**1. Environmental Risk Assessment**

When working near, in or under a watercourse a detailed risk assessment should be completed to ensure that appropriate controls measures are put in place to eliminate or mitigate the environmental impact of the activity. The risk assessment should ensure that our works do not:

* Cause pollution
* Have a negative impact on water quality
* Have a negative impact on wildlife
* Increase flood risk

**2. Legal Consenting Process**

There are a number of activities Balfour Beatty carries out which may require formal permission from the Environmental Agency (EA), Natural Resources Wales (NRW) or the Lead Local Flood Authority (LLFA). The type of permission required depends on the classification of the watercourse.

There are 2 classifications of watercourses (rivers, brooks and streams):

* Main River
* Ordinary Watercourse

In order to identify whether a river, brook or stream is classed as a Main River contact the Environment Agency on 08708 506 506 or Natural Resources Wales 0300 065 3000. The EA / NRW will need to know the grid reference of where Balfour Beatty will be working as the classification of rivers can alter along their length. If a river is not classed as a ‘Main River’ it is automatically classed as an ‘Ordinary Watercourse’.

It is a legal requirement to ensure that the appropriate consents are obtained from the relevant regulator of the watercourse.

**2.1 Main Rivers**

Working in or near to main rivers is covered by the Environmental Permitting Regulations (on 6th April 2016 the flood defence consenting regime moved into the environmental permitting regulations). The regulator is the Environment Agency (EA) in England and Natural Resources Wales (NRW) in Wales.

**2.2 Ordinary Watercourses**

Working in or near to ordinary watercourses is covered by Land Drainage Consents. The regulator is the Lead Local Flood Authority (LLFA).

**3.0 Main Rivers and Environmental Permits (previously flood defence consents)**

An environmental permit for flood risk activities may be required if work is going to be carried out:

* In, under, over or near to a main river (including where the river is in a culvert)
* On or near a flood defence on a main river
* In the flood plain of a main river
* On or near a sea defence

‘Near’ means:

* Within 8 metres of the bank of a main river, or 16 metres if it is a tidal main river
* Within 8 metres of any flood defence structure or culvert on a main river, or 16 metres on a tidal river, or where it is a sea defence structure.

**3.1 Activities covered by Environmental Permitting**

Flood risk activities covered by the environmental permitting regulations include:

* Erecting any temporary or permanent structure in, over or under a main river, such as a culvert, outfall, weir, dam, pipe crossing, erosion protection, scaffolding or bridge
* Altering, repairing or maintaining any temporary or permanent structure in, over or under a main river, where the work could affect the flow of water in the river or affect drainage work
* Building or altering any structure designed to contain or divert flood waters from a main river
* Dredging or removing any material from a main river, including when you are intending to improve flow in the river or use the materials removed
* Diverting or impounding the flow of water or changing the level of water in a main river
* Activities carried out within 8 metres of a non-tidal main river (or 16 metres of a tidal main river)
* Activities carried out on the floodplain of a main river, more than 8m from the river bank (or 16m if it’s a tidal main river), if you don’t have planning permission
* Quarrying or excavation within 16m of any main river or flood defence structure or culvert which is likely to cause damage or endanger the stability of banks of the river

They also include activities which could affect flood risk or land drainage, or interferes with the Environment Agency or natural Resources Wales’ access, and are carried out:

* Within 8m of the bank of a main river, or 16m if it is a tidal main river.
* Within 8m of any flood defence structure or culvert on a main river, or 16m on a tidal river, or where it is a sea defence structure.

**3.2 Levels of Environmental Permit Authorisation**

Work activities can fall into one of three levels of authorisation:

* Flood Risk Activity Exclusion
* Flood Risk Activity Exemption
* Flood Risk Activity Permit
  + Standard Rules Permit
  + Bespoke Permit

**3.2.1 Flood Risk Activity Exclusion**

Some activities which pose a very low risk are removed from control altogether and will not require a permit. These are known as exclusions.

Exclusions will also apply where the activity is covered by other regimes such as planning permission or a marine licence.

For further details on excluded activities and their conditions refer to the EA website <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits#exclude> or the NRW website <https://naturalresources.wales/apply-for-a-permit/flood-risk-activities/flood-risk-activity-exclusions/?lang=en>

Anyone wishing to carry out excluded activities will not need to apply for a permit or to register these activities with the EA or NRW, so long as they comply with rules specified in the relevant regulations.

If works fall within a flood risk activity exclusion, this must be documented in the project environmental management plan or project file.

If the activity or working methods change and this results in the works no longer meeting the requirements of the flood risk activity exclusion, then work must stop immediately. Works cannot continue until:

* an appropriate exclusion is identified and documented in the project environmental management plan or project file, or
* an appropriate exemption is registered and received, or
* a standard rules or bespoke permit is applied for and received.

**3.2.2 Flood Risk Activity Exemption**

Some low risk activities are not excluded from control but are exempt from needing a permit.

Anyone wishing to carry out an exempt activity must register an exemption with the Environment Agency using form FRAEX001 (England) or FRAX01 (Wales) and must comply with the rules specified in the relevant regulations; it is free to register for an exemption.

For further details on what the exemptions cover and their conditions refer to EA document ‘EPR Exempt Flood Risk Activities: descriptions and Conditions’ available from the EA website

<https://www.gov.uk/government/publications/environmental-permitting-regulations-exempt-flood-risk-activities>

Or GPG221 Technical Guidance Flood Risk Activity Exemption from the NRW website

<https://naturalresources.wales/apply-for-a-permit/flood-risk-activities/flood-risk-activity-exemptions/?lang=en>

It takes the EA / NRW 15 working days to register an exemption. Work must not start until confirmation of the registration has been received from the EA / NRW.

The Environment Agency or Natural Resources Wales should be contacted prior to applying for an exemption to enable them to check if there are any reasons why an exemption can’t be registered at a particular location. They can also answer any questions about the conditions in an exemption.

Once an exemption has been registered, the conditions must be complied with.

If the activity or working methods change then work must stop. Works cannot continue until an assessment is made as to whether the existing exemption covers the activity or working method changes. A record of this assessment must be made within in the project environmental management plan or project file.

An appropriate exemption registration must be gained or a standard rules permit or bespoke permit must be applied for. The exemption must be in place or the permit must be received before work can continue.

The regulator is legally allowed to take the full consultation period when a new exemption is applied for. If a standard or bespoke permit is required due to changes to the activity or working method then the regulator is likely to take the full consultation period (2-4 months).

**3.2.3 Flood Risk Activity Permit**

There are 2 different types of flood risk activity permit:

* Standard Rules Permit
* Bespoke Permit

**3.2.3a Flood Risk Activity Permit – Standard Rules Permit**

Standard Rules Permits are issued for specific activities. There is a strict set of rules that the works must meet, including things like the size and scale of the works, the location of the works, what time of year the works can be carried out.

The rules cannot be varied. If the works do not meet the rules of a standard rules permit then a bespoke permit will be required.

It is advisable to contact the EA / NRW before applying and they will check if there are any reasons why you can’t apply for a standard permit to work in that location.

There are charges for applying for a standard rules permit (the charge will depend of the activities being carried out).

In England anyone applying for a standard rules permit must fill in 3 forms: Application for an Environmental Permit Part A (about you), Part B11 (standard rules permit for flood risk activities) and Part F3 (charging for flood risk activities and declarations).

In Wales, contact NRW via their Customer Care Centre and once preliminary details have been agreed NRW will request you to fill in the appropriate application form.

Standard permits usually take up to 2 months to obtain if they relate only to flood risk activities. The EA / NRW will consult with other authorities during this 2 month period. It can take up to 4 months if the application is part of an application for combined activities (such as a flood risk activity and a water discharge activity together) or a public consultation has been carried out.

Once a standard rules permit has been registered, the conditions must be complied with.

If there are changes to the activity or working methods then work must stop. Works cannot continue until an assessment is made as to whether the changes meet the existing standard rules permit. A record of this assessment must be made within project documentation.

If the existing standard rules permit does not cover the work then an appropriate standard rules permit or bespoke permit must be applied for and received before work can continue.

The regulator is legally allowed to take the full consultation period when issuing a new standard rules permit. If a bespoke permit is required due to changes to the activity or working method then the regulator is likely to take the full consultation period (2-4 months).

3.2.3b Flood Risk Activity Permit - Bespoke permit

A bespoke permit is required where activities do not fit the conditions of the exclusion, exemptions or standard rules. These cover more complex activities presenting higher environmental or flood risk.

Speak with your Environmental, Sustainability or HSE Advisor before applying for a bespoke permit.

There are charges for applying for a bespoke permit (the charge will depend of the activities being carried out).

It is advisable to contact the EA / NRW before applying and they will be able to offer advice prior to the bespoke permit application being submitted.

In England anyone applying for a bespoke permit must fill in 3 forms: Application for an Environmental Permit Part A (about you), Part B10 (flood risk activities) and Part F3 (charging for flood risk activities and declarations).

In Wales anyone applying for a bespoke permit must fill in 2 forms: Application for an Environmental Permit Part B8 Flood Risk Activity New Bespoke Permit and Part F3 (charging for flood risk activities).

Bespoke permits usually take up to 2 months to obtain if they relate only to flood risk activities. The EA / NRW will consult with other authorities during this 2 month period. It can take up to 4 months if the application is part of an application for combined activities (such as a flood risk activity and a water discharge activity together) or a public consultation has been carried out.

Once a bespoke permit has been registered, the conditions must be complied with.

If there are changes to the activity or working methods then work must stop. Works cannot continue until an assessment is made as to whether the changes meet the existing bespoke permit. . A record of this assessment must be made within project documentation.

If the existing bespoke permit does not cover the work then the EA / NRW must be consulted and a formal application made to vary the permit. Work cannot continue until this consultation has taken place and a new or revised bespoke permit received.

The regulator is legally allowed to take the full consultation period when varying an existing bespoke permit.

**4.0 Ordinary Watercourses and Land Drainage Consents**

All work taking place in an ordinary watercourse must have written permission from the Lead Local Flood Authority (LLFA) in the form of a Land Drainage Consent.

From 6th April 2012, LLFAs are responsible for regulating activities on ordinary watercourses. LLFAs are Unitary Authorities (where they exist) and County Councils elsewhere.

Within an Internal Drainage District area (about 10 per cent of the country) the Internal Drainage Board (IDB) undertakes ordinary watercourse regulation (unless this is in an area where the Environment Agency Acts as the IDB).

If work is being carried out over, under or next to an ordinary watercourse, checks must be made with the LLFA to establish whether the work being carried out requires consent.

Land Drainage Consents can take up to 3 months to obtain from the LLFA and a fee is payable.

If there are changes to the activity or working methods then work must stop. Work cannot continue until an assessment is made as to whether the changes meet the existing land drainage consent. A record of this assessment must be made within project documentation.

If the existing land drainage consent does not cover the work then the LLFA must be consulted and a formal application made to vary the consent. Work cannot continue until this consultation has taken place and a new or revised land drainage consent is received.

**4.1 Types of Land Drainage Consent**

Land Drainage Consents can be either ‘Permanent’ or ‘Temporary’:

**4.1.1 Permanent Consent**

Is required for the permanent asset installed e.g. water pipe / gas pipe / electric cable. Permanent consents are usually the responsibility of the asset owner. Permanent consents are granted for the construction of a permanent structure in or close to a watercourse.

**4.1.2 Temporary Consent**

Is required for work in / over / under / next to a watercourse. Temporary consents are usually the responsibility of Balfour Beatty or Principle Contractor. A Temporary Consent is required to do work on a permanent structure (even when there is a Permanent Consent in place for the permanent structure).

A Temporary Land Drainage application must include a method statement, a drawing and a location map detailing how the work will be completed.

**4.2 Complying with Land Drainage Consent**

When consent is granted the method of work detailed in the method statement must be followed. If any change in the planned work, the Lead Local Flood Authority must be consulted on the changes potential impact.

If there is any change in the planned work, work must not start until the Land Drainage Consent has been re-issued by the Lead Local Flood Authority.

The Consent will include a number of requirements that must be followed. These should be included in the methods of work for the site, including any notification requirements to the Environment Agency / Natural Resources Wales or Lead Local Flood Authority.

Temporary Land Drainage Consent must remain on site at all times while work is taking place.

**5.0 Monitoring**

All monitoring arrangements must be detailed within the project management plan.

Regular inspections must be carried out to ensure that no deterioration in surface water quality occurs. The frequency of inspections should be documented and carried out in accordance with the requirements of the relevant environmental permit or consent. If no frequency is stipulated, inspection frequency must be based on the level of risk of the activity and the type of control measures applied depending on the maturity of the activity and the observed performance of the control measures.

[ENV-SF-0019a](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-10147) Watercourse Inspection should be used to record inspections.

**UK Documentation**

|  |  |  |
| --- | --- | --- |
| **Reference** | **Type** | **Title** |
| [ENV-RM-0019b](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-1088) | Reference Material | Working Near Watercourses Scotland |
| [ENV-RM-0019c](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-8711) | Reference Material | Marine Licensing |
| [ENV-SF-0019a](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-10147) | Standard Form | Watercourse Inspection |
| [ENV-TB-0019a](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-9324) | Toolbox Talk | Watercourses |
| [ENV-TB-0019b](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-9886) | Toolbox Talk | Working near Water Environmental Permits |
| [ENV-AL-0019a](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-1090) | Alert | Legal Briefing - Flood Risk Activities in England and Wales |
| [ENV-AD-0019a](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-9533) | Advice Note | Culvert Installation and Breach of the Controlled Activities Regulations (CAR) in Scotland |
| [ENV-AD-0019b](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-9534) | Advice Note | Peat Slippage and Breach of the Controlled Activities Regulations (CAR) in Scotland |

**Frequently Asked Questions**

**When do I need to carry out an Environmental Risk Assessment?**

* An environmental risk assessment must be carried out for all works we carry out and should include working in or close to watercourses. Particular consideration should be given to activities that could cause pollution, have a negative impact on water quality, have a negative impact on wildlife or increase flood risk.
* Adequate site-specific mitigation measures need to be identified, put in place and monitored to ensure they are adequate and working.

**How do I carry out an Environmental Risk assessment and what do I need to think about?**

* Please refer to [ENV-PR-0001](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-7119) Environmental Risks and Opportunities and [ENV-SF-0001a](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-7128) Environmental Risks and Opportunities Tool.

**What type of watercourses do I need to consider**

* Water courses can have flowing water, tidal waters or be dry depending on the recent rain patterns and groundwater flows. They include rivers, estuaries, brooks, streams, drainage ditches, culverted rivers, canals, reservoirs, lakes and ponds.

**There are 2 different classifications of rivers (including brooks and streams) – how do I establish the classification?**

There are 2 classifications of rivers, brooks and streams:

* Main River
* Ordinary Watercourse

In order to identify whether a river, brook or stream is classed as a Main River contact the Environment Agency (England) on 08708 506 506 or Natural Resources Wales 0300 065 3000. The EA / NRW will need to know the grid reference of where Balfour Beatty will be working as the classification of rivers can alter along their length. Contacting the regulator is the ONLY way to determine the classification.

If a river is not classed as a ‘Main River’ it is automatically classed as an ‘Ordinary Watercourse’.

**Who is the regulator?**

In England & Wales the regulator varies depending on the type of watercourse you are working in or close to:

* Main River:
  + England = Environment Agency.
  + Wales = Natural Resources Wales.
* Ordinary Watercourse:
  + England and Wales = Lead Local Flood Authority. The Lead Local Flood Authority is likely to be the Unitary Authority or County Council or Internal Drainage Board (IDB).

There are other bodies of water such as canals and reservoirs and these are regulated differently:

* Canals – Canal & River Trust.
* Reservoirs - Reservoirs are privately owned by undertakers. Where any work is planned within the boundaries of the private land, the owner must be consulted. The Environment Agency / Natural Resources Wales are the enforcing Authority and may require notification before work begins due to the potential risk of causing flooding.

The relevant regulator MUST be contacted and will be able to confirm whether you need consent to carry out works.

**What type of consent do I need?**

For rivers, estuaries, brooks, streams and culverts the name of the permission depends on the classification of the river and the type of activity which is being carried out:

* Environmental Permit (Main Rivers):
  + There are three levels of authorisation within the environmental permitting regime.
    - Flood risk activity exclusion.
    - Flood risk activity exemption.
    - Flood risk activity permit (standard rules or bespoke).
* Land Drainage Consent (Ordinary Watercourses).

**What information will I need to provide when applying for consent or permit?**

* Completed application form.
* Method statement, drawing and location map detailing how the work will be completed.

**How long will it take to get consent or permit?**

* It can take up to 4 months to obtain, depending on the type of consent / permit required.

**What if I need to alter the working methods?**

* Work must stop.
* You must apply to vary the original permit or consent application and wait for it to be re-issued before works can commence.

**When can I start work on site?**

* You can only start work on site when you have received the copy of the consent or permit from the regulator and ensured that any conditions can be complied with.

**I think the Client is applying for the environmental permit or land drainage consent:**

* Balfour Beatty MUST be clear which consent(s) or permit(s) we are responsible for applying for (this will vary between clients and projects). If Balfour Beatty is not responsible for applying for the consent or permit, we MUST obtain a copy of it so we can satisfy ourselves it is in place and to ensure we are aware of any conditions and that these can be met.

**Where can I get more information on environmental permits and land drainage consents?**

* More information can also be found on the Environment Agency and Natural Resources Wales websites:

England <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>

Wales <https://naturalresources.wales/apply-for-a-permit/flood-risk-activities/?lang=en>

**What if I already have a flood defence consent in place?**

There are transitional arrangements which have been put in place under the environmental permitting regulations. These can be summarised as:

* On 6th April 2016 your flood defence consent will automatically become an Environmental Permit, unless it is an activity which is exempt or excluded under the Environmental Permitting Regulations, or not covered by the regulations.
* If your flood defence consent is for an activity that would now need an environmental permit, it will automatically change into an environmental permit. The activity must continue to be carried out as detailed in the flood defence consent. If the work is still on-going and you need to change any of the details of the permit, then a formal application must be made to the EA or NRW to vary the permit.
* If your flood defence consent is for an activity which is now exempt from environmental permitting then you don’t need to register the activity as an exemption. The EA / NRW will keep the flood defence consent on record and treat it as though it has already been registered. Activities must be carried out as set out in the description and conditions of the exemption. If the flood defence consent is similar but not exactly within the description and conditions of exemption then it will not qualify as an exempt activity. Instead, it will automatically become an environmental permit. The activity must continue to be carried out as detailed in the flood defence consent.
* If your flood defence consent is for an activity that is now excluded under the environmental permitting regulations, the flood defence consent will lapse. You may continue to carry out this activity but you must do it as set out in the description activities for that excluded activity.
* Before the 6th April 2016 there were local variations in the regulations. This meant that in some locations, you needed a flood defence consent for a particular activity but in others you didn’t. For example, before 6th April 2016 some activities up to 10 metres from an inland non-tidal river needed a flood defence consent. Under the environmental permitting regulations, activities are only regulated up to 8 metres from an inland non-tidal river. So, if you have a flood defence consent for an activity between 8 and 10 metres from an inland non-tidal river the flood defence consent will lapse as this work is not covered by the environmental permitting regulations. If your flood defence consent is for an activity that is less than 8 metres from an inland non-tidal river it will still be regulated and will automatically transfer to an environmental permit. You can continue to do the activity and must comply with any other environmental legislation that may apply.

**What if I applied for a flood defence consent before 6th April 2016 but I haven’t received it?**

* If you applied for a flood defence consent before 6th April 2016 and the EA / NRW have not issued it, they will treat it as an application for an environmental permit. If the activity is exempt or excluded under the environmental permitting regulations, the application will be returned to you.

**I think there are animals such as great crested newts, otters, water voles or fish in the watercourse I need to work in. What should I do?**

* You must notify your Environmental, Sustainability or HSE Advisor and they will be able to provide advice to ensure that an appropriate and adequate assessment is completed to understand the risk of the planned activities to animals in or using the water course.

**Do I need specialist advice?**

* Depending on the nature of your works it may be necessary to obtain specialist advice, e.g. from an ecologist registered and licensed to assess specific protected species or a fisheries consultant. Your Environmental, Sustainability or HSE Advisor will provide further advice and guidance to ensure that a licensed professional is engaged to complete the assessment.

**What should I do to protect ecology?**

Precautions must be taken to ensure flora and fauna is protected when working in or near watercourses. This includes protection of species which live in watercourses and along their banks. Measures should include:

* Carrying out an environmental risk assessment to identify species which may be impacted by the planned works.
* Obtaining existing ecology reports from the client along with any relevant details of previous works in the area, and building this into the environmental risk assessment.
* Engaging an ecologist to provide an ecological report, any further species specific surveys as required and advising of appropriate mitigation measures.
* Engaging other specialists such as a fisheries consultant / arboriculturalist / ornithologist as required.
* Obtaining any relevant wildlife licences / protected species licences.
* Ensuring adequate mitigation measures are put in place to protect flora and fauna and written into method statements.
* Ensuring ecologists / other specialists are on site during works if required.

**Where can I get more information on what species I may need to consider when working in or close to watercourses?**

* Please refer to [ENV-RM-0016a](https://home360.balfourbeatty.com/ghoreferencecentre/Group%20BMS/_layouts/DocIdRedir.aspx?ID=2KHUWT73P6SE-1572-8806) Managing Ecological Risk.