



Information for landowners and customers

A guide to understanding legal permissions and
consents to place equipment on land

What will this leaflet tell you?

- Western Power Distribution – who we are and what we do
- Why legal permissions are required
- Details about wayleaves and deeds
- Information about statutory consents and other permissions
- The process for obtaining legal permissions
- The role of Independent Connection Providers (ICPs)
- Where to find more information
- How to contact us

Throughout this booklet, where we refer to '**landowner**', we mean you, if you own the land, or another party if they own the land.

Western Power Distribution – who we are and what we do

Western Power Distribution (WPD) owns and operates the electricity distribution networks in the Midlands, the South West of England and South Wales. We distribute power to over 7.7 million homes and businesses in the area shown on the map below.

It's our job to safely and reliably distribute power through the electricity network of overhead lines, cables and substations.

The WPD Area



For more information about WPD, please refer to our website www.westernpower.co.uk.



Why do we require legal permissions and other consents?

We have a legal obligation to provide new electricity connections, as well as to maintain and upgrade the existing distribution network in our area. Doing so sometimes requires us to position equipment such as poles and substations on private land. When this is necessary we secure our equipment by legal agreement (Wayleaves and/or Deeds) with landowners. This helps to ensure that the equipment stays where it has been placed and can be maintained when necessary. To comply with legislation, we may also require other consents (e.g. planning permissions) to work, or place our equipment, on land.

Wayleaves and Deeds

We may have to place equipment across the development or site seeking a connection, or on, under or across third party land to provide a new connection or upgrade the network. Our equipment may benefit others as well as the landowner. The land may not be:

- owned by the party seeking a connection
- an adopted highway **or**
- may have the potential to be sold to or used by someone else

In such cases we'll need legal permission from the landowner to install, replace and maintain that equipment. This is generally achieved using a document called a Wayleave or a Deed. The type of document will vary depending on the specific details of the installation (such as it's strategic nature or voltage), the WPD policy and whether an annual rent or a one off payment is to be made.

Wayleaves are typically used for smaller scale works (e.g. low voltage cables to new houses) and are drafted as a simple licence with the landowner. They do not need to be registered against the property title and as such do not normally require solicitors.

This leaflet focuses on Deeds (land transfers, leases or easements) because they are permanent rights in land and need to be registered against a landowner's title (where as Wayleaves are not

registered) and will usually involve solicitors and follow a prescribed process. Deeds are usually agreed in exchange for a one off payment and used for larger scale works and at higher voltages.

If we need any Wayleaves, Deeds or other permissions, they must be granted before we can start any work and this can take time. If we're unable to negotiate and secure a third party landowner's consent, we may apply to the Department of Energy and Climate Change (DECC) for a Necessary (compulsory) Wayleave but this can be expensive, take a long time to resolve and should be regarded as a last resort.



Statutory consent and other permissions

There will also be occasions when we need further permissions to comply with legislation that covers the land we're going to be working on. Such additional consents are usually associated with protected sites, buildings, animals and plants and some works may require planning permission if new, or modified, overhead lines or substations are required. A range of bodies may grant such permissions (if they are required) or may need to be consulted. The most common ones are listed below:-

- **Local Planning Authorities:** planning permissions for larger substations.
- **Department of Energy & Climate Change (DECC):** for s37 Electricity Act (planning permission) for most of the overhead electricity lines we need to construct.
- **Planning Inspectorate:** for the more strategic overhead electricity lines operating at 132,000 volts and above and if over 2km's in length. *If your scheme falls into this category, seek specialist advice from WPD due to the potential costs and timescales involved.*
- **Natural England or Natural Resources Wales:** for work in or near protected environmental sites or work near protected species (bats, badgers, dormice, newts, birds etc).
- **English Heritage or Welsh Historic Monuments Executive Agency (CADW):** for work in or near heritage sites or sites with archaeological importance.
- **Environment Agency:** for work in or near rivers.

As a statutory electricity undertaker, there are also works WPD can carry out without planning permission. These are known as **permitted development rights** and typically include:-

- Installation of small substations (up to 29m³ in size).
- Installation of underground electric cables.
- Erection of new overhead lines (up to 11,000 volts) if they supply only a “single” customer (may not apply to connections for purely generation export).
- Replacement, minor alterations and minor diversions of existing overhead lines.

Certain limitations apply to our permitted development powers and some are not applicable in environmentally sensitive areas and other restrictions can apply, such as the need to seek licences to work near protected habitats and species or restricting our tree cutting to certain times of the year (normally outside the bird breeding season). ICP's should check whether permitted development rights apply to their works.

In addition to the above statutory bodies, some schemes and projects may require us to seek consent from other organisations which can take time and involve agreeing a time of year to carry out the works and the method of carrying out the works. The most common organisations we deal with are:-

- Network Rail
- Canal & Rivers Trust
- Internal Drainage Boards
- Highways Agency

The process for obtaining legal permissions

The process is written primarily with new connections in mind but parts of the process would also apply to works associated with upgrading or renewing the electricity network.

The process will depend on whether legal permissions are only required on the site seeking a new connection (known as '**on-site**' consents) or whether consents are also required from third party landowners (known as '**off-site**' consents).

On-site consent process

Once we've received the signed acceptance of the new connection quote, we'll normally instruct our legal partner and/or our Wayleave Specialist to start the legal permission process. If we need any Wayleaves, our staff will contact the applicant and liaise with them during the process. If we need a Deed, our legal partner will contact the landowner or landowner's legal representative (e.g. a solicitor) and request specific information about the land. They'll also send a draft copy of the Deed.

If the landowner has instructed a legal representative to act on their behalf, our legal partner will not be able to speak to the landowner directly unless the landowner's legal representative allows our legal partner to do so. All communication from our legal partner will be via the landowner's nominated legal representative, who'll be able to provide them with progress updates. The

landowner's legal representative should contact them upon completion of the agreement. If the landowner hasn't instructed a legal representative then our legal partner will contact them directly.

What does the landowner need to sign to give legal permission?

Where more than a Wayleave is required, the landowner will need to sign one of three Deeds.

The Deeds we use can vary, depending on individual circumstances. These can be in the form of:

- Leases: when the landowner gives us the right to occupy land for a set period of time.
- Deeds of Grant (easement): when the landowner gives us a right over land, for example, to lay cables or to enable us to access our equipment.
- Transfers: when the landowner sells land to us. These Deeds are also likely to include rights of access and easements for electricity cables. Any rights given to us will be attached to the land documentation and included if it is sold in the future.

Transfers and leases are used mainly for substation sites.

What the applicant/developer needs to do

A Deed is legally binding, so we recommend the landowner takes independent legal advice or instructs a legal representative (e.g. a solicitor). Our legal partner would then liaise with the landowner's legal representative direct.

Where our legal partner is liaising with the applicant/developer direct on the landowner's behalf or the applicant is the landowner, the Deed will be sent to the applicant (instead of any legal representative) for processing. The landowner would need to sign and return the document to them at the following address as soon as possible, along with evidence of title and any other consents.

*Geldards LLP
The Arc, Enterprise Way
Off Queen's Drive
Nottingham
NG2 1EN*

What does our legal partner do?

Initial contact with customer

Once we instruct our legal partner, a case owner will be allocated to the file. A letter or email will be sent to the landowner or landowner's legal representative, confirming their name and contact details. Our legal partner will contact the landowner or landowner's legal representative regularly if there is any documentation or information outstanding.

Title investigations

a) Our legal partner will check the evidence of title to confirm the equipment to be installed falls within the boundary of the land. Our legal partner can only complete the Deed with the legal landowners. If you're aware that any equipment to be installed crosses over third party land, please tell us or our legal partner as soon as possible to avoid delays in completing the new connection.

b) Our legal partner will confirm whether any consents are required in relation to a charge over the land. They are unable to contact a lender on the landowner's behalf. This should be done by the landowner or their legal representative. Our legal partner will investigate whether there are any other restrictions on title that would stop the landowner entering into a Deed, without first meeting their terms.

They will also check to see whether there are any restrictive covenants affecting the land, which would have an impact upon the equipment. Examples of these would be a restrictive covenant preventing any works being done in the area surrounding an existing gas pipe or water main. When appropriate, our legal partner will contact the landowner or their legal representative to resolve any title queries.

Deed

Our legal partner will check the Deed has been signed correctly and includes a signed plan. The Deed will then be signed by our legal partner on our behalf.

Final search

Once our legal partner is satisfied that all title investigations have been adequately resolved and a correctly signed Deed (including a signed plan) has been received, they will carry out their final searches at the Land Registry.

These searches are not submitted until everything is in place as a fee is charged and things can change on the title between searches. The Land Registry search result also gives a priority period, during which no other transaction can be registered against the title.

In the event of queries with the search, our legal partner will contact either the landowner or their legal representative to resolve any problems. Once our legal partner has gained satisfactory results, they will complete the agreement.



How long will it take?

From start to finish, in the majority of cases, we expect to be able to complete an 'on-site' Deed in about 10 - 12 weeks from your acceptance of our formal quotation. This is dependent on us receiving all of the required documents and information in a timely manner and there being no unforeseen circumstances. Where only a wayleave is required and this does not require solicitors to be instructed, the timescales will normally be shorter.

Any Statutory Consents we need will be progressed in parallel where possible. The timescales for these are, in the main, outside of our control and will also depend on the specifics of the works and the third parties we have to liaise with. As a result, we'll keep you informed of our progress.

WPD should always be contacted at an early stage to discuss the likely timescales.

How can the applicant speed up the 'on-site' process?

- ✓ Please arrange for the land owner to sign and return the necessary documents and provide the relevant information within seven days of them being requested. Our legal partner cannot complete the process until all documents have been received and any title queries have been resolved.
- ✓ If our legal partner is experiencing any delay with the land owner's legal representative, the land owner will be informed to give them the opportunity to discuss matters and speed up the process.
- ✓ The Deed can only be amended in special circumstances and can delay legal completion. If anything changes on your scheme, or you're unsure about anything, please contact your assigned WPD Wayleave Specialist (see the 'Contact us' page) and we can amend any details accordingly.
- ✓ Tell us if any part of the development has been sold off to a third party so we can change our instruction.
- ✓ Tell us of any restrictions or covenants on the land owner's title that could affect the WPD easement or require third party consent first.
- ✓ Prove ownership of the land.
- ✓ Unregistered land: Tell us if the land is not registered yet at the Land Registry as this can take a little extra time to resolve.
- ✓ Multiple land parcels or title deeds: Save time by alerting us to complex sites where there are several title deeds covering the land or different owners for different land parcels. This can be particularly important on new housing developments where land may have been sold off ahead of WPD completing our land rights document and we then need to involve other third parties and possibly their solicitors.
- ✓ Is the land mortgaged? If so, a letter of consent from the bank will be needed. Our solicitor will deal with the formalities but your own notification to the bank could speed up the process.
- ✓ Our legal partner cannot provide legal advice of any kind. If this is required you're advised to instruct your own independent legal representative.

Other Useful Information!

- **Solicitor Fees:** Developers are normally responsible for WPD's solicitor's costs for 'on-site' Deeds. The fee is normally invoiced direct by our legal partner Geldards to the landowner's solicitor. If the developer is not the landowner, the developer should ensure that the landowner is reimbursed.

Information on fees is available from the WPD Wayleave Specialist.

- **Do I need a solicitor?** As it is a specialist area and certain checks on identity etc have to be made, WPD recommends that a solicitor is instructed to act on behalf of the landowner, although it is entirely at the landowner's discretion. A solicitor will be able to provide professional guidance and protect the landowner's interests.

Off-site consent process

If any 'off-site' consents are required (e.g. a Deed from an adjacent third party landowner to lay an underground cable across their land) for WPD to provide a new connection or place equipment to upgrade the existing distribution network, these will also need to be secured and completed prior to the start of any works.

When WPD need to place new equipment on third party land in order to upgrade the existing electricity network, our staff will make contact with the landowner(s) to negotiate terms. This equipment will be secured on either a Wayleave or a Deed.

Where new equipment is required on third party land to provide a new connection, either WPD or staff from an Independent Connection Provider (ICP) will negotiate these consents. More information is given on ICP's later in this leaflet.

Once terms have been agreed in principle (and an ICP is not involved), we will instruct our legal partner and/or our Wayleave Specialist to finalise/complete the legal permissions. The process and timescales will then be similar to the 'on-site' process. For new connection schemes, the difference is that there will not be any involvement by the applicant; WPD will liaise and deal directly with the landowners or their legal representatives.

For new connection schemes, where terms cannot be agreed with third party landowners, or we come across land where the ownership is unknown, our staff will contact the applicant to discuss options and to agree how WPD should proceed.

How long will it take?

- ✓ Timescales for successful negotiations (i.e. avoiding the use of any statutory powers) with third party landowners can vary greatly but we will try to complete these as efficiently as possible in conjunction with other scheme timescales.
- ✓ Once we have agreement from landowners in principle and we have instructed our legal partner to complete a Deed, timescales to complete the legal documentation should be similar to those for 'on-site' consents.
- ✓ Any Statutory Consents we need will be progressed in parallel where possible. The timescales for these are generally outside of our control and will also depend on the specifics of the works and the third parties we have to liaise with. As a result, we'll keep you informed of our progress.
- ✓ As an example, a DECC planning consent for a short overhead line extension where there are no objections or other consents/permissions to consider, takes typically 6 months from date of application to DECC. Larger or more complex projects requiring wider consultation or upfront planning, may take several months or years to develop. **WPD should always be contacted at an early stage to discuss the likely timescales.**
- ✓ Where we have to obtain any compulsory rights from landowners, this is estimated to take 9-15 months.

Independent Connection Providers (ICP's)

Under the Competition in Connection (CiC) framework set out by Ofgem (the government appointed regulator of electricity distribution networks), someone requiring a new electricity connection in WPD's network area, can choose for either WPD (as the licensed Distribution Network Operator or DNO), an Independent Connection Provider (ICP) or an Independent Distribution Network Operator (IDNO) to carry out works to provide that connection. Either WPD or an IDNO will own and operate the connection once installed.

Where an IDNO is appointed to construct new electricity connections they will retain ownership of the network and therefore have their own Deed with the landowner (which may incorporate rights for any WPD equipment on the site). They will then be responsible for the future operation, repair and maintenance of the equipment installed, up to the point where they connect to our electricity network.

Where WPD or an ICP installs the new connection, WPD will adopt the new equipment (assuming successful installation) and once adopted, the equipment will become part of WPD's electricity network and WPD will be responsible for future operation, maintenance and repair of the new equipment.

Where an ICP designs and installs equipment under Competition in Connections and the equipment is to be adopted by WPD, the following is applicable to consents required from landowners:

- Where the ICP initially determines the position of equipment and negotiates the terms (e.g. for cables, overhead lines and substations) with landowners, the ICP will need to enter into a separate agreement with the landowner for the construction/installation stage. This includes taking on liability for matters such as reinstatement and damage.
- Where WPD carries out the initial discussions with landowners and terms are agreed in principle, WPD will inform landowners that an ICP will be responsible for the installation of the equipment (including agreeing access, reinstatement, repairing damage etc). The ICP and landowner would then need to agree any separate terms to cover the installation of the equipment.
- In addition to any installation agreement between the ICP and the landowner, WPD will require separate Wayleaves or Deeds to be completed in WPD's name prior to the adoption of the equipment by WPD. These agreements will govern the relationship between WPD and the landowners for access to, and the maintenance and replacement of, the equipment. Once the position/route for any equipment to be installed by an ICP are agreed in principle and approved by WPD, we will instruct our legal partner and/or our Wayleave Specialist to finalise the legal permissions WPD requires. The process and timescales will then be similar to the 'on-site' process.

It can be a good idea to discuss requirements and process with the WPD Wayleaves Specialist at an early stage after a Connection Offer has been accepted and also to provide landowners with the applicable "sample" WPD land rights agreements that will also need to be entered into. These are available on our website.

Where any Statutory consents or other permissions are required for ICP works, these would be obtained by the ICP unless otherwise agreed with WPD or it's a consent that only WPD can obtain (e.g. Electricity Act section 37 planning consent from DECC for overhead lines).

ICP's are not statutory undertakers and ICP's should familiarise themselves with which permitted development rights apply to their works.

More detailed information for ICP's can be found in a separate Guidance Note on our website.



We are here to help

- If there are any delays with the legal aspects of your scheme, your nominated contact will have been notified by us to discuss and agree a resolution.
- The landowner's legal representative will be able to provide the landowner with updates on progress. Due to Law Society rules, our legal partner cannot speak to the landowner directly unless their legal representative allows them to do so.
- If they haven't appointed a legal representative and will be representing themselves, they can contact our legal partner directly. They will contact the landowner with details of the person handling your case.
- If you are the landowner, we can update you if your legal representative gives us written consent to do so. Please contact your legal representative to ask them to do this.
- One of our Wayleave Specialists will also be able to help you. Please contact them on the details overleaf.

Contact Us

Your Wayleave Specialist is:

Affix sticker here

For further information regarding new connections please visit our website at www.westernpower.co.uk For enquiries:

If you live in the East or West Midlands;

WPD New Supplies
Records Team
Toll End Road
Tipton
DY4 0HH

Telephone 0845 724 0240
wpdnewsuppliesmids@westernpower.co.uk

If you live in Wales;

WPD New Supplies, Records Team
Phoenix Way
Llansamlet
Swansea
SA7 9HW

Telephone 0845 601 3341
wpdnewsupplieswales@westernpower.co.uk

If you live in the South West:

WPD New Supplies, Records Team
Lostwithiel Road
Bodmin
Cornwall
PL31 1DE

Telephone 0845 601 2989
wpdnewsupplies@westernpower.co.uk

If you have a more general enquiry you can call **0845 724 0240** (Midlands), **0845 601 3341** (South Wales) or **0845 601 2989** (South West) or e-mail info@westernpower.co.uk

