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## **GUIDANCE FOR LANDOWNERS AND OCCUPIERS ON CONTRIBUTIONS TOWARDS PROFESSIONAL COSTS**

In order to meet the growing demand for reliable electricity supplies, we at Northern Powergrid are continually working on our distribution network to facilitate new connections, low carbon technologies, reliability improvements, etc by building new power lines and substations and maintaining, repairing or replacing existing equipment. To do this work there are occasions when we need to gain access to privately owned land, so it is vitally important that we build strong working relationships with landowners and occupiers. As part of our commitment to you, the landowner or occupier, we set out here the circumstances under which we will help you with the cost of the professional advice or assistance you may need in dealing with us. This information will also be of interest to any solicitor or professional adviser, such as a land agent, that you may decide to consult.

We recognise that there are some cases where a landowner or occupier may require professional advice or assistance in dealing with Northern Powergrid. This may be in relation to the grant of property rights to us for new or altered equipment and/or the settlement of a claim for compensation following work we carry out on, in, under, over or across your land. In such cases you may need the assistance of a chartered surveyor or professional land agent or a solicitor in circumstances that may be complex and/or require specialist expertise. The principle that we apply is that **we will contribute to reasonable costs reasonably incurred** where we approach you to secure rights for our lines and equipment or where you have a compensation claim arising out of our work carried out on your land. We will seek to balance fairly our obligations to run our network efficiently and economically with land owners’ and occupiers’ rights to proper representation but not so as to encourage unreasonable behaviour against Northern Powergrid’s legitimate licensed activities.

This guidance document provides an ad valorem<sup>1</sup> basis for contributing to the reasonable professional costs you incur in relatively straightforward and simple matters. The categories below provide a simple and transparent method of calculating contributions for most matters and these should be applied in all cases unless unusual and specific circumstances dictate otherwise. This guidance note can be used to manage the expectations of any agent or representative you engage. Many people are capable of dealing with matters such as wayleave agreements and small damage claims without professional assistance of any kind. We would, therefore, expect the use of an agent or solicitor in such cases to be exceptional. It is, of course, in our mutual interests that you are happy with the documentation and solution to the issue and our Wayleave Officers are happy to discuss with you any questions or concerns you may have before you consider consulting a professional adviser.

This document has been reviewed in 2023 and account taken on the changes to costs relating to professional fees since the last review in 2020. It has also assessed the likely rise in costs for the next 2-3 years and as such Northern Powergrid believe that the contributions set out below are fit for purpose from adoption until the next scheduled review in 2026.

Where the application of the categories in this guidance are likely to lead to an unreasonable level of remuneration, whether higher or lower than would be reasonable, Northern Powergrid will consider the reimbursement of professional fees on a quantum meruit<sup>2</sup> basis. If this is requested, you or your adviser will need to show clearly to us that the matter is outside the scope of this guidance and that it would be more equitable to apply this time cost basis of reimbursement. To ensure that reasonable rates and time involvement are agreed and to avoid the potential for dispute later, we highly recommend that these matters be discussed and agreed between your agent and Northern Powergrid’s negotiator or Wayleave Officer in advance of the professional service being provided to you. Where there is no clear evidence to consider a pure quantum meruit basis for claiming professional fees, but where the category scales below don’t adequately

<sup>1</sup> Ad valorem means in proportion to the estimated value. Category A, B, C & D below are on an ad valorem basis.

<sup>2</sup> Quantum meruit means, what one has earned or much as is deserved or reasonable value of services. This is sometimes referred to as a time cost basis.

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meet the reasonable costs incurred, Northern Powergrid will be prepared to consider an additional quantum meruit fee to provide an equitable settlement.

You will almost certainly need the services of your own solicitor if the documentation of property rights is to be by Deed, e.g. freehold transfer, leasehold or grant of easement. We would recommend that you seek such advice and assistance in those cases and Northern Powergrid may contribute to your legal costs. The time cost basis will usually apply to the reimbursement of solicitors' costs in connection with the legal completion of property rights acquisitions but the principle of reasonable costs reasonably incurred will still apply to reimbursement. As a guide Northern Powergrid would not expect to reimburse more than £1250 for the completion of a standard document where Northern Powergrid provide the draft document to work from and your solicitors role is to advise you on the contents accordingly. An exception may be where the activity is routine and repetitious, when a fixed contribution may apply at a lower rate due to the familiarity, or where there are significant legal issues which require in depth discussion and negotiation.

In all cases where we agree to contribute towards, or reimburse your professional costs, the solicitor or agent will be selected and employed by you and you will be responsible for ensuring payments they may claim are made by you whether or not they are fully covered by any contribution that Northern Powergrid may make.

### Exceptions

There are circumstances under which we will not offer or agree to contribute to professional costs. Examples include:

- Where the work is associated with a **new connection** where you are the customer being connected or you are the developer;
- Where you decide to use an agent not local to your affected property. If there are exceptional circumstances showing that there is not a suitably qualified or competent agent or agency based in your local area that could deal with the matter we will consider each case on its merits and we may at our discretion offer to contribute to your costs.
- Where you or your agent approaches us to offer us improved security of tenure in return for payment of compensation and/or your arrangement or contract with the agent means that part of that compensation is paid to the **agent as a fixed fee or percentage of the settlement** (sometimes known as a "no win no fee" basis) we reserve the right not to pay voluntary fees, as this effectively amounts to a double payment to the agent
- Where the costs you incur are associated with any **wayleave termination or statutory removal notice** (including under Landlord & Tenant legislation) or diversion request.
- Where you object to, or create **unreasonable hindrance** to our proposals
- Where you or **your agent promote spurious, untenable or exaggerated claims** or where the issue in contention is the agents or solicitors fee. The exclusion also includes legal processes or proceedings where Northern Powergrid is not obliged to offer or reimburse costs you may incur.
- Where our acquisition of property rights by freehold transfer, lease or easement involves a single payment and it is offered by us on an inclusive or **all-inclusive basis** or on the basis of each party paying its own costs. In these cases you as the transferor or lessor or grantor will be responsible for your own professional costs and settling fee accounts with your own advisers.
- Where the periodic wayleave payment may need to be reviewed or is not being made. In such cases please contact our Wayleave Support team (email:[wayleaveadmin@northernpowergrid.com](mailto:wayleaveadmin@northernpowergrid.com) Tel: 0191 2294640) direct if you think that the periodic payment you receive does not include all our assets on your land or you think that the correct rate is not being applied or that a payment should apply to the assets on your land but is not being made. We will be happy to check and resolve the situation with you.

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**Category A – CONTRIBUTION TO FEES FOR ACQUISITION OF CONSENTS & SERVICES**

<b>Point</b>	<b>CATEGORY A - Activity</b>	<b>Reimbursement</b>
A1	Completing a new <b>Wayleave Agreement for existing</b> electric lines, where your agent brings to our attention the lack of a current agreement/document/payment that can be regularised by a new Wayleave Agreement, and is not associated with any physical works to our network	£205
A2	<b>Agreeing access</b> route(s) for works requiring vehicles (to include access to existing electric lines) including site visit, and documented via exchange of correspondence	£250
A3	Completing a <b>Wayleave Agreement for a new/altered</b> electric line(s) or the retention of existing electric lines not already covered by a Wayleave Agreement, where the document requirement is identified by NPG in the course of planning, or carrying out construction or maintenance work	£340
A4	Completing a <b>schedule of condition</b> , including photographs and narrative (including site visit), a copy of which shall be provided to Northern Powergrid before site works shall commence	£405
A5	<b>Negotiations for the grant of a permanent easement</b> , or lease of rights, mainly on agricultural or forestry land where the compensation is determined mainly by the capitalisation of periodic wayleave compensation (fee payable only on legal completion)	£610

- The amount under A4 may be payable in addition to that under A2 without deduction, where the on-site circumstances change or it is demonstrated that it is in the best interests of all parties concerned, and provided that the schedule of condition is completed to a professional standard and a copy issued to NPG prior to site works.
- The amount under A4 is intended to cover all arrangements relating to your case and includes completion of adequate documentation. In the event that the proposed works involve extensive arrangements for entry, resulting in numerous accesses having to be arranged on your land, reimbursement may be on a time cost basis provided that the unit rate and likely amount of time is agreed in advance by your agent with Northern Powergrids negotiator.
- If, during the execution of our works, Northern Powergrid asks your agent to agree on your behalf a significant variation to the working arrangements, e.g. additional working width or accesses, an additional amount to that already paid under A2 and/or A4 will be payable on a reasonable time cost basis.
- The amount payable under A5 is inclusive of agreeing heads of terms for the easement, lease of rights, your agent instructing your solicitor and general attendance until legal completion. Nothing will be payable if the easement fails to reach legal completion by reason of you withdrawing or failing to act.
- Where a Wayleave Agreement is requested by Northern Powergrid and completed to allow work to proceed pending the completion of an easement to which A5 is to apply, a contribution under A3 may also be paid but at a reduced rate of £250.
- The amount payable under Category A, Points A2 to A5, is inclusive of inspections, correspondence, contact and meetings that might be considered to be reasonably necessary to complete the service adequately for the benefit of Northern Powergrid installing or keeping installed electric lines and/or electrical plant.
- Where during the course of our negotiations it is identified that you are required to complete any recognised grant or subsidy applications, by way of notification or derogation applications, Northern Powergrid shall make a contribution towards your costs in accordance with A4. Examples of this include

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an application to the RPA (Rural Payments Agency) to exclude working areas from subsidy claims. Costs shall not be incurred unless, and until, it has been expressly agreed with Northern Powergrid.

- Reasonable travel expenses will be accepted by Northern Powergrid, but contributions shall be in accordance with nationally published mileage rates (such as HM Revenue and Customs published rates) currently 45pence per mile, irrespective of what your agent may claim.
- The amount payable under Category A, Point A1 is a fixed & inclusive contribution towards your costs to which no further additions can be made, such as disbursements and travel costs.
- Legal costs in respect of the completion of the acquisition of easements are excluded from Category A and will be dealt with separately on a quantum meruit basis where they are reasonably recoverable.

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### CATEGORY B - CONTRIBUTION TO FEES FOR LAND DAMAGE COMPENSATION

Point	Category B - Compensation Amount (Damage & Disturbance)	Reimbursement
B1	£0- £750	£590
B2	£750 to £2,500	£950 + 4% of the compensation amount
B3	£2,501 to £7,500	£1,362 + 4% of the compensation amount
B4	£7,501 to £25,000	£1362 + 3.75% of the compensation amount
B5	£25,001 to £250,000	£1,362 + 3.5% of the compensation amount
B6	£250,001 to £500,000	£1,362 + 3% of the compensation amount
B7	Over £500,000	£1,362 +2.0% of the compensation amount

- The contribution under this category shall be calculated on the compensation agreed and payable unless stated otherwise.
- Category B is applicable where your agent prepares, negotiates and settles a claim for compensation for damage and disturbance, which excludes compensation for matters directly based on the value of the land such as easements valuations, injurious affection claims, or loss of development claims.
- Amounts payable under Category B include inspections, obtaining information, collating information, formulation and presentation of the claim, negotiating settlement, providing comparable evidence, advising and informing you and completing settlement.
- For the avoidance of doubt, costs of works of restoration or accommodation works, where undertaken by Northern Powergrid, its agents, or contractors are excluded from the amount of compensation on which the amount to be contributed is calculated.
- The contribution to costs for the valuation of and negotiations connected with the loss of trees and commercial timber and for the sterilisation of forest land shall be calculated in accordance with Category B.
- If, following full and final settlement of a damage claim, any subsequent damage occurs that is attributable to Northern Powergrid’s activities, e.g. arising from re-entry to the land or ineffective restoration by Northern Powergrid, Category B shall be applied to the amount of the new compensation agreed with your agent.
- Northern Powergrid will not contribute towards additional fees arising out of the submission of heads of claim after full and final settlement has been agreed and discharged, that could and should have been included in the original claim, or that arise from delays or omissions by your agent or your own restoration/reinstatement work.
- Where you or your agent reserves the right to make claims in subsequent years for compensation for loss or damage (sometimes referred to as reserved matters or future loss) an amount will be payable on settlement of such claims in accordance with Category B but with a discount of 50%.
- Legal costs in respect of the completion of an easement or lease of rights are excluded from this Category and will be dealt with separately on a quantum meruit basis where they are reasonably recoverable.
- The completion of annual Wayleave Agreements is excluded from Category B.

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### CATEGORY C & D - CONTRIBUTION TO FEES FOR INJURIOUS AFFECTION COMPENSATION

Point	Category C & D - Compensation Amount (Injurious Affection)	Reimbursement
C1	Deminimus claims	£320
C2	Compensation calculated mainly for wood pole claims and to be documented via termed wayleave or lease of rights	£650
D1	£0 - £2,500	£700
D2	£2,500 - £7,5000	£890
D3	£7,501 to £25,000	£1220
D4	£25,001 to £250,000	£950 + 3% of the compensation amount
D5	£250,001 to £500,000	D4 + 1% of the compensation amount
D6	£500,000 +	D4+D5 + 0.75% of the compensation amount above D6

- The fees offered for C1 and C2 are mainly concerned with the completion of a termed wayleave (20 years typically) or lease of rights document for HV pole claims. The fee at C1 recognises that some claims will not warrant a full survey and valuation of the property, and thus will not require the same level of remuneration. Your agent should be able to identify such circumstances during his initial assessment of your property, without the need for a site visit. These fees are inclusive of all travel expenses, disbursement and Land Registry fees.
- The scale payments for D1 to D6 are all inclusive of travel expenses, disbursements Land Registry fees and any other incidental costs and fees.
- The operation of scale D4 to D6 shall be incremental and each % calculation shall only apply to that proportion of the claim within that band. There will only be one initial £950 flat fee applied to the claim. The examples below provides an illustration of the calculation;

**Example 1: Agreed settlement = £520,000**

D4 = £940 plus 3% of £250,000	£8440
D5 = 1% of £250,000 (£500k -£250k)	£2500
D6 = 0.75 % of £20,000 (£520k -£500k)	£150
<b>Total Payment</b>	<b>£11090</b>

**Example 2: Agreed settlement = £380,000**

D4 = £750 plus 3% of £250,000	£8440
D5 = 1% of £130,000 (£380k - £250k)	£1300
D6 = Not applicable	
<b>Total Payment</b>	<b>£9740</b>

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## NOTES TO THE CATEGORIES OF CONTRIBUTION

### Application

All categories shall be read together with these notes, the notes in respect of each Category and the introductory paragraphs in this document.

### Temporary Storage

Where we request the use of your land for formal and/or specialist storage and for extended periods, we or our contractor will discuss with you a licensing arrangement under which you will be paid a rent or consideration for the use of your land or premises. If you need the services of an agent to check the proposed Licence we may also reimburse your reasonable costs on a time cost basis where reasonably incurred. We will offer no contribution towards fees incurred in unreasonable objections to our proposal or for gratuitous amendments or drafting and we expect all parties to act reasonably and constructively. For the avoidance of doubt, preparation of materials to be used on your property and short-term storage incidental to our construction or maintenance activities will not be subject to any formal storage licensing arrangement.

### Travelling and Expenses

With the exception of the fixed contribution available at Category A1, C & D the amounts detailed in each category are inclusive of administration and general office expenses, such as stationery, postage, photocopying, telephone calls, etc. Travelling and other out-of-pocket expenses reasonably and necessarily incurred by your agent will be payable in addition to the relevant amount reimbursed where applicable. Travel costs will be reimbursed at a rate per mile in accordance with HM Revenue and Customs' approved mileage allowance payment rates for business travel.

### Supervision

Normally the responsibility of supervising the construction or execution of works rests with Northern Powergrid or its agent or contractor. Where in exceptional circumstances it is agreed in advance that additional supervision is essential your agent may carry out the additional work and reimbursement will be made on a reasonable time cost basis.

### Aggregation and Betterment

The compensation under all heads of claim (excluding fees) shall be aggregated and the amount of professional costs contribution will be assessed by reference to the aggregate compensation figure. Where the compensation amount has been offset or reduced for betterment the amount of professional costs contribution shall be assessed by reference to the compensation payable before the deduction for betterment.

### Value Added Tax (VAT)

Your agent and/or your solicitor are obliged to charge VAT on all fees for professional services and to account to the tax authorities in accordance with relevant legislation.

With the exception of the fixed contribution available at Category A1, C & D, Northern Powergrid will only reimburse the VAT element of your invoice from your agent where you are not registered for VAT. Your agent (and solicitor, where employed) is obliged to check with you regarding your VAT status and you are obliged to disclose it and to confirm it in a timely manner to Northern Powergrid.

In cases where you are registered for VAT Northern Powergrid will not reimburse or pay the VAT element. Where you are registered for VAT but have partial exemption such proportion of the VAT, as may be appropriate in the circumstances, may be reimbursed by Northern Powergrid. Where Northern Powergrid does not reimburse the VAT element of your agent costs, you are responsible for the payment of this VAT in respect of the fee, and you can then recover the amount through your periodic input return.

If you are NOT registered for VAT then Northern Powergrid will reimburse you accordingly as a part of a legitimate head of claim.

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It is important to note that as you instruct your agent to act on your behalf there is no contractual relationship with Northern Powergrid and consequently all invoices (including VAT) must be made out to yourself and state your address. Northern Powergrid will not accept any invoices made out in its name.

### **Objections to Northern Powergrid's Proposals**

Northern Powergrid will not reimburse or contribute towards fees or costs incurred by you or your agent or your solicitor in furtherance of objections and unreasonable or untenable hindrance to Northern Powergrid's proposals or in relation to spurious or gratuitously exaggerated heads of claim. We will also not contribute towards costs in matters where wayleave termination or statutory removal notice or any other statutory process designed to bring our occupation of your land to an end is employed or where such tactics has the appearance of seeking advantage in negotiations or applying duress. This applies equally to ad valorem contributions and quantum meruit fees.

### **Fees Associated with Dispute Resolution**

Attendance before the Courts or Upper Tribunal (Lands Chamber) or arbitrators or umpires are excluded from contributions under all Categories. You may be obliged to meet the fees of your agent and/or solicitor but whether or not such additional fees as there may be in such proceedings should be reimbursed by Northern Powergrid would be dependent on the award. In cases that are subject to mediation Northern Powergrid expects that each party will bear its own costs of professional representation.

### **Acquisition of Land**

Contributions towards professional costs relating to the acquisition of freehold or leasehold interests in land or property is not intended to be covered by Category A or Category B, whether the acquisition is by agreement or by the use of compulsory powers. Category C & D are designed to cover your agents costs in negotiating and settling compensations claims for injurious affection which may include the acquisition of easements or a lease of rights, but is not intended to cover the cost of acquiring freehold sites and leasehold rights for substations sites, for example. Although the fee scale can be used for this purpose, NPG will also consider a time cost basis for this activity.

### **Quantum Meruit**

Where you or your agent can demonstrate clearly that the categories above are unreasonable and disproportionate to the compensation and/or the complexity of the case, a time cost basis may be agreed provided that the unit rate and likely amount of time is agreed in advance between your agent and Northern Powergrid's negotiator. Accurate diary sheets will be required from your agent to verify the costs incurred. In addition, the total fee should in all cases be proportionate to the size and complexity of the case or claim, and be commensurate with the time, effort and level of expertise required to deal with the matter adequately and the final contribution may be moderated accordingly.

### **Abortive Costs**

Where Northern Powergrid withdraws from a proposal or abandons it by reason of not wishing to implement a scheme, other than as a result of objections or representations from or by you, it shall reimburse the fees of your agent on a reasonable time cost basis provided that your agent was engaged prior to the withdrawal or abandonment and the fact of his engagement was already known to Northern Powergrid.

### **Payment**

Under normal circumstances our contribution will be paid directly to your appointed agent promptly on completion of the relevant service or agreement and receipt of a copy of your invoice. Delay by you or your solicitor or your agent will not be accepted as grounds for increasing their fees or the level of contribution or reimbursement. The evidence required by Northern Powergrid from you to support any amount to be paid must include the original/copy invoice made out to you, the client/claimant (not to Northern Powergrid), and it must be compatible with good practice regarding VAT.