

## **Company Directive**

### **STANDARD TECHNIQUE : EW1D/3**

#### **Relating to the Acquisition of Routes and Sites**

##### **Policy Summary**

Procedures for the acquisition of routes and sites.

**Author:** Geraint Griffith

**Implementation Date:** June 2017

**Approved by**



**Bruce Pollard**  
**Consents and Wayleaves Manager**

**Date:** 29<sup>th</sup> June 2017

*All references to Western Power Distribution or WPD must be read as National Grid Electricity Distribution or NGED*

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## **IMPLEMENTATION PLAN**

### **Introduction**

This ST relates to the purchase of sub station sites (whether freehold or lease), easements and compensation for injurious affection.

### **Main Changes**

Addition of a reference to the use of side letter agreements in connection with urgent freehold, leasehold or easement purchases.

### **Impact of Changes**

Guidance on the deployment of the new document which is intended for infrequent use in exceptional circumstances where a legal document cannot be completed before the start of works on private land.

### **Implementation Actions**

Team Managers to brief staff of the changes.

### **Implementation Timetable**

This Standard Technique shall be implemented with immediate effect.

## REVISION HISTORY

Document Revision & Review Table		
Date	Comments	Author
June 2017	<ul style="list-style-type: none"><li>Inclusion of reference to side letter agreement</li></ul>	Bruce Pollard

## 1.0 INTRODUCTION

- 1.1 This document gives guidance on the purchase of sub station sites, premiums for the purchase of long leaseholds where freehold is unavailable, easements and compensation for injurious affection. WPD also has an agreed process document with its nominated property solicitors and in addition to this ST, the current process document should be consulted as it is applicable to substation and easement transactions.
- 1.2 Agreements made with Customers and land owners must conform to WPD policy and must be implemented immediately. All agreed payments should be made on completion of legal matters or on receipt of a signed Wayleave Agreement.
- 1.3 Staff shall act in the best interests of WPD, following any necessary advice from The Consents & Wayleaves Manager or Estates Manager or their teams.
- 1.4 All letters making offers should be headed "Subject to Contract", and where an offer is being made to settle a disputed issue, the words "Without Prejudice" shall be added.

## 2.0 ACQUISITION OF SUBSTATION SITES/FREEHOLD OR LONG LEASEHOLD

- 2.1 The procedures in WPD Standard Technique EW1G – Contaminated Land – shall be followed for all acquisitions. The advice of the Company Estates Manager shall be obtained if it is probable that a previous owner may have contaminated the land through the release or escape of any controlled waste.
- 2.2 The terms and conditions for acquiring sub station sites associated with New Connections shall include a request that sub station sites be provided either by transfer or **as a second choice** a 999 year lease or as long as possible (with a minimum of 99 years unless agreed by the appropriate Wayleave Manager or the Estates Manager, for a nominal £1. The third party or Developer should bear all legal costs. Legal matters should be completed prior to the installation or connection of the sub station. In difficult situations the advice of the Estates & Property team or Consents & Wayleaves team shall be obtained.
- 2.3 Sub Station acquisition costs should be included when calculating the total costs of supplying an existing development. These costs include the consideration amount to be paid and also the WPD and third party survey, legal and agents costs. Crown Estimating and Charging package allows these to be shown with Wayleave Costs. *If this is to be for a completely new development then no costs would normally be added, as the Developer will normally provide the site for a nominal sum and be paying the legal costs (this should be indicated on the solicitors instructions).*

- 2.4 In the special case of Scale B substation sites (and ACB substation sites – see 2.7) that are provided for £1, each party will bear its own legal costs in accordance with Schedule 7 of the Connection Agreement. These sites will supply or could have the potential to supply other customers so these sites shall be secured via freehold transfer or a lease if a transfer is not possible. The planner shall issue the instruction letter to WPD's appointed solicitors (in accordance with WPD Standard Technique NC1G) and in the case of leases, send a copy of the draft lease with the Connection Agreement to the Customer at the same time.
- 2.5 Reinforcement sub station sites should always be obtained under the most favourable terms taking into account Engineering constraints, civil works and purchasing costs. When agreed WPD will be responsible for the 3<sup>rd</sup> party's reasonable legal costs. An average of £750 applies and anything above £1000 should be agreed first by the Consents & Wayleaves Manager, Wayleave Manager Wales or Wayleave Manager Midlands.
- 2.6 Premiums for the purchase of long leasehold interest in existing sub stations shall be allocated to capital budget code 53.
- 2.7 A Scale B sub station is one which is situated on a Customers land and where the WPD equipment and Customer metering equipment are situated at the same location or immediately adjacent to one another. In these cases, the Customer will be supplied at LV and the Distribution use of System (DuoS) charges are reduced (Scale B) reflecting the rights of WPD to supply other customers from the sub station. Ofgem has determined that a Scale B customer shall be offered a market rent for the sub station site as an alternative to reduced DuoS charge. **This should only be offered if specifically requested.** Each party will bear its own legal costs in accordance with Schedule 7 of the Connection Agreement. In the Midlands, some of these sites (supplying only one LV customer), have historically been known as 'ACB' substations.
- 2.8 The WPD process for obtaining Scale B sub station leases shall be followed as in Appendix A.
- 2.9 Substations provided on a customer's land in order to offer supplies at HV (Scale A) will be covered by the Connection Agreement and nationally agreed terms, which includes a right of access & cable/line rights. If a customer is unable to offer such rights due for example to the terms of his/her lease, then a lease will need to be agreed with his landlord.
- 2.10 When the purchase price for a substation is over £1000 the Estates Form procedure should be followed and approval is required from the Estates Manager or the nominated persons in the team.
- 2.11 If the capital payment is to be £3000 or over then the instruction letter together with the relevant correspondence and plans should be countersigned by The Estates Manager or nominated persons in that team. The approver will forward the instructions to WPD's appointed solicitors and arrange for the Capital number for the expenditure to be raised. The Consents and Wayleaves Manager or nominated persons in that team can also countersign in the absence of The Estates Manager.

### **3.0 ACQUISITION OF SHORT LEASEHOLDS, LEASE RENEWALS AND RENT REVIEWS**

- 3.1 The Estates Form procedure should be followed for all acquisitions, lease renewals or rent reviews.
- 3.2 Whilst every effort is made to take the appropriate action with expired leases in a timely fashion, WPD may not always be aware that a lease has expired - particularly with some older sites. Although WPD make every effort to continue paying the agreed rent, if this has not been possible (e.g. the current landowner cannot be traced), the case for the continued occupation of the land can be weak. For this reason therefore, if any work is planned at a leased substation over and above normal maintenance, it is essential that a check be run on the current status of WPD's occupation and that any issues should be acted on accordingly, for example leases which are holding over should be renewed where appropriate. Advice should be sought from the Estates & Property Team as necessary. It is often the case that a problem that has lain dormant for many years may be awoken by WPD activity on the land.

### **4.0 PURCHASE OF DEEDS OF GRANT FOR NEW & EXISTING LINES & CABLES**

- 4.1 Standard Technique EW1C covers policy on when to secure Easements, Termed Wayleaves or Standard Wayleaves for new and existing overhead lines and underground cables.
- 4.2 Capitalisations **should not generally** be obtained for 11kV lines. The exception may be in circumstances where WPD are looking to secure further apparatus or other special cases.
- 4.3 In the event of a landowner requesting a capitalisation of his wayleave agreements for lines of 33kV and above then WPD will meet their reasonable legal costs up to the limits referred to in this Standard Technique.
- 4.4 Capital payments associated with Easements for tower lines should include:

20 x annual rental - there is a substantial precedent for this figure which has been used by WPD in the past, and continues to be used by NGC and various DNOs, and would probably be endorsed by the Lands Tribunal.

Compensation for loss of use of land due to disturbance of the farming operation should be calculated at between 12 and 20.

Injurious Affection payment if applicable (as determined by the Consents & Wayleaves team).

- 4.5 If the capital payment is to be £3000 or over then the instruction letter together with the relevant correspondence and plans should be countersigned by The Consents and Wayleaves Manager or nominated persons in that team. The approver will forward the instructions to WPD's appointed solicitors and arrange for the Capital number for the expenditure to be raised.

## **5.0 FINANCIAL APPROVAL FOR PURCHASE OF LAND AND EASEMENTS**

- 5.1 Appendix A is the procedure for instructing solicitors.
- 5.2 Appendix B is the guide to Terms for Acquisition.
- 5.3 Appendix C is the guide for Approval of Consideration.
- 5.4 Appendix D is the guide to WPD and Third Party Costs.

## **6.0 SIDE LETTER AGREEMENT:**

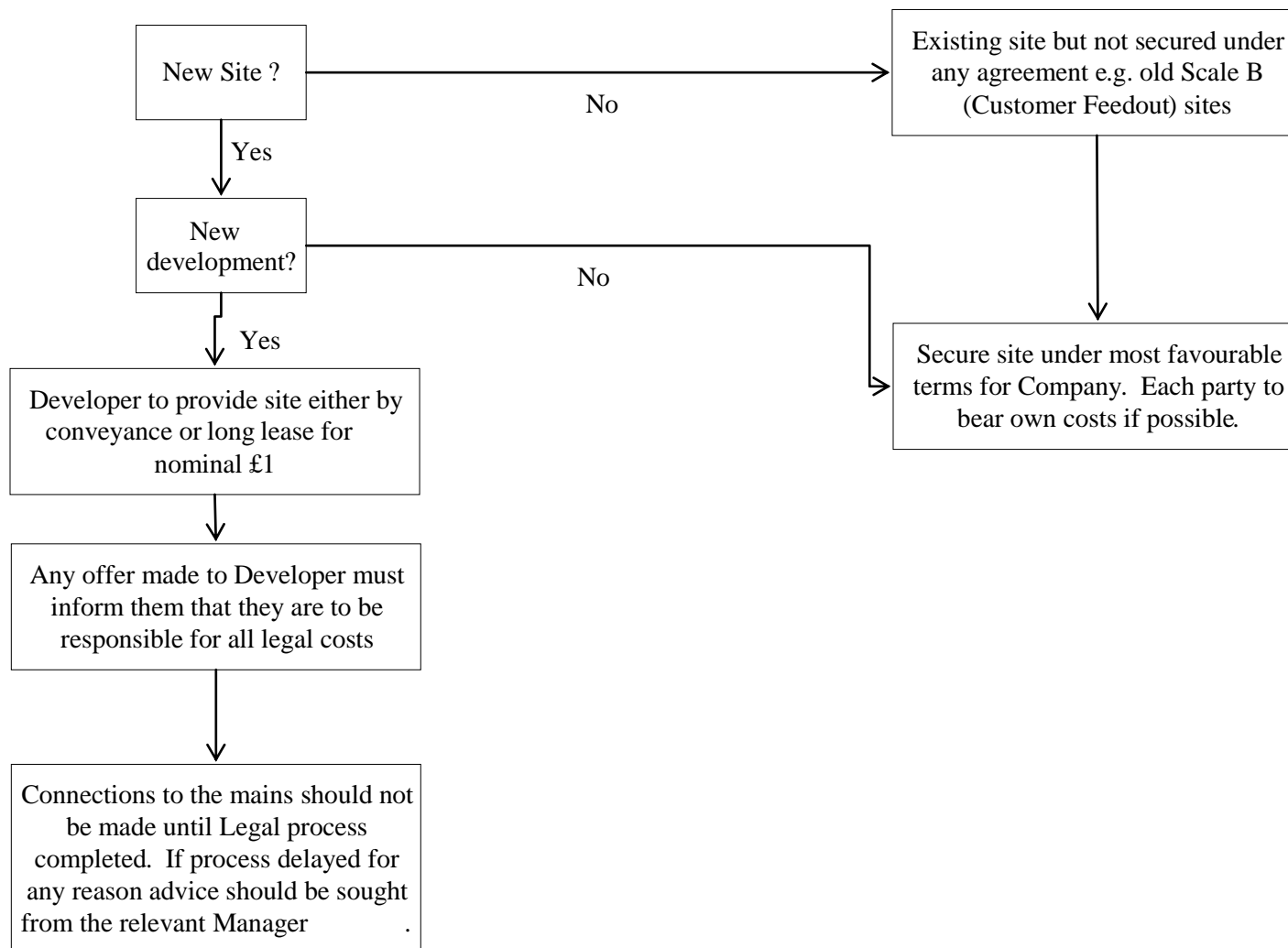
WPD recognises that circumstances will arise where terms have been agreed for an easement, Transfer or Lease, but there is no possibility of the document being completed in time for a customer's connection. With this in mind, WPD has developed a document called the *Side Letter Agreement* which, in certain circumstances, can be used to enable a connection to proceed in advance of completion of a deed of grant, transfer or lease. The process relating to use of the Side Letter Agreement is described in Standard Technique: EW1H.

**PROCESS TO ACQUIRE OPERATIONAL PROPERTY AND EASEMENTS**

Once negotiations have taken place with either land owner or developer and an offer acceptance has been received.

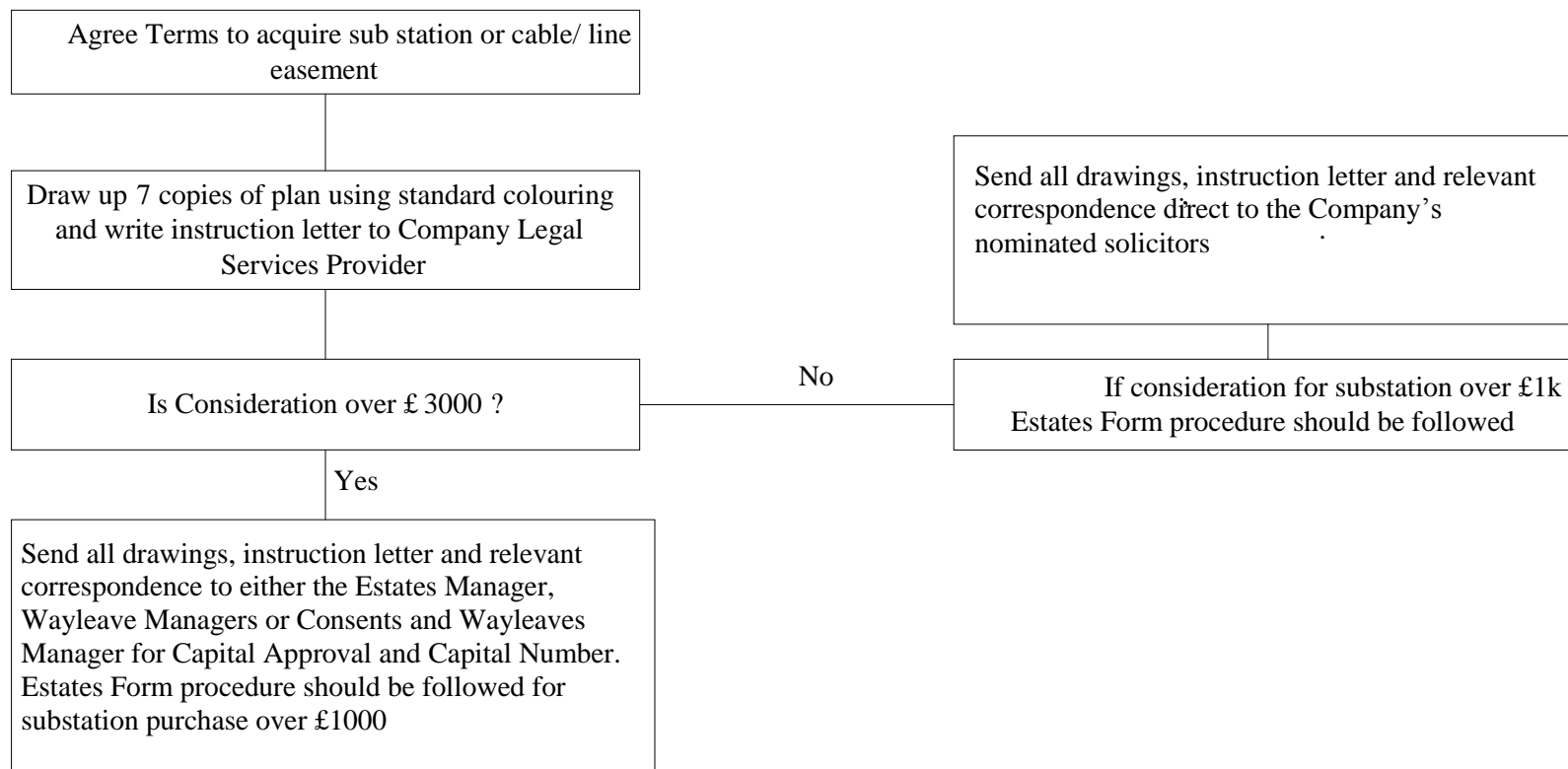
- i) Prepare all documents, 8 copies of plans, instruction letter and any relevant correspondence, ready for forwarding to the Company's Solicitors.
- ii) The instruction letter can be found on the [NEWCON\connections\connectionagreements\](#) drive and should specify:-
  - ❖ Whether third party costs have been agreed or indicate if not agreed.
  - ❖ Attach 7 coloured and 1 plain plan and any relevant correspondence.
  - ❖ Ensure that all relevant information is given including Solicitors contact details and any special instructions.
  - ❖ If instruction is for a sub station acquisition and consideration over £1000, the Estates Form procedure should be followed.
- iii) If WPD is required to pay third party costs then an upper limit of £750 should be applied and indicated on the instruction (this will not be exceeded by WPD's solicitors without reference back to the case owner). If the landowner or developer indicates that his costs will accumulate to more than £1000 then approval should be sought from the appropriate Wayleaves Manager prior to any further instructions being issued.
- iv) If the consideration for the site is less than £3000 then the instruction letter and the plans should be forwarded directly to the Company's Solicitors who will acknowledge receipt of the instruction within 48 hours.
- v) If the consideration is over £3000 then recommendation is to be obtained from The Estates Manager, The Consents and Wayleaves Manager, Wayleave Managers or the nominated persons in these teams. All documents should be sent to them for approval, they will then arrange for the capital expenditure number to be raised. The documents will then be forwarded on your behalf to the Company's appointed solicitors.
- vi) In the case of Scale B Substation Sites, the Connections Team receive a quarterly report from WPD's solicitors which is cross referenced against the new connection agreements, any discrepancies are referred to the relevant planner.



OPERATIONAL PROPERTY AND EASEMENTSTERMS FOR ACQUISITION

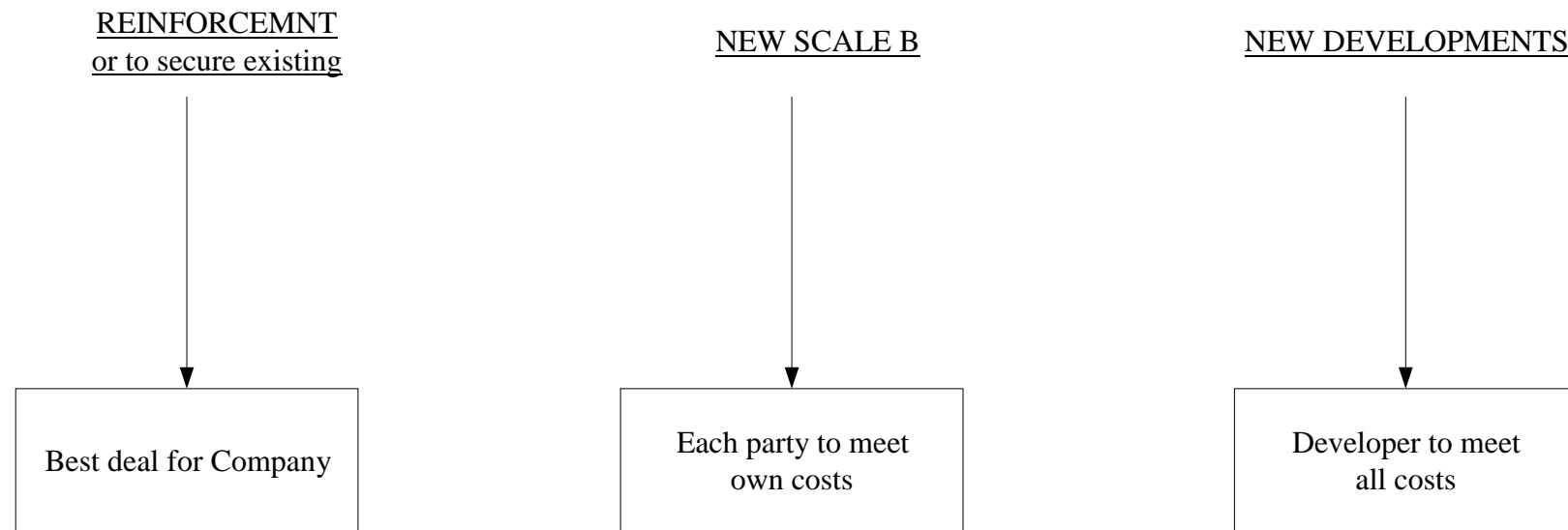
OPERATIONAL PROPERTY AND EASEMENTS

APPROVAL OF CONSIDERATION



OPERATIONAL PROPERTY AND EASEMENTS

WPD AND THIRD PARTY COSTS



## **APPENDIX E**

### **SUPERSEDED DOCUMENTS**

This document supersedes ST:EW1D/2 dated November 2011 which should now be withdrawn.

## **APPENDIX F**

### **ANCILLARY DOCUMENTS**

Standard Technique EW1G – Contaminated Land

## **APPENDIX G**

### **POLICY IMPLEMENTATION**

This Standard Technique shall be implemented immediately.

## **APPENDIX H**

### **POLICY IMPACT**

This policy is relevant to all staff dealing with the acquisition of routes and sites. It has been updated to reflect current practice and requirements for WPD Midlands.

## **APPENDIX I**

### **KEY WORDS**

Lease, purchase, wayleave, deed of grant, easement estate form, conveyance.