

1

FLOODING: AGRICULTURAL RUN-OFF



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‘Run-off’ means rainfall that does not soak into the ground, or flow into a drain or watercourse.

Sometimes run-off can flow off fields and end up in homes and businesses. This is most likely to happen after crops have been harvested, because the soil can become compacted and unable to absorb water easily.

This risk is greater when ditches around fields become blocked up and can no longer carry the water away properly.

Farmland Management

Farmers should manage their agricultural land in a way that reduces run-off. As well as reducing flood risk, this slows down damaging soil erosion, so it is in the farmer’s best interests as well.

Soil management measures form an important part of the regulations governing the payment of agricultural subsidies. Although the procedures on this changed in 2015, farmers still have to follow the accepted best practice on the matter.

Unfortunately, very heavy rain can cause run-off from farmers’ fields even when soil is well managed.

Run-off Problems

If it looks like farmland is not being managed in a way that minimises run-off, the first step should always be to mention this to the farm owner or manager. They may not be aware of the problem and a solution can then be found.

If the problem cannot be sorted out this way, then there are other things that can be done.

Mediation

Mediation can be a way to resolve a dispute with a neighbour or neighbouring landowner without going to court. It may also be more cost effective.

A community representative such as a Parish Councillor or a Flood Warden may be able to act as an informal mediator. There is also a National Mediation Helpline if a more formal method is needed (contact details are on the back page of this leaflet).

Mitigation

Owners of affected properties can employ a specialist to carry out a survey. Their report should explain where the flood water comes from and what can be done to stop it, or how to protect property to limit the damage caused.

Qualified independent professionals can be used to carry out the surveys, or companies that manufacture flood defence products. A list of organisations who can help here is on the back page of this leaflet.

Legal Action

Sometimes flooding may be found to be a 'nuisance' as defined in common law. If a person is found to be causing such nuisance flooding, they may be issued with an injunction to prevent it happening again. The important factors that will be considered include the extent of damage suffered, duration and frequency of the problem, as well as the practicality and cost of fixing the nuisance.

Legal advice should always be sought before taking court action. There may be costs involved whether or not the action is successful.

First-tier Tribunal

This is a legal court that has powers under the Land Drainage Act 1991 to order a landowner to perform work, such as maintaining and/or re-excavating drainage ditches.

For the nuisance of run-off from agricultural land, the panel is likely to include specialists in drainage and agricultural management. The Tribunal can also authorise individuals to carry out work on a neighbour's land in order to protect their own property.

Although the Tribunal service itself is free, there are likely to be some costs involved (providing maps and other information, and hiring legal representation if needed).

Qualified Independent professionals' organisations

- The Royal Institution of Chartered Surveyors (RICS)
- Chartered Institution of Civil Engineers
- Chartered Institution of Water and Environmental Management
- Association of Building Engineers.

Legal advice and tribunal forms are available from:

http://hmctsformfinder.justice.gov.uk/HMCTS/GetForms.do?court_forms_category=Agricultural%20Lands%20and%20Drainage

'The Homeowners' Guide to Flood Resilience' (recommended by Defra and EA): This independent publication includes contact details for surveyors/providers of Kitemarked flood protection equipment:

http://www.knowyourfloodrisk.co.uk/sites/default/files/FloodGuide_ForHomeowners.pdf

Further Information & Contacts

Farmland management and soil protection reviews:

Rural Payments Agency

PO Box 300, Sheffield S95 1AA

<https://www.gov.uk/soil-protection-review>

Mediation

National Mediation Helpline

Clerksroom, Equity House, Blackbrook Park Avenue, Taunton TA1 2PX

Tel: 0845 603 0809 Monday to Friday 8.30 – 18.00

The County Council does not specifically endorse any of the products mentioned in the Guide, but this resource can assist the reader to make informed decisions.



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