

# Guide to land rights



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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 you understand the different types of legal permissions or consents, often referred to as land rights, that we may need to complete before we can provide your connection.**

**The guide will explain why these land rights may be required and the likely timescales involved. If you are an Independent Connection Provider (ICP) or an Independent Distribution Network Operator (IDNO) please refer to our separate ICP Land Rights Guide.**





# What are land rights and why are they required?

We cannot install the equipment required for your connection to our electricity network without the consent of the owners and occupiers of any land affected by the work.

This may apply to your land as well as land owned or occupied by a third party. In addition to having permission for the installation, it is important that we have the right to remain on the land, including rights of entry to work on the equipment at any time in the future.

We do this by obtaining legal agreements in the form of Wayleaves or Easements for electric power lines, and freehold transfers or leases for substations. Once completed, these agreements will allow us to install and keep our equipment in situ and to maintain it in the future.

Planning and other statutory and environmental consents may also be required.

We will let you know about these at the earliest opportunity.

**There are a number of legal documents and statutory consents that may need to be completed for us to be able to provide your connection.**

**The main ones relate to:**

- ✓ Securing rights for our equipment to be installed on the land of a third party;
- ✓ Securing rights for the equipment on your land if not already provided for in the connection agreement; and
- ✓ Securing all necessary statutory, planning and environmental consents.

# Where does obtaining the legal permissions and consents fit into the connections process?

- 1** When we receive your signed acceptance and payment for your connection we will pass your project to our Wayleaves Team where a Wayleave Officer will be assigned to your project.
- 2** The Wayleave Officer will initiate a number of searches that will include the Land Registry, highway authority searches and appropriate environmental searches.
- 3** Once all of this information has been obtained, the Wayleave Officer will start the process to obtain the relevant permissions and carry out any required consultations.
- 4** If we need to secure any land rights on your land our Wayleave Officer will contact you to discuss the requirements and you may be asked to provide details of the solicitor who will be acting on your behalf to complete any legal documentation.

# Types of agreements

**The following are the types of agreements that we may need to complete with land owners and occupiers to provide your connection.**

## 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 and will also keep you informed of the progress.

We will work with our solicitors in the legal completion process to avoid any delays. However, if it is you that is granting the easement, you can assist with this by encouraging your own solicitors during the preparation and completion of the Deed.

If an Easement is required from a third party we rely on the goodwill and cooperation of the owner and their solicitor. We will try to ensure the matter is dealt with as quickly as possible.

## 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.

If it is your land that we wish to acquire, either by freehold transfer or lease, we would recommend that you involve a solicitor to work on your behalf.

Our own solicitors are experts in dealing with these types of transactions and they work quickly and accurately to ensure there are no unnecessary delays.

You can play an important role in ensuring your own solicitor turns things round in the same way so that everything possible is done throughout the legal process to complete the transaction promptly.

This is very important as the substation cannot be commissioned before completion of the transaction; delays in the legal process can lead to delays in connecting your supply.

# Other statutory consents and permissions

**There will be occasions when we require additional permissions or need to complete consultations before carrying out our work. A variety of permissions/consultations may be required, usually under planning and/or environmental regimes and these are outlined below...**

## The planning regime for the construction of overhead power lines

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](http://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 of Business, Energy and Industrial Strategy 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.



## Planning consents for new substations

The regime however recognises that full planning permission may not be needed for all types of development and we benefit from a range of permitted development rights where the installation is to be on our operational land, i.e. land in which Northern Powergrid holds an interest such as freehold or leasehold for the purposes of its distribution licence.

Permitted development is usually for installations with low visual impact and many of our substations are small enough to take advantage of the statutory leeway.

This does not however mean that we can avoid consultations and we do have an obligation to consult the planning authority in many cases.

If a substation is required as part of the customer's housing or commercial development, as detailed in the quotation 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 substation to be built 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 planning permission for the new substation has been obtained.

**Substation developments, other than small pole-mounted substations, are regulated by the Town and Country Planning Act 1990 regime and there are cases where we may require planning permission from the local planning authority.**

# Environmental considerations and consents

Before carrying out work such as the construction of overhead power lines, substations and laying of underground cables, and in addition to complying with planning consent requirements, we need to consult with other organisations/bodies to meet our environmental obligations under Schedule 9 of the Electricity Act 1989 (our duty as to Preservation of Amenity).

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**

**[www.gov.uk/government/organisations/natural-england](http://www.gov.uk/government/organisations/natural-england)**

If any of our work affects land designated as a Site of Special Scientific Interest (SSSI) we are obliged under the Wildlife and Countryside Act 1981 to consult with and obtain statutory consent from Natural England.

We would as a rule try to avoid work in any such designated areas but sometimes that is not possible. Where such locations are unavoidable the consent process can take a minimum of four weeks to complete.

## **Historic England (formerly English Heritage)**

**[www.historicengland.org.uk](http://www.historicengland.org.uk)**

Sometimes our work may affect sites designated as Scheduled Monuments which will require Scheduled Monument Consent to be obtained by us prior to any work being carried out.

This process can take a minimum of six weeks to complete. Occasionally our work may affect a listed building which is a building, object or structure that has been judged to be of national importance in terms of architectural or historic interest. Consultation with the relevant local planning authority will be required to obtain permission for our work.

## **Environment Agency**

**[www.gov.uk/government/organisations/environment-agency](http://www.gov.uk/government/organisations/environment-agency)**

If we propose to carry out work on, over or near a main river then we must submit plans to the Environment Agency and apply for Flood Defence Consent. For work on or near all other watercourses that are not main rivers we need permission from either the Local Flood Authority or the Internal Drainage Board in the area affected.

## **Archaeology Consultations**

We routinely consult with the relevant local archeological bodies in respect of any substantial work we may be carrying out in their area. This is in addition to our obligations under statute relating to Scheduled Monuments and listed buildings.

Each local authority usually has its own in-house archaeological consultant who we can write to with our proposals.

Occasionally the archaeologist may wish to monitor our work via a 'watching brief', which will incur additional costs on the scheme. You will be informed of these costs at the earliest opportunity.

If as part of the connection being provided you are carrying out any excavation work on your own land then it is your responsibility to comply with any archaeological requirements.

## **Protected Species**

Occasionally our work may impact on protected flora and fauna, such as bats, badgers, great crested newts, rare orchids etc.

In some cases involving significant installations or where protected species are thought to be present we may have to carry out a habitat assessment to identify the relevant species and develop mitigation plans.

This would be avoided wherever possible but if no other option was available appropriate consultations would then have to take place with the relevant authority in relation to these species, which can have a considerable impact on work timescales/costs.

## Underground cables and overhead electric power lines in streets

The majority of our cable work will be in land classed as 'streets' (as defined in the New Roads and Street Works Act 1991), which are commonly referred to as 'adopted highway', generally roads/pavements maintained by the local authority.

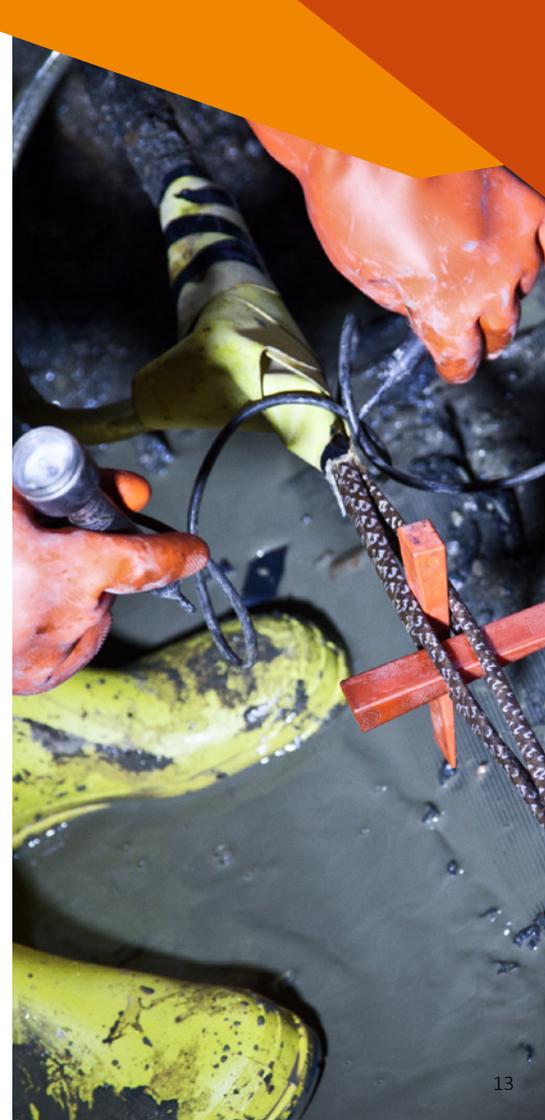
Our right to carry out digging in streets and install our electric power lines and plant is included in the Electricity Act 1989 and the process for carrying out work in the highway is governed by the New Roads and Street Works Act 1991 and the Traffic Management Act 2004.

Our engineering department will serve the relevant street opening notices to the local authority.

Sometimes our work will 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.

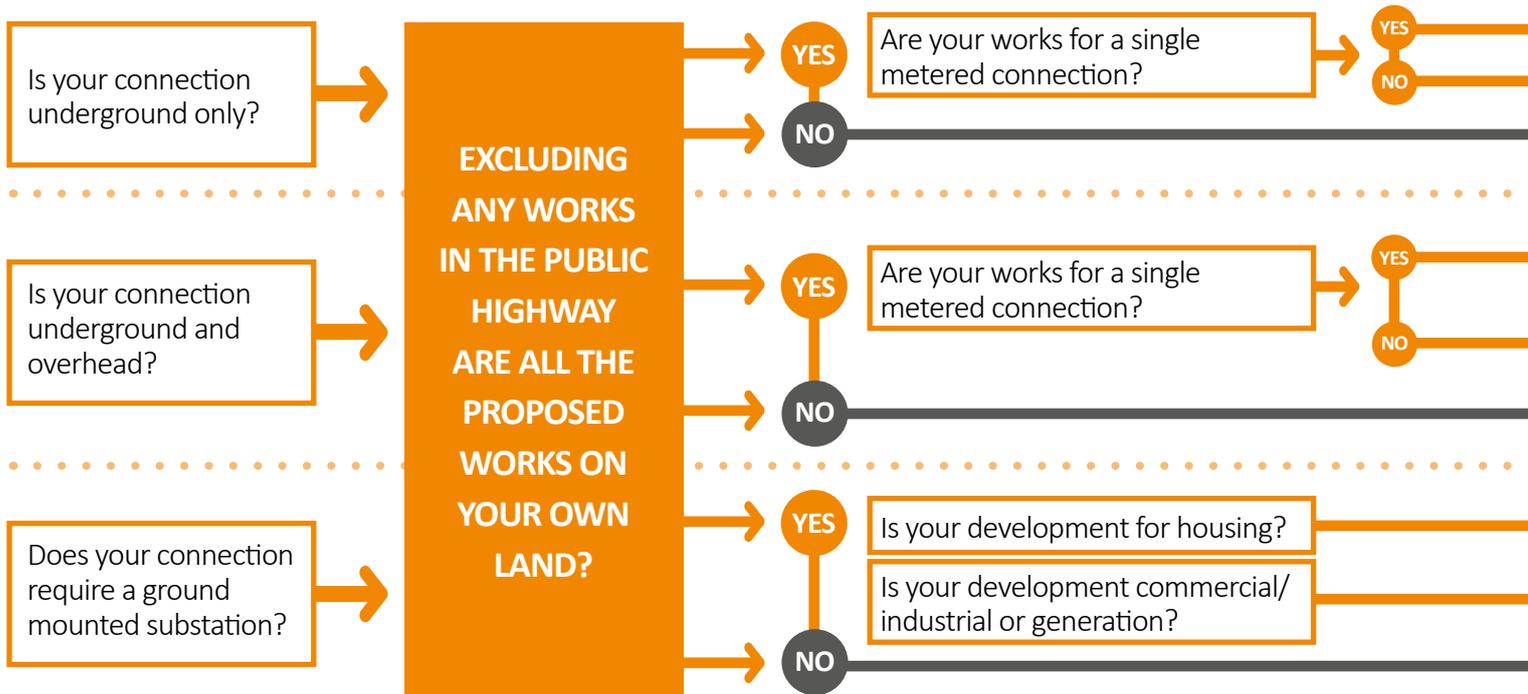
Until the developer has met the local authority's requirements the road/footpath is still the responsibility of the developer. Any work we wish to carry out in this land will need the documented permission of the landowner, usually the developer.

Any cable installation in third party owned land, including a private street or road not maintained by the local authority, will require us to secure an Easement or Wayleave before any work can commence.



# Land rights quick guide

## What type of connection is being provided?



- Highway notices to be served.
- Possible Wayleave/Easement required from YOU, the customer.
- Wayleave/Easement required from third party.

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- No consents required, but a Permitted Development letter will be sent to your local authority for the overhead works.
  - Possible Wayleave/Easement required from YOU, the customer. May require Section 37 Consent for the overhead line works.
  - Wayleave/Easement required from third party.

- 
- Transfer of substation site required.
  - Lease required for the substation.
  - Wayleave/Easement required from third party.

Legal process to follow.

**This quick guide has been designed to help you understand what land rights may be required for the type of connection that you need.**

Specific site circumstances may determine that additional land rights or consultations may be required. The Wayleave Officer appointed to your project will be able to provide you with additional guidance if required.

### **How long will it take to obtain land rights?**

Each connection involves different types of consent which take different lengths of time to complete.

If all of the land we are working on is owned by you then almost everything is within your control and our control to make sure there are no unnecessary hold ups in the completion process. Sometimes there are times when our work involves consent from third parties and whilst we have no control over the majority of these we will be proactive in ensuring that these are completed as quickly as possible.

### **Can you ask us to secure the land rights before you accept your quotation?**

We offer a service to you known as 'Wayleaves in Advance' for projects where obtaining the land rights may prove difficult or time consuming to obtain but where you require certainty in the final quotation for your connection.

We can help achieve this by securing land rights before issuing the quotation. One of our design engineers will provide you with a budget estimate for your connection, which will provide you with a guide of the cost for the work.

If you wish to use the 'Wayleaves in Advance' service you will be asked to pay a non-refundable fee in advance for the land rights process to be initiated.

Your project will be passed to our Wayleaves Team to identify and secure the land rights and any other consents that may be required.

When the land rights process is completed the Wayleaves Team will hand the scheme back to the design engineer for your project who will provide you with a firm quotation for the connection with the knowledge that we will be able to install it if you accept.

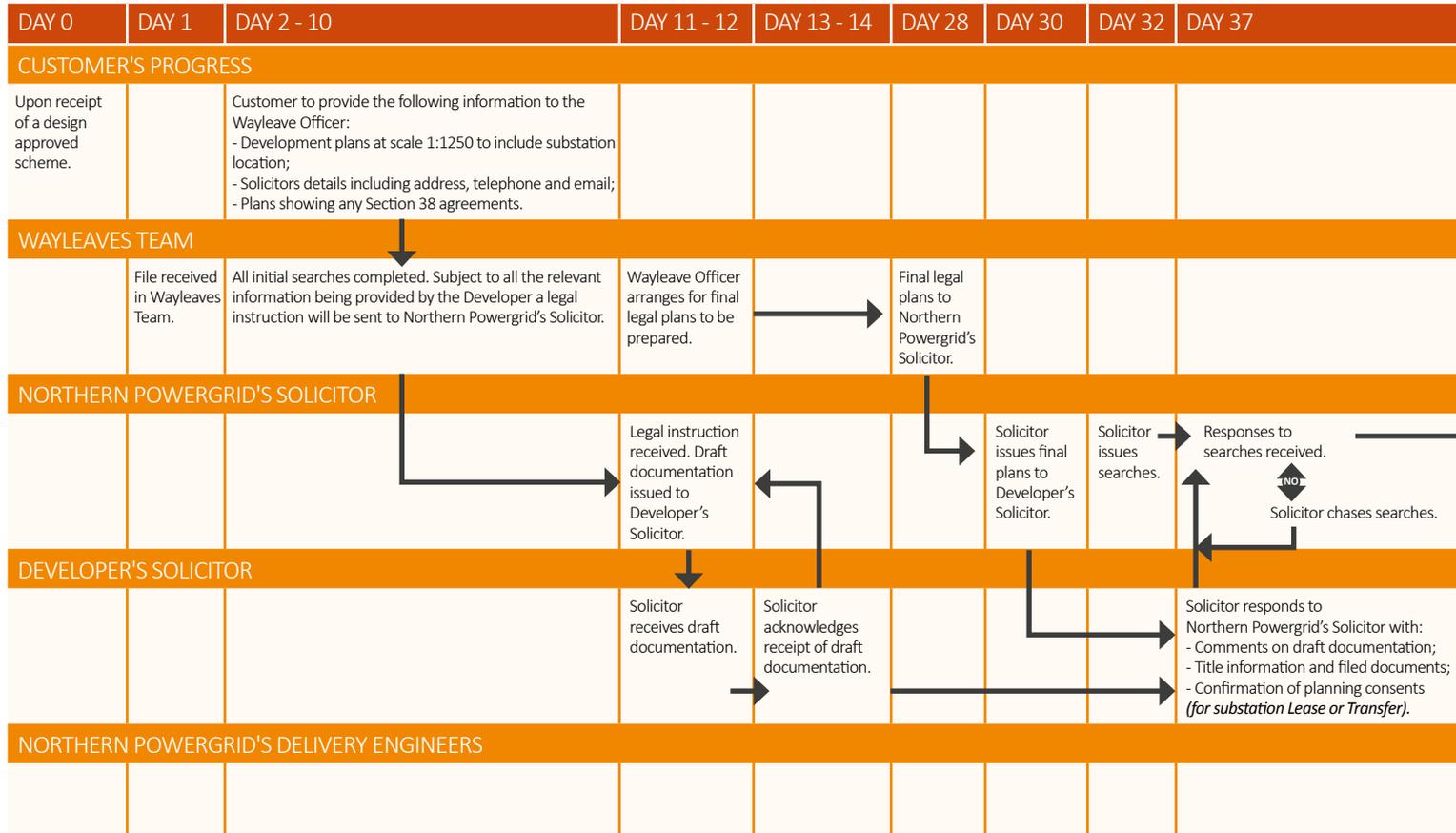
## How can you help speed up the land rights process?

- ✔ Provide us with an accurate site plan to allow us to prepare the Easement/ Lease/Transfer plan.
- ✔ When you instruct your solicitor, make them aware of the urgency of the transaction.
- ✔ If our solicitor is experiencing any delays with your solicitor we will inform you so that you can encourage your solicitor to speed up the process.
- ✔ Inform your solicitor not to sell any of the land over which we are crossing before the transaction we require is completed.
- ✔ If the land is mortgaged your solicitor will need to obtain consent from the lender.
- ✔ Ensure the cable route or substation position match exactly with the plan that has been prepared for the Easement /Lease/Transfer.
- ✔ Provide us with any relevant information you feel might assist us in obtaining consents from third parties.

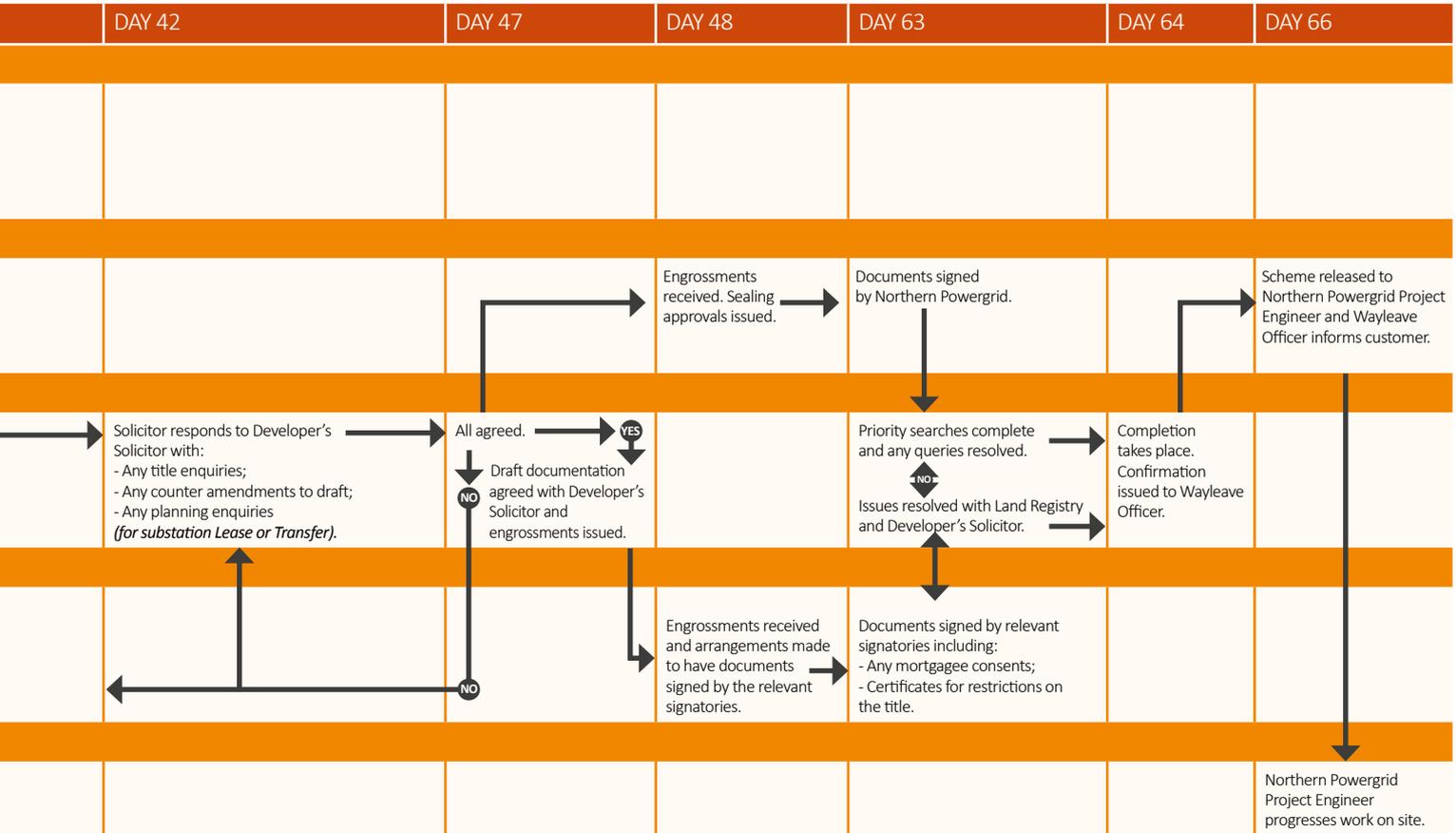


# Standards of performance for the land rights process

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.



# Work involving ICPs and IDNOs



We are your local Distribution Network Operator (DNO), but we are not the only company that can carry out the work to get you connected to our electricity network.

Ofgem, the regulator for electricity distribution networks encourages, competition in the provision of connections and has opened up the market under the Competition Act. This 'Competition in Connections' (CIC) initiative means that you can choose an ICP or an IDNO, or Northern Powergrid to carry out the work for your new connection. Once the work is completed, either Northern Powergrid or an IDNO will operate and own the installation that provides your connection.

## **What is an ICP and what land rights may they require?**

The work that ICPs can do is known as 'contestable' work. There are certain tasks that must be carried out by us, and this work is known as non-contestable work.

ICPs must be accredited by the Lloyds Register National Electricity Registration Scheme (NERS) in order to carry out contestable Work.

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.

**Where your ICP designs and installs equipment for your connection to our network under CIC the equipment is intended for adoption by Northern Powergrid.  
The land rights requirements are as follows:**

- 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 rights for access and installation but also the ICP taking on liability for matters such as reinstatement and damage caused at this stage.
- 2** We will require prior to our adoption of the equipment, 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.

Choosing to use an ICP or an IDNO does not avoid the statutory and consultation provisions that would apply if the connection was provided by us. Where any statutory consents, permissions or consultations with regard to planning or environmental matters are required for ICP installations, these need to be obtained 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, Section 37 consent from BEIS for overhead lines).



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

### **What is an IDNO and what land rights may be required?**

There is another way in which you can get a third party to install your connection and in this scenario your connection equipment will not become part of the DNO's network.

These small networks are commonly connected to the DNOs network and the point of connection is the only aspect in which the DNO would be involved.

The IDNO continues to own and operate the part of the network that it builds, carrying out any required maintenance and repair activities.

In instances where an IDNO installs and owns the inset network it will have to secure the appropriate land rights it needs for its equipment. There may be instances where an ICP will install apparatus to provide a connection to the IDNO site and in such cases the ICP will follow the same process for obtaining the appropriate land rights as it would have had, had the installation been proposed for connection to the DNO network as detailed above.

If we install the equipment to connect to the IDNO site then our Team will secure the necessary land rights from the landowners affected by the Northern Powergrid works.

**More detailed information for ICPs and IDNOs can be found in our separate ICP Land Rights Guide.**



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:**

Cut out change  
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.