches)**

Maintenance programmes for open watercourses should state how much vegetation is required to be cut back to ensure a free-flowing watercourse. Desilting should also be conducted at regular intervals to maintain the capacity of the watercourse.

In summary, the maintenance tasks that should be undertaken on an open watercourse include:

Keeping banks clear

* Anything that can cause an obstruction and increase flood risk either on your land or downstream if it is washed away
* Any waste resulting from maintenance activities should be removed off-site to ensure it does not flow downstream
* Leave a development-free edge on the banks next to a watercourse to allow for easy access

Maintaining vegetation

* Make sure any work done fits with the natural river system and it is important to consider any impact on wildlife when undertaking maintenance activities
* It is recommended to only go up to just above the water level on one side, so leaving the fringe of the bank uncut, maintaining habitat
* Any waste resulting from vegetation maintenance should be removed off-site to ensure it does not flow downstream

Regular de-silting

* The original profile of the watercourse should not be altered when de-silting, so that the overall gradient and flow patterns stay the same
* The same depth of silt should be removed along the length of the ditch

The most suitable time to conduct maintenance activities on open watercourses is late September/October, in preparation for the heavy winter storms and when the vegetation has naturally died back.

**Culverted Watercourses**

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. Therefore your maintenance programme should outline when you inspect the culverted watercourse to check for blockages and sign of collapse.

If there is a culvert on your land, you generally own it from where it enters to the point it leaves your land. 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.

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.

Culverts generally require specialist machinery to properly maintain them. They can only be accessed through a manhole.

Regular checks of water flows through a manhole by a competent person can give an indication of whether the watercourse is flowing or not. If water is stationary and rising in the manhole this could suggest a blockage downstream in the pipe.

**Maintenance**

* CCTV inspections of the culvert can identify blockages, levels of silt, root infestations and the structural condition of the culvert. This is best carried out by a specialist contractor.
* Culverts with high levels of silt or blocked with silt will need to be jetted. A specialist vehicle will be required that uses pressurised water to flush out the system and extract the material. This has to be undertaken with care as some systems can be damaged with high pressure jetting.
* Root infestations ‐ A specialist vehicle will be required that has a root cutting facility to remove all the roots in the pipe. Once a pipe has roots entering it, it will need regular root cutting.
* Other blockages and structural damage may require excavation to expose the section requiring repair or unblocking. If this occurs you may want to consider de‐culverting the watercourse.
* Sediment traps should be cleared regularly.

**Legal Considerations**

Under the Land Drainage Act 1991 consent is required from the Sefton Council to build a culvert or structure (such as a weir) or to carry out works in, under, over or within 8 metres of the top of the bank of any ordinary watercourse which may alter or impede the flow of water on any ordinary watercourse, regardless of whether it is culverted or not.

Contact the Flood and Coastal Erosion Risk Management Team on flooding@sefton.gov.uk for more information and application form.

Day-lighting or Opening up of Piped/Culverted watercourses.

The Flood and Water Management Act 2010 and Land Drainage Act 1991 place a duty on Sefton Council as a Lead Local Flood Authority to oversee surface water flooding. One of the causes of flooding is the inappropriate culverting of watercourses.

To reduce maintenance costs, improve flood risk management and bring environmental benefits, Sefton Council encourages de-culverting or the restoration of culverted watercourses to open channels, where the opportunity arises.

The detrimental effects of culverting include:

* Loss of and adverse effects on environmental features and wildlife habitat;
* Increased likelihood of flooding due to blockage;
* Increased impact of flooding;
* Loss of floodwater storage;
* Increased difficulties in providing for drainage connections;
* Difficulties in the repair, maintenance and replacement of culverts;
* Increased health and safety hazards;
* Increased difficulty in detecting the origins of pollution and in monitoring water quality.

Specific residential benefits of de-culverting include:

* Reducing flood risk.
* Increasing the capacity of the system.
* Reducing maintenance costs.
* Easily identify issues requiring maintenance.
* Providing valuable habitat

Large scale de-culverting benefits can include:

* Complimenting other urban regeneration initiatives
* Using water motion to mask city noise and provide an atmosphere of quiet and calm.
* Giving a place a sense of identity, because each combination of landform, waterway, bankside and buildings are unique.
* Offering educational and play opportunities for children, enhancing pedestrian and cycle routes and giving people a feel of the countryside and its seasons in an urban environment.

If you are interested in de-culverting a watercourse in your property and would like some advice, please contact Sefton Council’s Flood and Coastal Erosion Risk Management team at the email address below.

**Insurance and Flood Risk**

Insurance is important to protect your property and belongings. If your property has suffered from flood damage in the past, if there is a history of flooding in your neighbourhood, or you are within an identified flood risk area, it can sometimes be difficult to find insurance cover.

**Availability of flood cover**

The UK insurance market is extremely competitive so several quotes should always be sought. Insurers will assess both the likelihood and severity of flooding and base their premiums on this. Insurers do not guarantee to provide cover in all circumstances, as some insurers may decide the risks posed by some properties are too high.

An insurance company may ask you for an Insurance Related Request Letter if your property is at risk of flooding. The insurer will use the letter to decide if they will insure you and how much it will cost.

The letter states:

* if your property is in a flood risk area
* how likely the area is to flood
* the protection given by local flood defences
* if there are any planned flood defences

You will get the letter within 20 working days. It’s free for individuals and £60 for businesses. To get this letter contact the Environment Agency or visit their website to learn more.

Email: enquiries@environment-agency.gov.uk

Tel: 03708 506 506

Website: https://www.gov.uk/prepare-for-a-flood/get-insurance

**Alternative insurance sources**

If it proves difficult to obtain affordable insurance cover from the mainstream companies, there are specialist brokers who can be approached to arrange insurance for higher risk properties.

The British Insurance Brokers’ Association (BIBA) ‘Find a Broker’ helpline can help with this. Tel 0870 950 1790 or visit: www.biba.org.uk

A leaflet published by Defra ‘Obtaining Flood insurance in High Risk Areas’ is available here: http://www.biba.org.uk/UploadedFiles/600floodguide.pdf

The National Flood Forum also provides independent advice on how to obtain flood risk insurance. Tel: 01299 403055 or visit: www.floodforum.org.uk

**The new system - ‘Flood Re’**

As building insurance is usually a requirement for a mortgage, being unable to secure an insurance policy, due to flood risk, could have serious implications for both the mortgage and the sale-ability of the property in the future.

For this reason a special insurance fund called ‘Flood Re’ has been introduced on the 1st April 2016 by the insurance industry and the Government, through a not-for-profit scheme for homeowners (though not businesses). The scheme is to be funded via a levy on insurers and will be in place until 2039 to:

* Enable homeowners to find affordable insurance if an eligible property is at risk of flooding
* Help tenants to find affordable contents insurance if you live in an eligible property
* Help local authorities and communities across the UK to be better prepared for flooding
* Create a ‘level playing field’ for UK insurers, which means they can still offer homeowners an affordable range of appropriate policies to those homes at risk of flooding.

To check eligibility to the scheme and **for more information, visit the Flood Re website: http://www.floodre.co.uk**

**Ordinary Watercourse Land Drainage Consent**

Under the Land Drainage Act 1991, to undertake certain temporary or permanent works that would alter a watercourse which is classified as ‘ordinary’, consent is required from Sefton Council. Even if you have planning permission or other consents you will still require consent from the Council.

Works to ordinary watercourses that require consent are those likely to cause an obstruction to flow, alter the design, and restrict storage or piping a watercourse (culvert). Changes to structures (dams, weirs, culverts or other like obstructions) already in place will also need consent from the Council. General maintenance work, such as vegetation clearance, would not normally require land drainage consent, but if in doubt please contact Sefton’s Flood and Coastal Erosion Risk Management team at the email address below.

**How do I know if my works need consent?**

When considering if the works in question require consent, it is useful to consider if the works would affect the flow of the watercourse when it is full to the top of the bank. If the works will affect the flow then such works will need consent. Examples:

**Permanent works/structures** include diversions, construction of bridges, culverts, weirs, dams, alteration of a culvert or any other objects which will permanently interfere with or change the flow of water in a watercourse.

**Temporary works/structures** include placement of sand bags or dams used to create a dry working area, or any objects or materials that will be removed at a later date that interfere with or change the flow of water in a watercourse.

Consent will be refused if the works are poorly designed, result in an unmanageable increase in flood risk or if they pose an unacceptable risk to nature conservation or the environment. Incomplete applications will also be refused.

Consents may have conditions applied to them, for example to carry out works at a certain time of year in order to reduce flood risk and potential ecological damage.

**How long is my consent valid for?**

Any Ordinary Watercourse Land Drainage Consent given is typically valid for a period of up to a maximum of three years. The applicant must ensure any contractor(s) appointed to carry out the works are fully aware of the consent and its conditions.

**Applying for Ordinary Watercourse Land Drainage Consent**

It is recommended to contact the Flood and Coastal Erosion Risk Management team in advance of applying for consent. This will help determine if consent is required, alternative methods that can be implemented and ensure that your application is completed correctly. Please note that the application fee is £50 per structure/operation or temporary works event.

When considering an application for ordinary watercourse consent the Council will consider a number of factors including but not limited to:

* necessity of the structures/works proposed,
* prove that the proposed works will not have a detrimental effect on flood risk, surrounding habitat and environment or to fauna and flora species present,
* adequate mitigation measures are proposed where risk to the above cannot be avoided,
* consideration of health and safety risks and the proposal of adequate measures to manage such risks,
* clear detail on whom has the responsibility for maintenance during and post construction,
* where the applicant is proposing a culvert, prove that reasonable and practicable alternative methods have been considered and cannot be utilised.

Once a fully completed application form including all relevant documents and the correct fee have been submitted, the Council will have up to 2 months to issue a written confirmation detailing whether consent has been granted or refused. If consent has been granted, it may include other conditions attached to it such as additional permits or permissions from other bodies. The applicant is responsible for obtaining the necessary permits or permissions prior to works commencing.

**What if my watercourse is not designated as ‘ordinary’?**

For watercourses designated as ‘Main River’, under the Environmental Regulations 2010, you need to apply for an environmental permit from the Environment Agency for all development within 8 metres of the top of bank of a Main River. This is because development in this proximity to a Main River may affect flood risk or land drainage, or interfere with the Environment Agency’s access. Further information on this can be found at <https://www.gov.uk/topic/environmental-management/environmental-permits> or call 03708 506 506

**Enforcement Action**

The aims of enforcement action in flood risk management are to ensure the proper flow of water in a watercourse and over the floodplain as well as the control of water levels and protection of existing assets.

To achieve these aims, the Council may use enforcement powers granted under the Land Drainage Act 1991, to rectify unlawful, damaging or potentially damaging work and impediments to flow on a ordinary watercourse, on a risk based approach, in line with our priorities.

Enforcement action may be taken where damaging or potentially damaging works have been undertaken without consent or are in contravention to an issued consent.

Please note in the case of works undertaken without consent, and where the Council deems that consent would have been required, works cannot be retrospectively consented. In these cases we will normally take action to see that the ordinary watercourse is put back to the condition it was in beforehand. Examples of enforcement action include but are not limited to:

* site visits and face to face meetings with parties concerned
* sending advisory letters
* sending warning letters
* using notices to enforce, prohibit or carry out works
* prosecution and reclaiming costs of prosecution
* direct remedial action plus recharge of costs of remedial action

Failure to obtain Ordinary Watercourse Land Drainage Consent prior to carrying out works may be a criminal offence.

**Section 21 Enforcement:** Under Section 21 of the Land Drainage Act 1991, the Council has the power to require works to be carried out in relation to any watercourse, bridge or drainage work (whether by way of repair, maintenance or otherwise).

If the works are not carried out in the specified time, the Council may serve a notice under Section 21(2) the nuisance to be abated. Where there is non-compliance with the Section 21(2) legal notice, the Council may then use the power under Section 21(4) to carry out the remedial works and recover the costs of the works from the responsible party.

**Section 24 Enforcement:** Any person acting in contravention of Section 23 of the Land Drainage Act 1991, may be liable, on conviction, to a fine of up to £5,000, and to a further fine of up to £40.00 for every day on which the contravention is continued after conviction. Under Section 24 of the Land Drainage Act 1991, the Council has the power (without prejudice to any other criminal proceedings) to take necessary action in order to remedy the effect of a contravention or failure to obtain consent, and to recover the expenses reasonably incurred by it from the party in default.

Section 25 Enforcement: Under Section 25 of the Land Drainage Act 1991, the Council has the power (without prejudice to any other criminal proceedings) to require works for maintaining flow of watercourse. This power is concerned with ensuring a watercourse is maintained to a level that allows water to flow freely. Any person acting in contravention of Section 25 of the Land Drainage Act 1991, may be liable, on conviction, to a fine of up to £2,500.

**Section 64 Power of Entry:** There is a general power of entry afforded to authorised officers of the local authority who may at all reasonable times enter land in the exercise of functions permitted under the Land Drainage Act 1991 or to survey land or inspect any drainage works on any land. A person may also take onto the land, such other persons or equipment as may be necessary. It should be noted however that, unless there is an emergency, notice of intended entry has to be given to the occupier and, in the case of residential property or where heavy machinery is to be used this notice should be given not less than 7 days before the entry is required. Obstruction of an officer in pursuance of powers of entry is a criminal offence. If injury, in this instance this includes damage to land resulting in loss of value or pecuniary loss, is caused in the exercise of the powers then compensation is payable.

If you have noticed works to an ordinary watercourse that causes you concern, you can contact us via the email address below to determine whether the works were consent. If the works were not consented then we may take enforcement action as detailed above.

**Water butts for flood risk management**

Sefton Council is promoting ways to reduce the amount of water entering drainage systems or “*slowing the flow*” to protect the most vulnerable households and communities from flooding.

The purpose of this leaflet is to promote the use of residential rainwater storage for flood risk management. During extreme rainfall events water enters drainage systems and sometimes exceeds their capacity and causes flooding. This generally occurs further downstream in the system. The aim is to reduce the volume of water entering drainage systems and to reduce the highest flows during a storm event.

One of the easiest and most practical ways residents can do this is to use water butts to collect rainwater from your roof that would otherwise flow into the drainage system. Using a water butt to *“slow the flow”* can be done in two ways, water **can** be allowed to slowly pass into the drain or garden, this can be done by just leaving the tap slightly open to constantly drain via a piece of hose. There is also a large range of products available called rainwater dripline kits or micro irrigation kits

**Example of Rainwater dripline kit kit**

The second method is to store the water and actively use it to water plants or wash the car. For this to be effective you must make sure the water butt does not become full. This may require you to use the water in advance of forecasted rainfall.



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| **The benefits to you*** Water for your garden all year round
* Reduce your household’s carbon footprint
* Attract more wildlife to your garden
* Installing a water butt doesn’t have to be expensive
* If you disconnect your downspout from the main drainage system, your water rates may be reduced
 | **The benefits to your community*** Reducing the rate at which surface water enters the drainage system
* Help protect your home and community from flooding
* Cutting the energy needed for treating, pumping and transporting water for domestic use
* Saving water resources now helps ensure adequate water supply in the future
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