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## HIGHWAY FLOODING: ROLES AND RESPONSIBILITIES



Northamptonshire  
County Council

**Flood Toolkit**

## WHO ARE THE HIGHWAY AUTHORITIES IN NORTHAMPTONSHIRE?

**HIGHWAYS ENGLAND** deal with motorways and strategic roads including the A14, M1, M45, M40, A5, A43 (south of Northampton), and A45 (east of Northampton).

The County Council (Northamptonshire Highways) deals with the remaining roads.

Both these organisations are classed as flood risk management authorities.



### Highway Authority Responsibilities

These authorities provide and manage highway drainage from the road network in England, under the Highways Act 1980. They must also ensure that road projects do not increase flood risk.

They maintain and repair the roads for which they have responsibility (maintainable at the public expense), which sometimes includes the drains that run beneath the road surface, as well as the road surfaces and footpaths themselves. They also have a statutory legal duty to maintain the highway which includes keeping the highway free from flooding, provide adequate drainage (Section 41 of the Highways Act 1980 subject to the provisions of Section 58 of the Highways Act). They also have a duty to remove encroachments and obstructions on the highway (Section 130 of the Highways Act 1980).

Common Law also exists to enable the Highway Authority to remove obstructions and abate nuisances as well as statutory provision (Section 333 of the Highways Act).

They must remove an obstruction that arises from the accumulation of snow or from the falling down of banks on the side of the highway, or from any other cause (Section 150 of the Highways Act 1980).

On highways liable to flooding to a considerable depth, the Highway Authority has a duty to provide graduated posts or stones indicating the depth of water covering the highway where it is considered necessary or desirable.



## Why do Highways Flood?

Some of the things that can cause road flooding are:

- Blocked or collapsed gullies, pipes, sewers, culverts or ditches
- Inadequate drainage in the area due to the lie of the land
- Water running from private land onto the road (such as rainwater run-off)
- Overloaded drainage systems during severe storm events.

Road flooding may also affect private property if the water flows off the highway either indirectly or directly. Where the flooding is caused by inadequate highway drainage, the Highway Authority may be liable for causing a nuisance.

If a person causes a nuisance the Highway Authority can take legal action against that person.



## What is Highway Drainage?

Highway drainage systems are designed to manage the rainwater that lands on the highway only, both to prevent flooding and to protect the road surface. They can include a wide variety of features including:

- Roadside drains and channels/gullies
- Shallow channels that convey water off the road into a drainage ditch (known as 'grips' or 'letts')
- Ponds and lagoons
- Pumping stations
- Inspection chambers and manholes
- Underground pipes/culverts
- Soakaways and soakage ditches
- Sustainable Drainage System measures, such as 'swales'.

Section 100 of the Highways Act 1980 - Gives the Highway Authority, for the purpose of draining or preventing surface water from flowing onto the highway the power to:

- construct or lay, in the highway or land adjoining or lying near to the highway, such drains as they consider necessary;
- erect barriers, to divert surface water into or through any existing drain;
- scour, cleanse and keep open all drains situated in the highway or land adjoining or lying near to the highway\*.

\*Note: "Drain" includes a ditch, gutter, watercourse, soak-away, bridge, culvert, tunnel and pipe.

- Highway drainage is usually the responsibility of the relevant Highway Authority, but sometimes drainage may be specifically adopted by another relevant authority (such as an Internal Drainage Board, District Council or a 'sewerage undertaker' such as Anglian Water).



### What is a Culvert?

A culvert is a structure, in the form of a tunnel or pipe, which allows a watercourse to flow under a road, railway or similar feature.



### Maintenance of Culverts

Water cannot flow through blocked or damaged culverts, and so may back up and cause flooding above ground. Larger culverts may have 'trash screens' across the openings, to prevent things like tree branches getting stuck inside, as well as preventing anyone from entering. These screens can become blocked by debris over time and so need clearing regularly.



### Ownership of Culverts

Responsibility for the maintenance of any culverted watercourse usually lies with the 'riparian owner' (see leaflet 15 of this series for more details on this subject). However, some culverts under roads may be the responsibility of the relevant Highway Authority, or other body, for historic reasons. It should be noted that there generally exists no duty on the Highway Authority to adopt culverts.

Where the ownership of a watercourse culvert cannot be established, then it is assumed to be the responsibility of the riparian owner.

The County Council maintains an inventory of culverts in or under the public highway, together with ownership details.



### Roadside Ditches

Ditches that run alongside, or within, a highway generally do not form part of the highway and remain the responsibility of the adjacent landowner or occupier. The Highway Authority may have a prescriptive right of discharge into this ditch in order to take the water runoff from the highway.

However, where the ditches have been dedicated as forming part of the highway only, or where the ditch was constructed for the purpose of draining the highway, then the ditch will form part of the highway and will be the responsibility of the Highway Authority.

The owners of land next to a highway have a legal responsibility to maintain ditches to prevent them causing a nuisance to road users.

For more information on this, see other leaflets in this series: Number 2 - Ditch Clearance <https://www.floodtoolkit.com/guides/2-ditch-clearance/> and Number 15 - Riparian Responsibilities [floodtoolkit.com/guides/15-riparian-ownership-flood-risk/](https://www.floodtoolkit.com/guides/15-riparian-ownership-flood-risk/)



## Further Information and Contacts

Northamptonshire Highways

<http://www3.northamptonshire.gov.uk/councilservices/northamptonshire-highways/Pages/default.aspx>

Use the Street Doctor service to report flooding on a road:

<http://www.northamptonshire.gov.uk/en/councilservices/Transport/roads/streetdoctor/Pages/Step1.aspx>

Highways Agency - a map of the major roads dealt with by the Highways Agency can be found here:

<https://www.gov.uk/government/publications/roads-managed-by-the-highways-agency>

Highways Act 1980

<http://www.legislation.gov.uk/ukpga/1980/66/contents>

Land Drainage Act 1991

<http://www.legislation.gov.uk/ukpga/1991/59/contents>

This leaflet is not intended to be a complete statement of the law. Landowners should always bear in mind that their rights may be affected by their duties to other landowners, to the rest of the community and to the environment.



**Floodline number: 0345 988 1188**



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