



**Scottish & Southern**  
Electricity Networks

Scotland



# Land Rights, Wayleaves and Legal guide

New Connections

## Introduction

Scottish Hydro Electric Power Distribution (SHEPD) owns and maintains the electricity distribution system serving north Scotland and provides new electricity connections to domestic, commercial and industrial customers. SHEPD are also licenced to provide connections to customers outside this area in conjunction with the incumbent network operators (out of area connections). We have geographically based Wayleave Officers who will co-ordinate the consent and land rights requirements for you to allow your electricity connection to be installed where we provide the works.

The operation of the distribution system relies on land rights granted by land owners and occupiers (referred to generally in this documents as land owner/s) which allow us to place and maintain electricity infrastructure on or over their land.

## New Connections - The Requirement for Land Rights

Where SHEPD are contracted to install your electricity infrastructure, it may be necessary to place it on land belonging to you and occasionally also on third party land. In these situations, we require land rights from you (and any other affected land owners) to place and maintain the electricity infrastructure required.

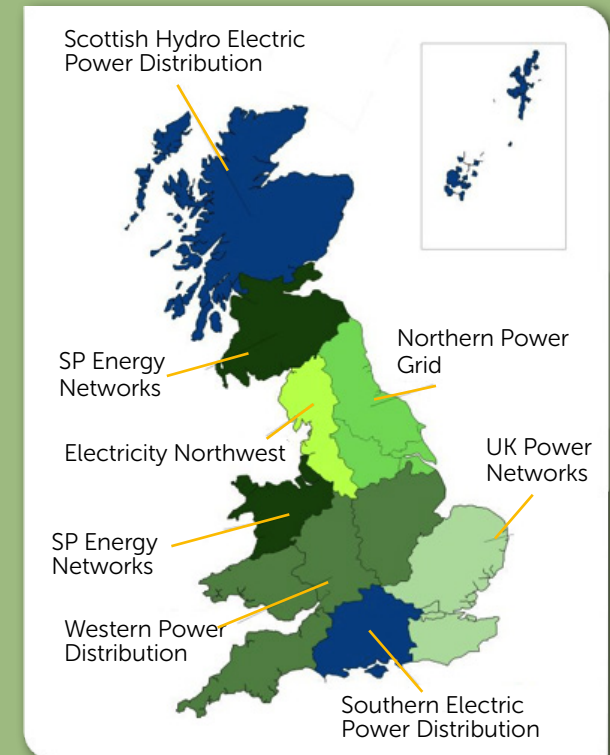


## These rights in land are:

- Wayleave Agreements and/or Servitudes – Required for overhead lines and underground cables.
- Purchase or lease of land – Required for substation sites.

Wayleave agreements are prepared by our Wayleave Officers and signed by land owners. Servitudes, substation site purchases and leases are prepared by solicitors representing SHEPD in conjunction with the land owners legal representative, in accordance with set SHEPD styles.

If we are providing a connection to you out of our SHEPD area elsewhere in the UK and there is a requirement for us to acquire a substation from you, then we are required to provide the resident Distribution Network Operator with a lease or land rights for part of the substation that will provide the connection to their network.



## How do we secure land rights?

The consent/s necessary to place our equipment on private land depends on the type of equipment being installed.

Rights can be secured in the following ways:

### Wayleaves

A Wayleave is a simple agreement between SHEPD and a landowner to formalise consent for equipment to be located within their land along with access for maintenance, tree cutting etc. In return the landowner generally receives either an annual or sometimes a one off payment except if the equipment is solely within the land of the customer no payment will be made. The wayleave payment depends on the amount and type of equipment used as well as its impact on landowner operations such as farming. The payment is based on a number of criteria and is normally reviewed each year. It should be noted that Wayleave Agreements are made with landowners and are not registered against the land title.

The time it takes to obtain a voluntary wayleave can vary; typically projects can take between 12-16 weeks to be granted necessary consents. If your project is more complex this can take considerably longer. The SHEPD Wayleave Officer will keep you fully advised of the consents required and potential time scales.



## Wayleaves (continued)

We must secure landowners permission in order to place equipment on their property. If the landowner refuses to grant permission, we can apply to the Scottish Government to seek to gain the appropriate land rights under a compulsory Purchase Order or necessary Wayleave. However this is a long, complex and costly process which does not always provide a successful outcome and should only be considered as a last resort. Any costs associated with a necessary wayleave will be in addition to your new connection costs.

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## Servitude

Deeds of Servitude provide SHEPD with increased security for equipment, as we acquire permanent rights to the land. This minimises any future problems with the location of equipment, ensuring we can keep our customers supplied with electricity into the future. The deed associated with this form of consent is registered with the Land Register and cannot be terminated.



## How do we secure land rights?(continued)

### Acquisition of Land -Leaseholds & purchase

In order to make some electricity connections we may need to build a new substation on private land. In this instance we secure consent from the landowner in the form of a purchase or leasehold acquisition of the land required.

Where we agree a leasehold we secure rights to the land for an agreed period of time. Where we agree to purchase we secure rights to land outright. To build a new substation SHEPD should normally be granted the land within the customers own land (normally five metres by five metres in size) for a nominal purchase price or rent of £1.00 within the customers own land. Substation sites to be purchased / leased on third party land will likely require a greater payment to be agreed.

Where substation sites are being acquired associated rights will also be obtained to cover access from the adopted highway and any overhead lines or underground cables.

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### Statutory consents

In order to place equipment on or over land in certain areas we may need to get additional consents. These consents are usually granted by bodies responsible for protected sites, buildings, protected species and in some situations planning permission may be necessary. Some of these bodies are listed below.

- Planning permission from local planning authorities for overhead lines or substation sites where permitted development rights are not appropriate.
- Consent under the Electricity Act 1989 granted by The Scottish Government for consent to build overhead lines.
- Consent from Scottish Natural Heritage for works on or near protected sites or species.
- Consent from Historic Environment Scotland for works on or near protected archaeological sites.
- Consents from Scottish Environment Protection Agency (SEPA) for works on or near watercourses.

We work with these and other agencies to ensure that any required consents are applied for within a reasonable time.

## Statutory consents (continued)

The electricity industry is required to conform to specific planning provisions before building or modifying an overhead line. These provisions are contained primarily in Section 37 of the Electricity Act 1989.

### Section 37 Electricity Act 1989

Section 37 application is a two part process involving an initial application to the local planning authority followed by an application to the appropriate Ministry:-

Scotland - Scottish Government Energy Consent Unit

England / Wales - The Department for Business, Energy and Industrial Strategy.

This process can take a minimum of twelve weeks and will incur additional fees.

There are certain circumstances where a supply may be provided to a single customer at less than 33kV without the need to obtain a Section 37 Consent. In these situations it is still necessary to consult with the local planning authority before constructing the line. Where an existing line serving one customer is subsequently required to serve further customers a retrospective Section 37 Consent will be required.

Section 37 consent does not apply to underground cable projects.

Where it is necessary to modify an overhead line Section 37 may be required or in certain circumstances works may be carried out under consent provisions of the requisite Overhead Lines (Exemption) Regulations.

The Wayleave Officer for the project will keep you fully advised as to the consents required and whether any exemptions apply under the applicable legislation.



# Who is involved in the consent process?

Here we explain the various parties that can be involved in the process and what role they play. Note - the parties involved will depend on what rights are required for our equipment and the land we intend to place that equipment on.

Party Description	Role
SHEPD Planning Team Manager	Design connection proposal
SHEPD Wayleaves Officer	Determine what form of consents are required, progress and agree terms for:- <ul style="list-style-type: none"> <li>- Wayleaves</li> <li>- Servitudes</li> <li>- Purchase/leasehold substation sites</li> </ul> Provide customer with updates
Landowner (this may be a customer or 3rd party)	Agree wayleave or legal plan and terms with SHEPD Wayleave Officer and instruct their solicitor where appropriate
Landowner's agent	Where appointed deal with consents process on behalf of the landowner
SHEPD Legal Services	Review details & instruct internal/external solicitors as appropriate to obtain substation sites/servitudes
SHEPD internal/ external solicitor	Progress legal agreement with land owners solicitors in accordance with SHEPD styles
Landowners solicitor	Work with SHEPD solicitor to complete documentation

# Wayleave officers

It is important to ensure that all land rights are in place in readiness for the electricity infrastructure to be installed. To do this we will work with you or your appointed solicitor or agent to acquire these rights.

It is important that you instruct your solicitor at the earliest opportunity to ensure that they work with SHEPD's legal advisors to complete the transaction without delay.

If land rights are to be acquired from a third party, the Wayleave Officer will determine which land owners to consult and identify what land rights may be needed to place the electricity infrastructure across their land. SHEPD's solicitors will be instructed to secure these land rights where required. It may well be that you are responsible for meeting the legal fees of the third party. Occasionally we will find that terms cannot be agreed with third party land owners and in these instances contact will be made with you to discuss alternatives.



## How SHEPD have changed to speed up the process

SHEPD is committed to simplifying the process for the connections you need, that's why we have reviewed the process and requirements for placing equipment on land.

We have also changed our staged payments process to provide you with more flexibility for your project. Based on feedback we have gone further and now allow you to make an advanced payment to progress your wayleaves in the early stages of the connection. Typically this advance payment for wayleaves is received with your acceptance payment or shortly after your acceptance of a quotation. Please note, we will not accept a payment to progress wayleaves unless a quotation has previously been accepted. We have also made available on our website our standard wayleave and legal deed styles so that you can see what we expect in advance of negotiations or contact by the Wayleave Officer.

[www.ssepd.co.uk/LandRights](http://www.ssepd.co.uk/LandRights)

## What can you do to help speed up the process?

In order to secure rights to make a connection across private land SHEPD follow the process set out in the flow chart, visiting relevant landowners to explain what work we need to carry out and the process involved. Landowners are often unfamiliar with this process, resulting in delays to your connection.



If you know we will require permission to lay cable or build an overhead lines across or access a neighbour's land you could speed things up by discussing this with them and us in advance. Listed below are some of the things you could do.

## Inform your neighbour:

- Explain to your neighbour that SHEPD will wish to place equipment on their land
- Inform your neighbour who will be carrying out the work & what the work will involve (those carrying out the work will be responsible for leaving property as they found it)
- Provide guidance as to when and for how long the work will take to complete
- Inform your neighbour when to expect SHEPD to approach them requesting their permission, explain the consent process and ensure they sign and return the necessary documents and provide the relevant information within seven days of it being requested. The SHEPD Wayleave Officer and/or solicitor cannot complete the connection process until all documents have been received and any title queries resolved.

However, don't forget our Wayleave Officers are here to help and will be happy to visit you and your neighbour to clarify the details.

## What else you can do:

- Landowners should remain in contact with the SHEPD Wayleave Officer to ensure they submit all the relevant documents promptly.
- Tell us if any part of your development has been sold off to a third party so we can change our instruction.
- Tell us of any restrictions on your title.
- Exhibit your titles and prove ownership
- Ensure that no special agreements are in place on the land we will be working on. If this is the case please inform us as early as possible.
- Ensure the substation position and cable route match exactly with the plan that has been prepared for the Servitude/Lease/ Transfer
- If the land is mortgaged your solicitor will need to obtain consent from the lender
- When instructing your solicitor, please make them aware of the urgency

## How long will it take to obtain consents for new connections?

We work to obtain the land rights required promptly and efficiently, but we are dependent on you, and where necessary your neighbours to progress these.

Every effort will be made to obtain the land rights at the earliest opportunity.



## How are legal and additional costs charged?

There can be additional costs which are not known at the quotation stage which become evident during the wayleave process. These costs could be environmental costs for investigations and surveys, 3rd party surveyors fees, legal costs to secure rights and claims for compensation as a result of the construction of the project. When these costs are known you will be made aware of them.

## Working with independent network operators and independent connection providers

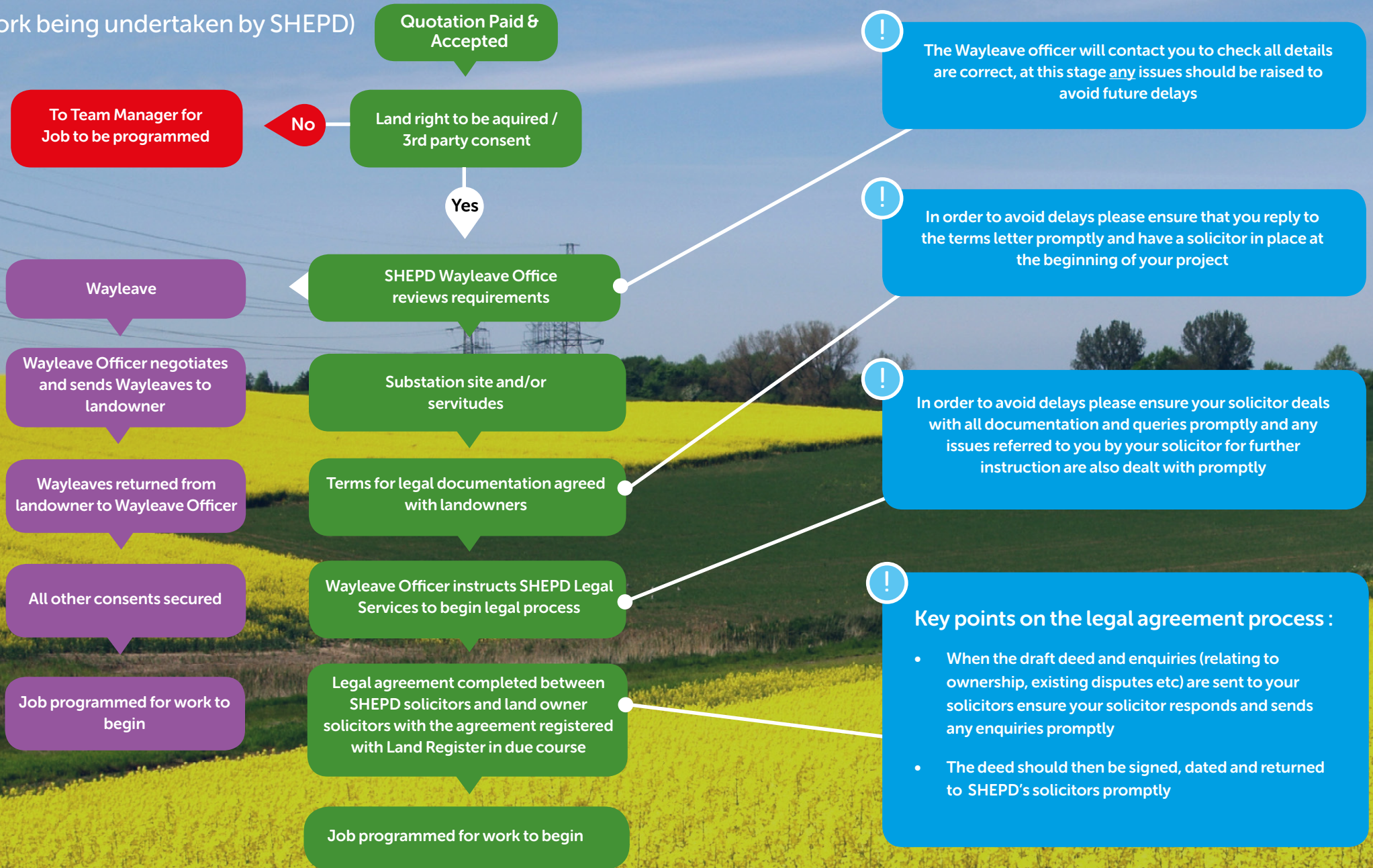
There are other companies who are able to carry out your connection works, so you can compare prices and service levels to decide which company is best for you. Other companies who provide a connections service are known as Independent Connection Providers (ICPs) or Independent Distribution Network Operators (IDNOs).

a) Where an ICP is providing your connection, this will then be adopted and thereafter maintained either by us or by an IDNO. The ICP will typically secure and agree the terms of land right consents. Final paperwork will then be signed by us or the IDNO where applicable

b) Where an IDNO is establishing the network, the IDNO will obtain all of the required land rights and consents to establish and maintain their network and our staff may not be involved, except in relation to rights for the final connection to our network.

# Wayleaves Consents & permissions process

(Work being undertaken by SHEPD)





# Wayleaves map

## Director of Customer Operations

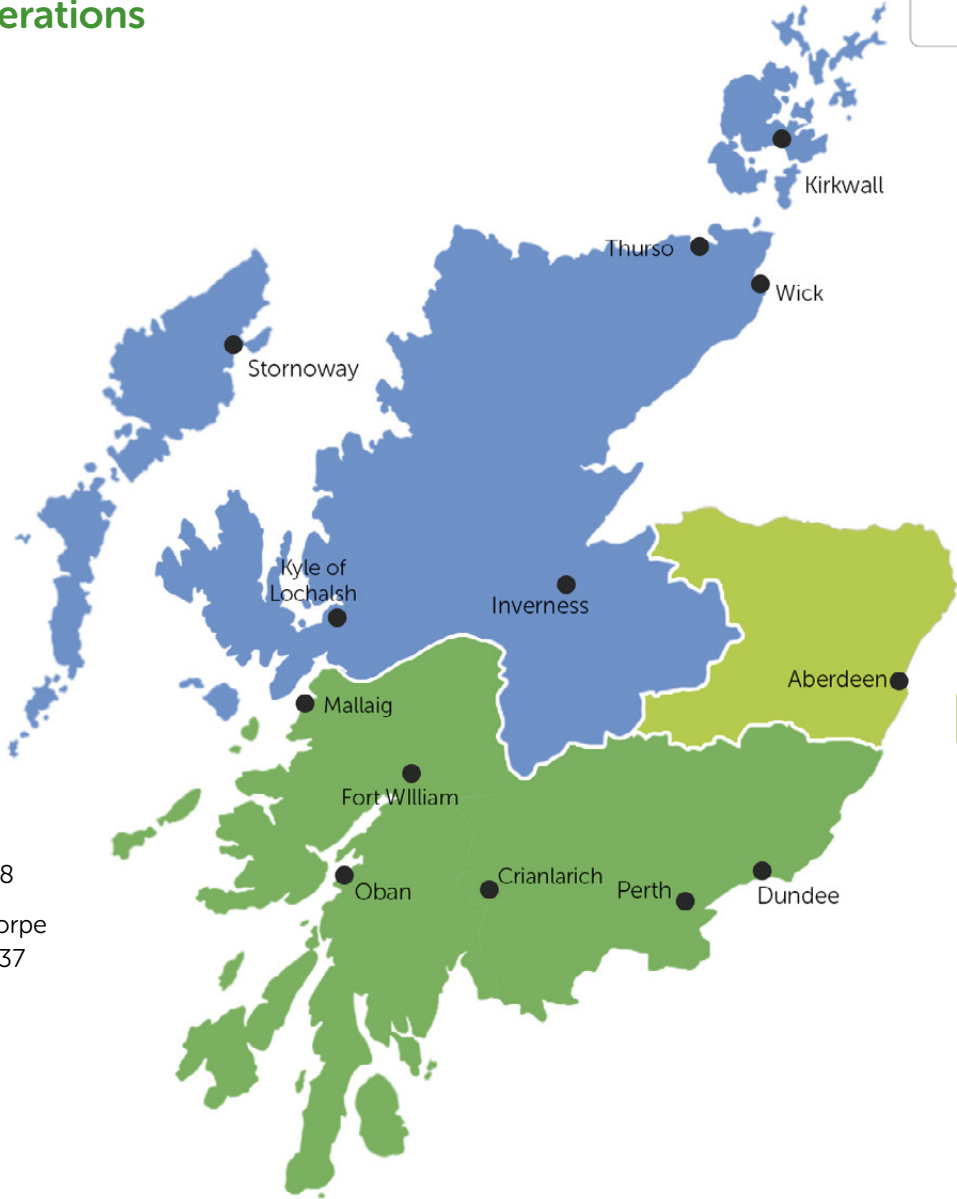
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### Highlands and Islands

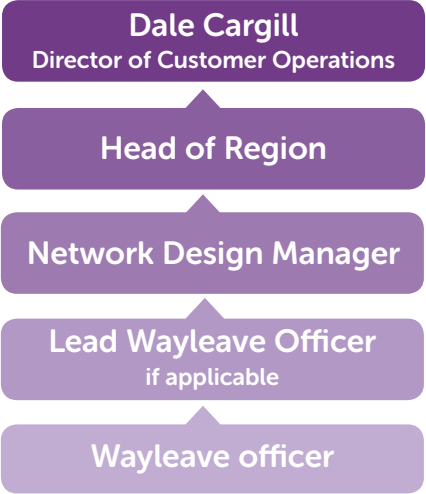
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## Wayleaves escalation route



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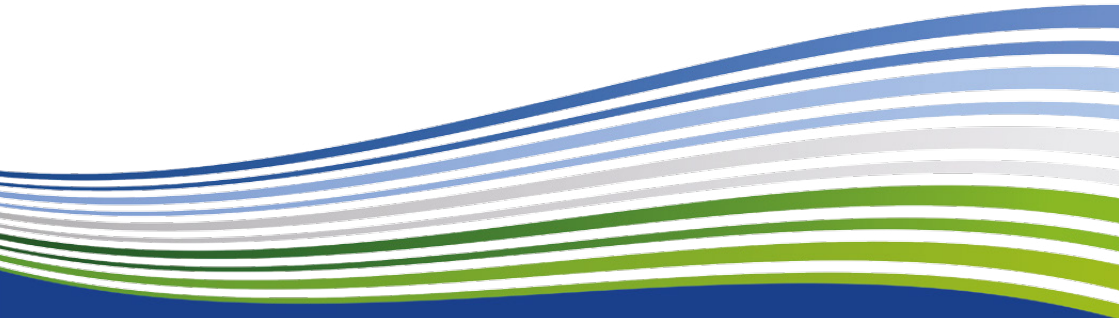
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(Last updated June 2017)



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[www.ssen.co.uk](http://www.ssen.co.uk)