

# Land rights requirements relating to assets to be installed or adopted by SEPD or SHEPD for new connections

Information for SEPD and SHEPD Staff, ICPs, IDNOs and connection customers

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**Scottish & Southern**  
Electricity Networks



## Background

Scottish and Southern Energy Power Distribution Limited (“SSEPD”), through its subsidiary companies Southern Electric Power Distribution plc (“SEPD”) (covering Southern England) and Scottish Hydro Electric Power Distribution plc (“SHEPD”) (covering the North of Scotland) maintains distribution networks which rely primarily on rights granted by private land owners and occupiers which enable the installation and maintenance of assets on or over their land holdings.

## Distribution Land Rights Security

Land security is critical in ensuring that SEPD and SHEPD comply with their statutory duty to develop and maintain an efficient, co-ordinated and economical system of electricity distribution. Land security must be carefully considered when new circuits and substation sites are being planned, built and adopted. Against that background, this guidance sets out the land rights required for apparatus for new customer connections and the process for obtaining those land rights where SHEPD and SEPD are installing assets, adopting assets installed by ICPs or sharing land rights obtained jointly with IDNOs.

## Deed Styles Bank and other relevant documentation

This document is provided to give clarity to Landowners, ICPs and IDNOs on rights required by SEPD and SHEPD, and also to ensure compliance with obligations placed on SEPD and SHEPD under Clause 7.1 of the Competition in Connections Code of Practice. In accordance with the Code of Practice, “land rights” refers to freehold land ownership, leasehold land ownership, easements (in England), servitudes (in Scotland) and wayleaves (wayleaves being special electricity rights governed by the Electricity Act 1989). In this document, we use the term “customer” to refer to the party instructing either the ICP/IDNO or SEPD/SHEPD to build the network or other assets. Often the customer will be a residential or commercial property developer, or developer of a small renewable energy project.

In many cases, the customer will be a landowner or leaseholder for all or part of the land on which assets are to be installed. The deed style bank referred to herein is a reference to the suite of style land rights documents provided at [www.ssen.co.uk](http://www.ssen.co.uk). Guidance on the appropriate deed to be used is given in the tables overleaf.

Where the assets described in this document are to be installed by ICPs or IDNOs, this document should be read in conjunction with contractual documentation and relevant documentation available from [www.ssen.co.uk](http://www.ssen.co.uk), including (where appropriate):

- (i) the Adoption Agreement entered into between SEPD or SHEPD and the ICP,
- (ii) the current version of the “Statement of Methodology and Charges for Connection to Southern Electric Power Distribution Plc’s Electricity Distribution System” (or Scottish Hydro Electric Power Distribution Plc’s Electricity Distribution System, as appropriate),
- (iii) the “Annual Wayleave Payment Rates” applicable to the relevant area, and
- (iv) any ancillary guides made available from the document library at [www.ssen.co.uk](http://www.ssen.co.uk) from time to time.

### General Principles

Parties using this document are reminded of the following general principles which apply to all land rights:

- This document deals with the land rights and statutory consents (planning and related) required by SEPD or SHEPD to maintain and operate new connections apparatus following installation or adoption.
- Where a project includes assets installed by an ICP (contestable works), and also assets installed by SEPD or SHEPD (non-contestable works), SEPD or SHEPD will be solely responsible for acquiring the rights required for the non-contestable works.
- Where apparatus is to be installed by ICPs, the ICP should ensure that they secure all land rights and statutory consents which they require to carry out that installation and maintain the apparatus until adoption.
- Where land rights are to be granted in terms of this document, SEPD or SHEPD will require to be satisfied that all of their requirements set out herein have been met, and that relevant deeds have been approved, signed and delivered before energisation of the connection is made. SEPD and SHEPD’s requirements will also be affected by requirements placed on them by third parties (for example Registers of Scotland or the Land Registry, who will have requirements on the contents of deeds, criteria for plans and so on).
- Where the grant of land rights is not required (for example where cables are to lie within adopted roads in accordance with Paragraph 1.2 below), appropriate evidence will require to be exhibited to and accepted by SEPD or SHEPD prior to energisation.
- Where an Incorporated Rights Agreement or Incorporated Process is in place between SEPD or SHEPD and an IDNO, the IDNO will be able to negotiate on behalf of SEPD or SHEPD to agree the Land Rights required by SEPD or SHEPD. Provided that the Incorporated Process is followed and there are no amendments to the standard

documents, SEPD or SHEPD need not be a signatory to the document (Note: this process does not apply to sites in Scotland).

- Parties should be aware that the land rights requirements of SEPD and SHEPD can change over time, in response to property law risks and challenges, the changing regulatory environment and other factors which may impact on the security of the network. Parties should ensure that they are accessing the latest version of this document from [www.ssen.co.uk](http://www.ssen.co.uk), and also ensure that the latest version of style documents from the deed style bank are being utilised.
- Where parties consider that particular requirements of a transaction mean that the rights required fall outside the standard criteria contained within this document and the documents in the deed styles bank, discussions should be entered into with SEPD or SHEPD to confirm the rights required, and the process and cost for obtaining these.



## Planning and Statutory Consents

When cables, lines, substations or other apparatus are to be installed or adopted, whether by ICPs, IDNOs, SEPD or SHEPD, relevant planning provisions should be complied with, and Statutory Consents obtained where required. The table below sets out the key consents involved in distribution networks.

### Statutory Consents required for particular distribution assets

#### 1.1. Overhead Lines

- Consents are generally required under Section 37 of the Electricity Act 1989 for the installation, maintenance and operation of overhead lines. Whilst consents for certain lines in England and Wales are granted under The Planning Act 2008, that process does not apply to lines of less than 132kV nominal capacity, and so that regime does not apply to distribution networks, and is not considered here.
- Section 37 consents are granted following a two-part process involving an initial application to the local planning authority followed by an application to the appropriate government body. In Scotland applications are processed by the Scottish Government Local Energy Consents unit. In England and Wales applications are processed by the Department for Business, Energy & Industrial Strategy. The process can take a minimum of twelve weeks and will incur fees to the relevant government department of a minimum of £180 per application.
- There are certain (very limited) circumstances where an overhead line may be installed without the need to obtain a section 37 Consent, primarily as a result of exemption under the relevant provisions of the Overhead Lines (Exemption) Regulations. In these situations it is still necessary to consult with the local planning authority before constructing the line. ICPs and IDNOs should consult the appropriate legislation and government department to establish whether a Section 37 Consent will be required.
- The ICP should ensure that the Section 37 consent obtained is in terms which allow SEPD or SHEPD to operate the line – it must therefore be capable of assignment to SEPD/SHEPD if obtained in the name of the ICP. Where an ICP is unable to obtain the Section 37 consent, the SEPD or SHEPD wayleave officer should be approached to allow SEPD or SHEPD to commence the Section 37 process. The costs and fees incurred by SEPD or SHEPD will require to be met by the ICP.



### **1.2. Underground Cables**

- The Section 37 consenting process does not apply to underground cables, and instead, the planning consent process (under the Planning Act 2008 in England and Wales, and the Town and Country Planning (Scotland) Act 1997 in Scotland (as amended)) applies. However, in certain cases, Permitted Development Rights will mean that no planning consent is required. A planning application or consultation with the local planning authority will be required for underground cable installation in areas where Permitted Development Rights have been withdrawn by an “Article 4 Direction” under The Town and Country Planning (General Permitted Development) (England) Order 2015 or the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended.
- In areas where an Article 4 Direction applies, SEPD or SHEPD will require evidence of a valid planning consent for the cables – this can often be included within a planning consent for a larger development.

### **1.3. Substations**

- Substations and other ground mounted apparatus which does not support overhead lines will not be covered by Section 37 consents, and instead will be subject to the planning regime. Similarly to the consent process for underground cables, these installations may (in more limited circumstances) be permissible under Permitted Development Rights. Where Permitted Development Rights do not apply (for example because of the type or size of the apparatus), SEPD or SHEPD will require evidence of a valid planning consent for the substation – again, this can often be included within a planning consent for a larger development.



## Land Rights

When apparatus is to be installed or adopted by any party which is to be maintained and operated by SEPD or SHEPD, the following tables set out the land rights requirements of SEPD and SHEPD.

### Land rights required for particular distribution assets

<b>2.</b>	<b>Cables and Lines</b>
<b>2.1.</b>	<p><b>General</b></p> <p>The rights being obtained for cables and lines must fully secure the infrastructure being placed on private property with the ability to install, repair, replace, maintain and remove as necessary.</p> <p>In situations where overhead lines are constructed either adjacent to property boundaries or in close proximity to them, rights will be required from all landowners who hold land over which assets may oversail, and/or in which assets (including foundations) are installed.</p>
<b>2.2.</b>	<p><b>Cables within adopted roads.</b></p> <p>Where cables laid or to be laid lie within public highways adopted by the local authority for maintenance (roads, bridleways, pavements or verges), SEPD and SHEPD will be willing to proceed without the need for the grant of land rights, but only where clear evidence of the adoption of the relevant area is exhibited from the local authority's records.</p>
<b>2.3.</b>	<p><b>Cables within roads intended to be adopted</b></p> <p>Where cables are to be laid within areas which are not yet adopted by the local authority, this poses a risk to SEPD and SHEPD if the area is not adopted in the near future. In these scenarios, SEPD and SHEPD will need to be satisfied that there is certainty that the road will be adopted, and if that evidence is not available, an easement/servitude or wayleave will be required in accordance with the criteria set out below.</p> <p>The evidence which should be submitted to SEPD/SHEPD's solicitors for consideration is as follows:</p> <ul style="list-style-type: none"> <li>• England and Wales – A Section 38 agreement under the provisions of the Highway Act 1980.</li> <li>• Scotland – A Section 18 agreement under the provisions of the Roads (Scotland) Act 1984.</li> </ul>



SEPD/SHEPD's solicitors will require to be satisfied that the road or pavement under which cables are installed will be adopted in the near future, and that where the road or pavement requires to be brought up to an adoptable standard satisfactory to the local authority, funds are in place to allow that work to be completed.

#### **2.4. Cables and lines within the customer's site**

Where mains cables and lines are to be installed within a development area owned by the customer, the benefit of the cable/line to the customer's development means that SEPD and SHEPD would normally expect that these rights should be granted at no cost, or at nominal cost.

Whilst SEPD and SHEPD will be prepared to enter into Wayleave Agreements with customers, the customer will often be willing to grant an easement or servitude, and such rights will also be acceptable to SEPD/SHEPD in accordance with the provisions set out below. Where service cables are to be installed entirely within the customers' own land for their own supply, no rights will be necessary.

##### **Wayleaves**

Wayleave Agreements are personal agreements with landowners, and differ from servitudes and easements in that they are terminable, and are not registerable against the land. They therefore carry an increased risk to the ability to maintain assets on the land. However, SEPD or SHEPD are prepared to enter into a Wayleave Agreement with the customer under the terms set out in the appropriate wayleave template.

The Wayleave Agreements will be prepared by SEPD/SHEPD or the ICP/IDNO, and when approved by SEPD/SHEPD will be issued to the landowner (in duplicate) for signing. Completed wayleaves should thereafter be returned to SEPD/SHEPD for signing. The Wayleave Agreements should be wholly in accordance with the styles provided in the deed style bank. After signature by the land owner, one copy of the Wayleave Agreement should be returned to SEPD/SHEPD and the other copy retained by the customer. The Wayleave Agreement is not registered at the Land Registry or by the Registers of Scotland.

Where a Wayleave Agreement is to be entered into with the customer for equipment to be installed on the customer's land, this would normally be on the basis of a Wayleave Agreement where no payment is to be made to the customer, and the appropriate document from the deed style bank should be used.

Where the customer is not prepared to enter into a Wayleave Agreement without payment to be made, then advice on how to proceed should be sought from SEPD or SHEPD.





### Easements and Servitudes

In comparison with Wayleave Agreements, Deeds of Easement/Servitudes provide increased security to the electricity network, by allowing overhead lines and/or underground cables to be kept on or over private property in perpetuity – the Deed of Easement/Servitude is registered against the land and is not terminable.

The Wayleave Officer or ICP/IDNO will negotiate heads of terms for the granting of the Deed of Easement/Servitude, which must be in accordance with the relevant deed provided in the deed style bank. Instructions will then be passed to SEPD or SHEPD's solicitors on behalf of SEPD or SHEPD to complete the Deed of Easement/Servitude in conjunction with the customer's solicitor (the customer's title will have to be satisfactory to SEPD/SHEPD's solicitors). The deed is registered at the Land Registry or with Registers of Scotland by solicitors for SEPD/SHEPD.

The Deeds of Easements/Servitudes styles relate to the asset type, and are as follows:

- Deed of Easement/Servitude for underground cables only;
- Deed of Easement/Servitude for overhead lines (with or without associated underground cables).

The key terms of the Deed of Easement/Servitude where assets lie within the customer's land are as follows:

- Payment should be a one off payment of £1.
- The rights should generally exist in perpetuity and not have a fixed term, save that fixed term Easements and Servitudes will be acceptable to SEPD/SHEPD where the cable or line is installed only to serve a generating asset which is likely to have a finite operating period (normally in the region of 25 years). Where it is proposed that a Deed of Easement/Servitude should not be granted in perpetuity, the proposed term and the customer's justification should be submitted to SEPD/SHEPD for consideration.
- Where the customer requests the ability to serve notice to divert or relocate assets in future, appropriate terms *may* be added, but only in accordance with the "lift and shift" provisions detailed in Paragraph 3 "Miscellaneous Rights and Considerations" below. Such removal/realignment of cables should be at the landowner's cost.
- The deed should incorporate appropriate rights of access for installation and maintenance.
- There can be restrictions on operations that can be carried out on land immediately surrounding the lines in accordance with the terms of the relevant Easement or Servitude in the deed style bank.



## 2.5. Cables and lines outside the development site

Similarly to rights granted in terms of 2.4 above, SEPD/SHEPD will accept Wayleave Agreements or Deeds of Easements/Servitudes in respect of rights for cables and lines where these are to be installed in land outside the customer's development site, provided that the appropriate SEPD/SHEPD style deed is utilised.

### Wayleaves

The Wayleave Agreements available in the deed style bank differ in terms of payment mechanism agreed with the landowner, and where these are to be entered into with third party landowners outside the customer's site, the relevant documents are as follows:

- Wayleave Agreement providing for an annual payment
- Wayleave Agreement providing for a capitalised one-off payment

The Wayleave Agreement should be wholly in accordance with the styles provided in the deed style bank, and the specific terms (e.g. payment due) agreed with SEPD/SHEPD prior to completion. Any derogations from these styles must be agreed by SEPD/SHEPD's solicitors in advance.

Where payment obligations will rest with SEPD or SHEPD and are negotiated by an ICP or IDNO, approval of the terms agreed in principle with the landowner should be sought from SEPD or SHEPD. For agreements providing for annual or capitalised payments, approval shall be given where the payment falls within the Wayleave Payment Rates guidance applicable to the relevant area at the time (available on [www.ssen.co.uk](http://www.ssen.co.uk)). All other terms and payments agreed in principle with landowners will be considered by SEPD or SHEPD on a case by case basis.

### Easements and Servitudes

As in 2.4, the heads of terms for the Deed of Easement/Servitude should be negotiated by the wayleave officer or ICP/IDNO, with the document then being completed as described above.

The key terms of the Deed of Easement/Servitude where assets lie outside the development site are as follows:

- A one off payment should be negotiated with the landowner and paid on the grant of the Deed of Easement/Servitude.
- The rights should generally exist in perpetuity and not have a fixed term, save that fixed term Easements and Servitudes will be acceptable to SEPD/SHEPD where the cable or line is installed only to serve a generating asset which is likely to have a finite operating period (normally in the region of 25 years). Where it is proposed that a Deed of Easement/Servitude should not be granted in perpetuity,



the proposed term and the customer's justification should be submitted to SEPD/SHEPD for consideration.

If any payment obligation is to rest on SEPD/SHEPD under the terms of the Deed of Easement/Servitude, the approval of SEPD/SHEPD should be sought prior to entering into the deed. Approval will be given where the Easement/Servitude payment is in accordance with the Wayleave Payment Rates guidance.

All other terms and payments agreed in principle with landowners will be considered by SEPD or SHEPD on a case by case basis.

## **2.6. Necessary Wayleaves**

Where agreement cannot be reached between the wayleave officer or ICP/IDNO and the third party landowner for the grant of easement Deed of Easement/Servitude or Wayleave Agreement in terms acceptable to SEPD or SHEPD, the necessary wayleave process (under the terms of Electricity Act 1989) may be utilised. In such situations, the ICP/IDNO should contact SEPD or SHEPD to agree how the application should be progressed. The application will require to be made by SEPD or SHEPD, with the ICP/IDNO meeting the legal and other costs incurred in seeking the rights.

Owing to the differing requirements, such arrangements will be treated on a case by case basis, and where it has been agreed with SEPD/SHEPD that a necessary wayleave is the appropriate course of action, ICPs and IDNOs are encouraged to discuss matters with SEPD/SHEPD at an early stage.

## **3. Substations Sites**

### **3.1. General**

Where a substation site is being acquired, all associated rights should be secured in the legal transaction including:

- a) Right of access for vehicular and pedestrian traffic to a nearby adopted road.
- b) Rights to install and maintain cables.
- c) Rights to install and maintain overhead line terminations and any overhead or underground circuits crossing the site.
- d) Rights for ancillary services (such as water pipes and communication lines) serving the substation site.

The area being acquired must be sufficient to contain:

- a) The electrical equipment and any buildings and maintenance thereof;
- b) any necessary security measures (taking into account the possibility of future development of adjoining areas);



- c) any landscaping or screening of the area and any associated buffer zones.
- d) the extent of any cut and fill required (where sites are being built on sloping ground);
- e) any parking spaces required; and
- f) any drainage requirements.

SEPD/SHEPD will accept either the transfer of the freehold ownership of the substation right, or a long Lease of the area.

### 3.2. Substations within the customer's site

#### Purchase of Substation

To enhance security of supply, the substation site would normally be transferred to SEPD or SHEPD for a nominal one off payment where located within land owned by the customer.

The transfer should be in the form of the relevant Transfer Deed (England) or Disposition (Scotland) provided in the deed style bank. The key features of the transfer are as follows:

- The consideration should be a nominal £1
- Rights of access for pedestrians and vehicles (for installation and maintenance) should be included in the grant.
- Where cable/line rights are required, these rights *may* be incorporated in the Transfer Deed/Disposition, rather than in a separate Deed of Easement/Servitude/Wayleave.
- Lift and Shift clauses are not appropriate in respect of purchased substation sites but may be included at the request of the customer in respect of cable and access rights which may require to be altered in future. Where such lift and shift provisions are required, these should be in accordance with the provisions detailed in Paragraph 3 below.

Whilst the terms of the transfer can be negotiated by the wayleave officer or ICP/IDNO, the conveyancing process requires the examination of the customer's titles, and preparation of a Transfer Deed/Disposition document in accordance with the styles held in the deed style bank. Provided that there are no derogations from the style document and no unusual or unduly onerous title conditions affecting the site, SEPD or SHEPD's solicitors will attend to the acquisition of the site and registration of the area in the Land Registry/Land Register of Scotland. Any derogation must be agreed by SEPD/SHEPD's solicitors in advance.

In circumstances where (i) the customer is a leaseholder, (ii) purchase is not practicable, or (iii) the customer is not willing to transfer the substation, a long Lease of the substation site maybe entered into (see below).

### Lease of Substation

Where a substation site is to be leased, the appropriate deed from the deed style bank should be utilised. The key terms of the Lease should be as follows:

- The term of the Lease should generally be 99 years wherever possible, however where the lease term is proposed to be less than 99 years, the proposed term and customer's justification should be submitted to SEPD/SHEPD for consideration.
  - The lease term *may* be shorter where the remaining term of a head lease necessitates a shorter lease term to SEPD/SHEPD. In such scenarios, the sub-lease to SEPD/SHEPD should coincide with the remaining term of the head lease.
  - For substations connecting generating stations (e.g. wind turbines or solar farms), SEPD/SHEPD accept that the term may reflect the anticipated generating life of the asset (this will often be in the region of 25 years), and may be prepared to enter into leases for that term, but only if it cannot reasonably be anticipated that other customer connections will be required to the substation.
- For SEPD leases in England, the lease premium should be £1.
- For SHEPD leases in Scotland, rent should be for a nominal £1 per annum (if asked).
- Where SEPD or SHEPD require to enter into a sub-lease (i.e. where the lease must be with any party other than the freehold landowner), SEPD or SHEPD may require protection in the event of the head-lease ending (for example where the tenant under the head lease has failed to perform their obligations) where SEPD or SHEPD will continue to require the use of the substation. For SEPD assets, such protection is granted under the terms of the leases contained in the deeds style bank.

Due to differing legal requirements in Scotland, for SHEPD assets, an Irritancy Protection Agreement ("IPA") (in accordance with the terms of the style provided in the deed style bank) to be entered into with the landowner. In such transactions, SHEPD should be contacted to confirm whether an IPA will be required.

The requirement for the IPA will be dependent on the perceived risk of the head lease terminating, and the importance or potential importance of the substation to the wider network.

- Where the customer has a reasonable expectation of re-developing the area at a future date, a "lift and shift" provision may be incorporated into the lease in accordance with the style clauses provided in the deed style bank.

Any removal and reinstallation of the substation and associated works should be at the customer's cost.



As with the transfer of substations, whilst the key terms of the lease can be negotiated by the wayleave officer or ICP/IDNO, the conveyancing process in lease transaction also requires the examination of the customer's titles, and preparation of a lease or sub-lease in accordance with the styles held in the deed style bank.

Provided that there are no derogations from the style document and no unusual or unduly onerous title conditions affecting the site, SEPD or SHEPD's solicitors will attend to the acquisition and execution of the lease and registration of the tenant's interest in the Land Registry/Land Register of Scotland. Any derogations must be agreed by SEPD/SHEPD's solicitors in advance.

For SEPD leasehold transactions in England, unless otherwise agreed between SEPD and SHEPD and an ICP/IDNO, the lease is to be procured by the ICP/IDNO and executed in escrow by the relevant land owner and released to the solicitors acting for SEPD.

### **3.3. Substations outside the development site**

#### **Purchase of Substation**

As in 2.2 above, where land for a substation is required outside the customer's development, the land will often be transferred to SEPD or SHEPD where possible.

If the consideration is to be met by SEPD/SHEPD and is not a nominal £1, the sum must first be approved by SEPD or SHEPD.

#### **Lease of Substation**

As an alternative to transfer, it is acceptable for the site to be leased to SEPD or SHEPD. The appropriate deed from the deed style bank should be utilised, and the same lease terms as noted in Clause 2.3 above should apply, save that the rent and term will be the subject of commercial negotiations, and must be approved by SEPD or SHEPD.

#### **Compulsory Purchase Process**

In the same way that the necessary wayleave process may be utilised where voluntary rights for cables and lines cannot be agreed with third party landowners (see above), a Compulsory Purchase Order may be sought where areas of land including any rights are required from third party landowners but cannot be acquired through voluntary agreement. This process should be considered a last resort given the time that is required to complete the formalities to secure such rights, and the ICP/IDNO should contact SEPD or SHEPD at an early stage to agree how the application might be progressed. The application will require to be made by SEPD or SHEPD, with the ICP/IDNO meeting the legal and other costs incurred in seeking the rights.



4.	<b>Miscellaneous Rights and Considerations</b>
4.1.	<p><b>“Lift and Shift” provisions</b></p> <p>“Lift and Shift” provisions refer to rights held by the landowner to require the diversion or relocation of cables or lines running through their land.</p> <p>Such provisions (following approval by SEPD/SHEPD) may be included in Leases or Deeds of Easement/Servitude in exceptional cases only (i) in relation to cables/lines of no higher a voltage than 33kV, (ii) where specifically requested by the landowner, and (iii) where there is a genuine expectation that assets may require to be relocated (to allow for future re-development for example).</p> <p>Where the “Lift and Shift” clause is included in such a deed, it should provide that all costs incurred in the relocation of apparatus (including legal costs) will be met by the Landowner exercising the right.</p> <p>The terms of the “Lift and Shift” clause to be inserted in deeds should be in accordance with those set out in the deed style bank, namely that (i) prior notice of the intention to exercise the rights should be given by the landowner to SEPD or SHEPD in accordance with the style, and (ii) the landowner should grant rights for the alternative route. When the landowner exercises the “lift and shift” rights, SEPD or SHEPD shall relocate the apparatus as soon as practicable after grants of the rights (subject to all necessary apparatus being available).</p>
4.2.	<p><b>Interaction with land owned by government bodies etc.</b></p> <p>Where assets require to be installed in or over land owned by certain public bodies (e.g the Ministry of Defence, Local Authorities, Network Rail), these parties may have set requirements which conflict with the SEPD and SHEPD requirements. In these scenarios, ICPs/IDNOs should engage with SEPD and SHEPD at the earliest opportunity to discuss what terms can be agreed.</p>
4.3.	<p><b>Title Examination and Title Insurance Policies</b></p> <p>Where in the course of examining the landowner’s title deeds and carrying out the due diligence required to progress a transaction, it comes to the attention of SEPD or SHEPD that the title for areas over which rights are to be acquired is deficient or contains unusual or unduly onerous burdens which could affect the rights obtained by SEPD/SHEPD, SEPD/SHEPD may accept title indemnity insurance to resolve the issue where the deficiency is not otherwise easily resolved, and where the insurance will provide sufficient protection to SEPD/SHEPD and their right to maintain and use assets on the land.</p> <p>If SEPD/SHEPD require insurance against the title defect, the following provisions should be incorporated into the insurance policy:</p>



- The definition of “Insured Use” should contain the following, distinct sub- category: “Use for a substation, cables, overhead lines and all related apparatus in connection with the transformation and distribution of electricity and associated data.”
- The policy will need to include as a distinct head of cover, the costs and expenses incurred by SEPD/SHEPD (and its successors) in removing and relocating a substation and cables, overhead lines and all related apparatus.
- The party putting in place the title indemnity insurance should approach SEPD/SHEPD to confirm the indemnity limit required, which will be calculated by reference to the anticipated costs in removing and relocating its apparatus.
- The duration of the policy must coincide with the interest SEPD/SHEPD is acquiring.

Whilst the above sets out the general principles on which SEPD/SHEPD will accept title indemnity insurance, this will be dependent upon the suitability of the policy to particular circumstances, and each policy will be considered on a case by case basis by the solicitors acting for SEPD/SHEPD.