




ICP/IDNO Land Rights Guide



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Welcome to Northern Powergrid

You may not know who we are but we keep the lights on, the kettles boiling and the phones charged for 8 million people across the North East, Yorkshire and northern Lincolnshire.

Put simply, we make sure the electricity you buy from your energy supplier gets to you safely, whenever you need it. And, if your power ever gets interrupted, for whatever reason, be it extreme weather or emergency maintenance we'll be there immediately to fix it - giving 100% day and night, rain and shine, Sundays, Mondays and Christmas days.

We are Northern Powergrid, we live in your communities and we're proud to play an essential role in keeping the power flowing to all the homes and businesses we serve.

The purpose of this guide is to help ICPs and IDNOs understand the different types of legal permissions or consents, referred to as land rights, that we will require to be in place before we can make a connection to our electricity network. This guide explains why these land rights may be required and the likely timescales involved.

This guide applies to connections where Northern Powergrid will not be installing the equipment to provide a connection to our electricity network but may be adopting the equipment once the connection is made.



What land rights may be required for schemes involving ICP's?

What are land rights?

The term 'land rights' is used as a collective term to cover the acquisition of property rights, such as Freehold and Leasehold interests or Easements or Wayleaves, as well as consultations and statutory consents that may be required before connection equipment can be installed.

We firmly believe that land rights requirements for electric power lines associated with connections, whether obtained by us or through other parties on our behalf, shall be no more onerous than for activities associated with the construction, replacement, renewal, refurbishment, operation and maintenance of the Company's electricity network.

For schemes where an ICP designs and installs equipment for a connection to our electricity network under CIC the equipment is intended for adoption by us. The land rights requirements are similar to those that we would require but these are now in two parts:

1 The ICP will need to enter into its own land rights agreements with affected landowners and occupiers for the construction/ installation of the connection equipment.

The documentation would include not only the ICPs rights for access and installation but also the need for the ICP to take on liability for matters such as reinstatement and damage caused at this stage.

2 In addition to the ICPs installation rights and obligations prior to our adoption of the equipment, we will require documentation for land rights to be completed in Northern Powergrid's name.

Easements or Wayleaves documentation, will govern the relationship between Northern Powergrid and the landowners for access to, and the maintenance and replacement of, the equipment starting from the date on which the equipment is adopted from the ICP.



Types of agreements

Set out below are the types of agreement that we may need to be completed with landowners and occupiers before a final connection can be made to our electricity network.

For overhead power lines and underground cable routes:

Wayleave

A Wayleave is a licence, a form of contract between Northern Powergrid and a landowner, that can be used to secure overhead power lines and underground cables. It can also be used to secure agreement with an occupier of land who is not also the owner.

These documents set out in simple terms what Northern Powergrid is permitted to do on the land and how the owner/occupier is protected in the event of us causing any damage in exercising the rights granted to us.

We usually make either an annual or one-off payment to the owner/occupier when the Wayleave is granted.

Easement

An Easement is similar to a Wayleave in terms of its use and what it sets out, but is executed as a Deed. This means that the Easement is registered against the affected property at HM Land Registry and is usually permanently affixed to the land. Easements are processed through solicitors and this reflects the greater security of tenure afforded to Northern Powergrid when compared with a Wayleave agreement.

We prefer to secure easements rather than Wayleave Agreements for higher value and strategically placed overhead power lines and underground cables on our electricity network and our Wayleaves Team will advise if an easement is required.

Permanent security, such as that provided by a permanent easement, is preferred where reasonably practicable and economic, and particularly for high value assets (for example, overhead power lines at 33 kilovolts and above, or underground cables at 11 kilovolts and above) or where the circumstances indicate that the assets may be at risk of Wayleave termination or diversion in the foreseeable future.

For substation sites and accommodation:

Freehold Transfer

Where a substation is required for your connection, such as in the case of housing developments, we prefer to acquire the freehold interest in the land where the substation is to be built. This means that the land for the installation would be owned by us and we would require Title to be registered at HM Land Registry.

The transfer would also include associated rights of access to the land and easements for connections such as underground cables.

Lease

In some situations where a substation is required, such as connections to our electricity network for commercial or industrial developments, we may wish to secure the substation site by freehold transfer or we may be prepared to secure it by a lease.

This is where a landowner allows us the right to occupy their land or building over a period of time (usually 60 years). The lease will include rights for us to access the substation building 24 hours a day, every day, together with rights for underground cables or associated apparatus. A lease is legal document that we would wish to register with HM Land Registry.



Other statutory consents

A variety of permissions/consultations may be required usually under planning and/or environmental regimes prior to any work being undertaken. Here is a list of the typical permissions/consultations that we will expect to have been considered, undertaken and obtained prior to a final connection being made.

Where statutory consents, permissions or consultations with regard to planning and environmental matters are required for ICP installations these shall be obtained and carried out by the ICP unless otherwise agreed in advance with us. There will be instances when only Northern Powergrid, by virtue of being the DNO can apply for the consent (e.g Electricity Act 1989, Section 37 consent from the Secretary of State, Department for Business, Energy and Industrial Strategy BEIS for overhead

lines). Statutory planning and environmental consents obtained by the ICP shall be on terms acceptable to us, and the ICP shall ensure that the consents are transferable to the Company at the point of adoption of the equipment.

The planning consents for overhead power lines

Only Northern Powergrid as the DNO can make the application for consent from the Secretary of State, Department for Business, Energy and Industrial Strategy (BEIS) under Section 37 of the Electricity Act 1989.

Consents for the construction of overhead power lines with a nominal voltage of less than 132 kilovolts (kV) or that are less than 2 kilometres (km) in length are regulated by

the Department for Business, Energy and Industrial Strategy (BEIS) under the provisions of Section 37 of the Electricity Act 1989.

Development consent is needed for most power lines in England and Wales. The Overhead Lines (Exemption) Regulations 2009 provide for a range of relatively minor overhead power line developments that can be carried out without the consent requirement, although they may be subject to a formal consultation requirement.

A guidance note on the statutory consents regime for 'Overhead Power Lines in England and Wales' and the measures introduced by the 2009 Exemption Regulations has been produced by BEIS. The current version was issued in July 2014, '*Guidance Note – The Statutory Consents Regime for Overhead Power Lines in England and Wales under Section 37 of the Electricity Act 1989*'.

If you require further information about exemptions and the consent regime you can use the following link to view the BEIS guidance: www.gov.uk/government/uploads/system/uploads/attachment_data/file/336136/section_37_revised_guidance.pdf

Overhead power lines with a nominal voltage of 132kV or greater and that are 2km or more in route length are regulated under the Planning Act 2008.

If the proposed overhead power lines required for your connection do not benefit from a statutory exemption we need to make an application for consent from the Secretary of State, Department for Business, Energy and Industrial Strategy (BEIS) under Section 37 of the Electricity Act 1989.

The first stage of this process is a formal and statutory consultation with the local planning

authority in whose area the work will be constructed, this is known as the Form B process.

When the Form B is received back from the planning authority, and provided that it includes no unresolved objections, we can submit our Section 37 application for consent. The application needs to be supported by a statement from us confirming that we have secured the relevant land rights from affected owners/occupiers.

This whole process can take from a minimum of three months to complete and works cannot commence on site until the Section 37 consent has been issued by BEIS.

Please be aware that if the connection requires overhead equipment you should consult with the Wayleave Officer appointed to your project to obtain the relevant planning guidance.

Planning permission for new substations

If a substation is required as part of the customer's connection arrangements, typically for housing or commercial developments, we put the onus on the developer to obtain planning permission for the new substation. This can be done by the developer including the details about the location and type of new substation in his own application for planning permission.

Before the legal document can be completed for us to secure our interest in the new substation site, i.e. a Lease or Transfer, the developer must provide evidence to our solicitor that the planning permission obtained covers the new substation.

Environmental considerations and consents

There may of course be other statutory consents that we may need to obtain before we can install our equipment. These include but not exclusively:

Natural England

Consent for any work affecting a Site of Special Scientific Interest (SSSI), consultations about work likely to affect protected habitats and flora and fauna, such as bats, badgers, great crested newts, rare orchids etc.

Historic England

Consent for any work that may affect a Scheduled Monument;

Relevant local archeological bodies:

Consultation about unscheduled archaeology that may be affected by the work;

Environment Agency

Consent for any work on over or near a main river. If the ICP makes an application for any of the above or any other consents, they should ensure that the consent is transferable to Northern Powergrid at the point of adoption, otherwise it may be necessary for us to obtain a separate consent and this would delay adoption.

Underground cables and overhead electric power lines in streets

Where an ICP is to install cables in land classed as 'streets' (as defined in the New Roads and Street Works Act 1991), which are commonly referred to as 'adopted highway' and generally comprise of roads/pavements maintained by the local authority, the ICP must apply for the appropriate licence to carry out this work.

An ICP by virtue of its licence as an accredited ICP does not adopt the powers of a DNO under the Electricity Act 1989 with regard to installing electric power lines in streets.

Sometimes the work may involve cable laying in a road/footpath covered by a Section 38 agreement. A Section 38 agreement is where a private developer wants the local authority to take on the maintenance of the road/footpath.

Until the developer has met the local authority's requirements the road/ footpath is still the responsibility of the developer. Any work we wish to carry out in this land will need the documented permission of the landowner, usually the developer, an Easement or Wayleave on our standard terms would be acceptable.

Any cable installation in third party owned land, including a private street or road not maintained by the local authority, will need to be secured by an Easement or Wayleave in Northern Powergrid's favour before the final connection to our electricity network can be made and the equipment adopted.



Working with DNO's

What land rights may be required for IDNO sites?

There is another way in which a customer can get a third party to install its connection and where it is not directly connected to the DNOs electricity distribution network - by becoming the customer of an IDNO.

In instances where an IDNO installs and owns the inset network, the IDNO will secure the appropriate land rights with the affected landowners and occupiers and carry out its own consultations and applications for statutory consents.

There may be instances where an ICP will install apparatus to provide a connection from our electricity network to the IDNO site and in such cases the ICP will follow the same process for obtaining land rights and statutory consents as detailed above when working for any other customer requiring a connection to our network.

If we are to install the apparatus to connect our electricity network to the IDNO site then our Wayleaves Team will secure the land rights and carry out the consultations and consents processes.

Incorporated Rights process involving IDNOs

Subject to and in accordance with any incorporated rights agreements that may be agreed between us and an IDNO, the IDNO will be able to negotiate on behalf of the Northern Powergrid to secure on a 'subject to contract' basis the land rights required for the connection of the IDNO network to our network.

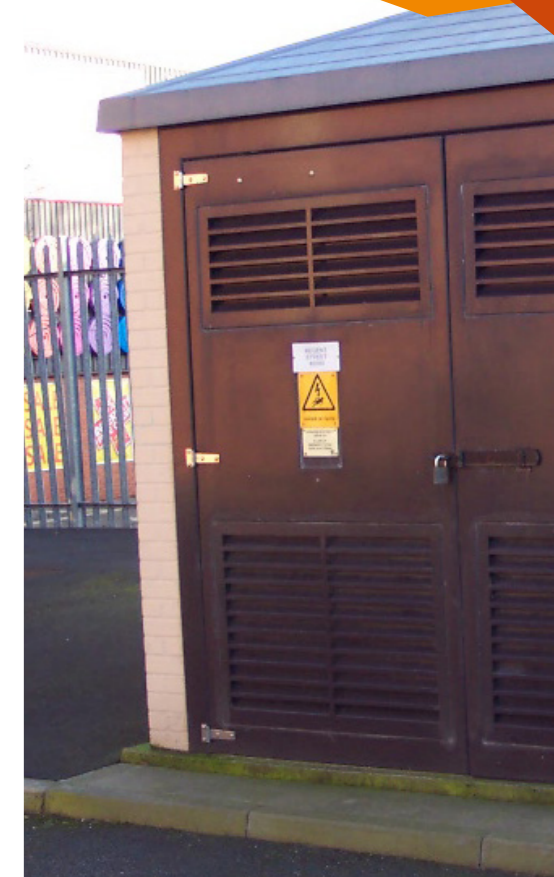
In these instances the IDNO will obtain a transfer or lease of the substation that it will own. Within the same document the IDNO will incorporate the legal rights that Northern Powergrid will require to cover any easements and access arrangements to the substation.

Northern Powergrid will not be a signatory to these documents and our legal partners will not be involved in the process provided that the documents are completed in the agreed form.

If any changes are required to the agreed form of documentation the IDNO will refer the proposed changes to the Northern Powergrid Wayleave Officer who will then consult with our legal partners to review the proposed changes.

A copy of our standard form of Incorporated Rights Agreement with IDNOs is available from our Wayleaves Team or can be found on our website: www.northernpowergrid.com/document-library/

IDNOs design, install, own and operate inset distribution networks located within the areas covered by the DNO.



An ICP is a nationally accredited company that is permitted to build electricity networks to the specification and quality required for them to be adopted by a DNO or an IDNO.

What options are available to the ICP for obtaining consents?

Option A

- ✔ The ICP will agree their own land rights with all landowners and occupiers of any land affected by the proposed work and this will include both on-site and any off-site work.
- ✔ The ICP will obtain all statutory consents or other permissions, and carry out relevant consultations that are required for their work.

- ✔ Northern Powergrid will negotiate and agree with all landowners or occupiers its own land rights in the form of easements or Wayleaves for electric power lines, and freehold transfers or leases for substation properties. These agreements will take effect from the point of adoption.
- ✔ Northern Powergrid will obtain any statutory consents or permissions that only the DNO can obtain.

Option B

- ✔ The ICP will agree their own land rights with all landowners and occupiers of any land affected by the proposed work and this will include both on-site and any off-site work.

- ✔ The ICP will obtain all statutory consents or other permissions and carry out relevant consultations that are required for their work.
- ✔ Where it is determined by us that a Wayleave Agreement is the appropriate form of land rights agreement to secure the proposed apparatus from the point of adoption, the ICP can use our standard Wayleave Agreement and obtain the signatures of any landowners or occupiers affected. Such documents need to be countersigned by Northern Powergrid's authorised representative before they can be regarded as completed.

- ✔ Where it is determined by us that an Easement, Transfer or Lease is the appropriate form of land rights agreement to secure the proposed apparatus from the point of adoption, the ICP can obtain agreement from the affected landowners or occupiers that they will complete transactions using our standard template documents. As detailed opposite, the ICP may prepare the legal documentation for the land rights for the signature or authorisation of Northern Powergrid.
- ✔ Where an ICP chooses to follow option B above they should do so after having consulted with the appointed Wayleave Officer and in accordance with the guidance outlined opposite.

Documenting Easements, Wayleaves, Consents and Approvals

Use of model template agreements

We have a number of model template agreements including Easements, Leases and Wayleaves, that are available to you by contacting our Wayleaves Team or alternatively you can find examples of these template agreements on our website:

www.northernpowergrid.com/document-library/

The model template agreements are updated from time to time so you must ensure that you are using the current version.

Our templates are not prescribed by law but do provide a comprehensive basis for documenting the land rights required and the obligations of the parties. Reasonable steps shall be taken to encourage the prospective owner/occupier to adopt the relevant Company standard for the benefit of a mutually efficient transaction that does not compromise the interests of either party.

Variations to standard templates and arrangements

No variations to these standard templates shall be agreed without prior approval from the relevant Northern Powergrid Wayleave Manager.

Acceptance, or otherwise, of variations to clauses shall be based on a risk assessment by the negotiator submitting the request for variation approval, a record of which shall be retained by us with the relevant agreement.

Specific project expedience shall not be sufficient reason to accept non-standard clauses, especially those that place new or additional liabilities or obligations on the Company.

Use of Company names

All documentation shall be in the name of the relevant licence holder within the Northern Powergrid group of companies. These are currently 'Northern Powergrid (Northeast) Limited' and 'Northern Powergrid (Yorkshire) plc' respectively.

Payments under Easements and Wayleaves – General principles

Negotiations in relation to payments to be made under Wayleaves or Easements shall generally be in the context of ensuring that the party granting the land rights receives fair and reasonable payment in regard to the nature of the rights or legal interest being granted and all other relevant circumstances.

The value of the circuit to the Company or its importance to our electricity network is not a relevant factor in valuing the appropriate level of payment.

Payments shall not be made to landowners and occupiers in respect of that part of an electric power line that provides exclusively their own service connection.

Wayleave payments

The table of Wayleave payment rates used by us for the majority of periodic Wayleave payments provides a reasonable and efficient means of payment for land rights for electric power lines in rural situations.

The same scale may be used as the basis of assessing payments in other situations or for capitalising periodic payments to determine single payments for term-of-years Wayleaves and Easements, although other valuation methods or the application of nominal payments may apply in some circumstances.

Variations to standard rates

The table of Wayleave payment rates shall be regarded as the principle and recommended guidance for Wayleaves in rural situations and may be appropriate in other situations.

Where a landowner considers that the payment rates are inadequate he/she should

be encouraged to discuss and set out a claim in some detail to justify payments above that provided for in the table of rates.

Payment levels outside the table of rates may be acceptable where they are supported by an objective valuation and the circumstances are unlikely to create a damaging precedent and application of a bespoke payment has been approved in accordance with the Company's delegations of authority.

Colouring of plans

We have a common set of standards that apply to plans, maps and drawings that are to be used in documents for securing electric power lines and property assets on private land.

Copies of these standards can be obtained from our Wayleaves Team or found on our website:

www.northernpowergrid.com/document-library/



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Standards of performance for the land rights process

We have been working with our external legal service providers to develop a high standard of performance that we will work to when progressing the completion of legal documents associated with a new connection. The legal process and standards of performance are detailed in the timeline below (in working days):

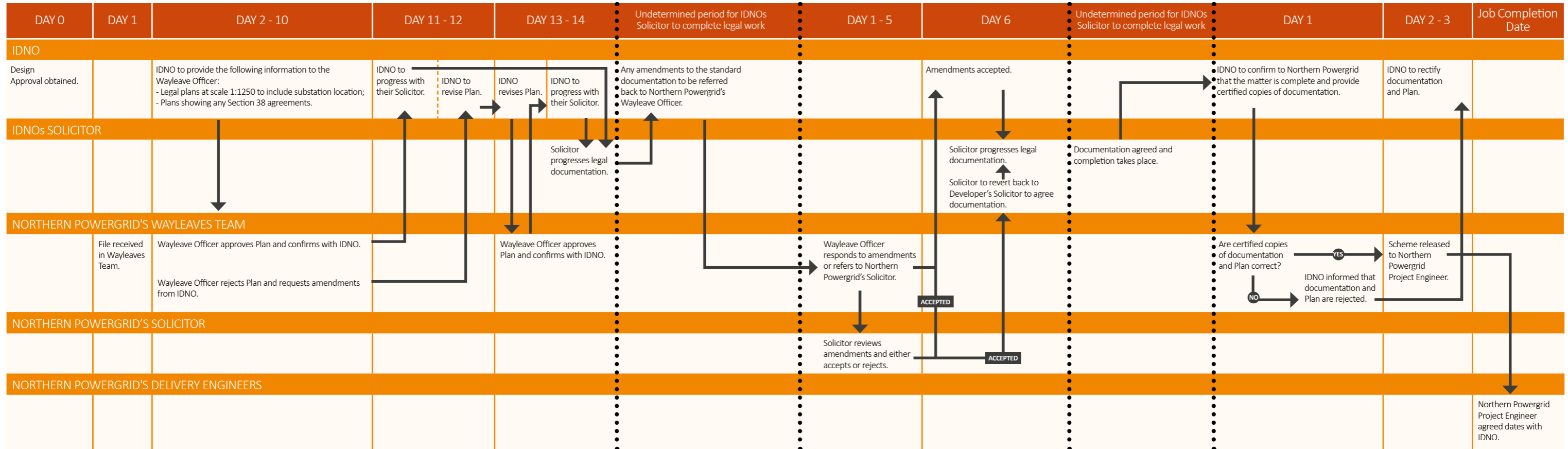
- The timescales quoted are also reliant on you and your solicitors progressing the documentation in a timely manner.
- Please be aware any delays in the process could affect your connection date.
- Where we are dealing with other parties to secure land rights across their property we rely on their cooperation and goodwill to complete transactions but we will do what we can to maintain momentum towards prompt completion.

DAY 0	DAY 1	DAY 2 - 10	DAY 11 - 12	DAY 13 - 14	DAY 28	DAY 30	DAY 32	DAY 37	DAY 42	DAY 47	DAY 48	DAY 63	DAY 64	DAY 66
CUSTOMER'S PROGRESS														
Upon receipt of a design approved scheme.		Customer to provide the following information to the Wayleave Officer: - Development plans at scale 1:1250 to include substation location; - Solicitors details including address, telephone and email; - Plans showing any Section 38 agreements.												
WAYLEAVES TEAM														
File received in Wayleaves Team.	All initial searches completed. Subject to all the relevant information being provided by the Developer a legal instruction will be sent to Northern Powergrid's Solicitor.	Wayleave Officer arranges for final legal plans to be prepared.		Final legal plans to Northern Powergrid's Solicitor.							Engrossments received. Sealing approvals issued.	Documents signed by Northern Powergrid.		Scheme released to Northern Powergrid Project Engineer and Wayleave Officer informs customer.
NORTHERN POWERGRID'S SOLICITOR														
		Legal instruction received. Draft documentation issued to Developer's Solicitor.			Solicitor issues final plans to Developer's Solicitor.	Solicitor issues searches.	Responses to searches received. NO Solicitor chases searches.	Solicitor responds to Developer's Solicitor with: - Any title enquiries; - Any counter amendments to draft; - Any planning enquiries <i>(for substation Lease or Transfer).</i>	All agreed. YES Draft documentation agreed with Developer's Solicitor and engrossments issued.		Priority searches complete and any queries resolved. NO Issues resolved with Land Registry and Developer's Solicitor.	Completion takes place. Confirmation issued to Wayleave Officer.		
DEVELOPER'S SOLICITOR														
		Solicitor receives draft documentation.	Solicitor acknowledges receipt of draft documentation.				Solicitor responds to Northern Powergrid's Solicitor with: - Comments on draft documentation; - Title information and filed documents; - Confirmation of planning consents <i>(for substation Lease or Transfer).</i>			NO	Engrossments received and arrangements made to have documents signed by the relevant signatories.	Documents signed by relevant signatories including: - Any mortgagee consents; - Certificates for restrictions on the title.		
NORTHERN POWERGRID'S DELIVERY ENGINEERS														
														Northern Powergrid Project Engineer progresses work on site.

Incorporated Rights process

We have been working with our legal services providers to develop a high standard of performance that we will work to when processing the completion of legal documents associated with a new connection. The legal process for Incorporated Rights Schemes is outlined in the timeline below (in working days):

- The timescales quoted are also reliant on you and your solicitors progressing the documentation in a timely manner.
- Please be aware any delays in the process could affect your connection date.
- Where we are dealing with other parties to secure land rights across their property we rely on their cooperation and goodwill to complete transactions but we will do what we can to maintain momentum towards prompt completion.



Find out more about our additional services below:



Connections

0800 011 3433



**Priority
Services**

0800 169 2996



Power Cuts

105



**General
Enquiries**

0800 011 3332

**Need additional
support during
a power cut?**

You might be able
to benefit from our
Priority Services
Register.

Text Phone
0800 028 9507

Text Relay
Dial prefix **18001**
then our number
0800 169 2996

**Other services
we provide:**

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Disconnection
Diversion
Safedig

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All of this information is available in audio description and different languages on our website using the 'browsealoud' service. If you require this booklet in alternative formats, such as Braille or large print, please contact the General Enquiries number above.