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Oil & Gas Authority Update

April 2020



A list of the topics addressed by the OGA since [our last update](#), together with links to access the relevant releases, can be found at the end of this article. Highlights summarised in this update fall into five categories: regulatory review; energy transition; digital; project delivery; and getting deals done.

Thematic Review – Regulatory Obligations



On 9 October 2019, the OGA launched its first [Thematic Review](#), which is aimed at assessing perceived current or emerging risks to the industry, rather than being focussed on a particular issue, field or area. With one eye on the industry's 'social licence to operate', the OGA's first thematic review was intended to improve levels of compliance with regulatory obligations by identifying potential mitigations such as better guidance, better processes or more education.

How was the Thematic Review run?

In October/November 2019, the OGA carried out an industry survey with Oil and Gas UK ("**OGUK**"). The survey was issued and responses collated by OGUK, and anonymised responses were then provided to the OGA. This approach was intended to ensure that respondents felt able to provide honest responses, to help identify where most assistance is needed in relation to regulatory compliance.

What did the Thematic Review cover?

Questions were asked in the following areas:

1. Licence Mechanics;
2. Statutory notifications of meetings;
3. Well operations and notifications system ("WONS");
4. Flaring, venting and production consents;
5. Data reporting requirements;
6. Pipeline works authorisations and associated consents; and
7. General matters related to licences and consents.

Once the responses have been analysed, the OGA and OGUK intend to work together to develop tailored solutions to the issues identified. The OGA has stated that benchmarking work will also be carried out as part of the review. The outcomes will be published in a report expected around the end of Q1 2020, which the OGA hopes will in turn increase compliance and improve communication between OGA and industry when it comes to issues of compliance.

The Energy Transition



The OGA has recognised its crucial role in supporting the UK's progression, and indeed commitment, towards a lower carbon economy and the need to [respond to the energy transition challenge](#). In line with the UK's new global statutory target to reduce carbon emissions to net zero by 2050, the OGA has recognised that "if the industry wants to survive and contribute to the energy transition it has to adapt" in light of the increased regulatory obligations upon the UK to reduce carbon emissions even further. The Chairman of the OGA Tim Eggar noted that:

- "the world of 2020 is not the same as the world of 2015";
- the "tripartite" relationship between the government, the industry and the OGA can no longer be solely focussed on the aim of maximising economic recovery
- the OGA's "social licence to operate" must be brought into sharper focus.

A formal consultation on the adaptation of the MER strategy in light of increasing commitments to carbon-zero futures is expected in Spring 2020.

UKCS Projects Insights Report



The OGA published its [2018 UKCS Projects Insights Report](#) (the “Report”) on 1 November 2019. The Report outlines the performance of capital projects on the UKCS in 2018 and compares it to past performance (2011-2016). It also gives an insight into the future project portfolio.

The Report states that projects performance has improved in 2018 and that new projects sanctioned in 2018 delivered high

value. The Report concludes that although activity outlook is robust, project approval slippage remains a concern.

Key findings



Projects delivered on time

60% of projects were delivered on time compared with 25% pre-2017;



Overspend on estimated budgets

Reduced from an average of 35% pre-2017 to 10% in 2018;



Average Unit Development Cost (“UDC”)

Reduced by nearly 60% from pre-2017 to £8/boe in 2018; and



£3.9 billion CAPEX approved

for 20 recently consented developments, with 60 projects currently being worked on by operators over the next five years.

The OGA’s Role to Support Successful Project Delivery

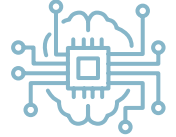


The OGA has stated that it fully supports the energy transition and welcomes the Government’s legally binding commitment to net zero emissions by 2050.

However, oil and gas will remain an important part of the energy mix for the foreseeable future. As such, the OGA believes that managing declining production and maximising economic recovery from the UKCS remains important. In order to support successful ongoing project delivery, the OGA flagged the following topics:

- Asset Stewardship Expectation 5 (project delivery) – refreshed in July 2019, the focus is on robust project delivery. SE05 describes a range of ways in which the OGA engages with operators regarding project delivery;
- The importance of engagement with industry on Project Management initiatives and sharing opportunities for project collaboration with operators and the supply chain; and
- The need to develop a consistent approach to benchmarking UKCS projects;
- The release of an updated New Field Development Process: ‘Requirements for Planning of and Consent of a UKCS Field Development’.

Digital Strategy 2020 - 2025



On 19 December 2019, the OGA published its [Digital Strategy for 2020-2025](#). The Digital Strategy outlines the OGA's commitment to digital services for the UK's oil and gas industry. It intends to promote, deliver and influence digital excellence through digitalisation to support the Maximising Economic Recovery UK Strategy and the energy transition.

According to the Digital Strategy, over the next five years, the OGA will:

- Further build and embed a culture of digital excellence across the industry;
- Advance and improve public trust in open and transparent quality data and platforms;
- Unlock and exploit data value through advanced analytical tools; and
- Collaborate with key stakeholders so services continue to improve.

The Digital Strategy builds upon the OGA's Information Management Strategy, published in 2016 (many components of which the OGA have already delivered – such as the UK National Data Repository and the UKCS Stewardship Strategy).

The OGA has indicated further plans to implement a single digital platform, which incorporates all of the OGA's digital service offerings; and an OGA-wide learning and development programme to enhance digital skills.

Benefits of the Digital Strategy

The OGA considers that the Digital Strategy will, amongst other things:

- Develop new digital platforms;
- Promote digitalisation and data;
- Deliver a single source of authoritative and transparent data;
- Achieve deeper insight by using advanced analysis, analytics and machine learning;
- Use data and technology to improve the OGA's regulatory excellence, support decision making and provide enhanced user experiences to stakeholders; and
- Deliver a digitally empowered culture and way of working that supports the OGA's "great place to work" initiative with better data, information and streamlined workflows.

The Digital Strategy states that its success will be measured in numerous ways, including by:

- Progress on the completeness and transparency of data;
- Improvements in tools and datasets that support decision making; and
- The uptake in digital technologies and use of data by the industry.

The OGA has said it will also monitor the benefits of its Digital Strategy and gather and share success stories.

Resolving the Transaction Drag for Mergers and Acquisitions



Mergers and acquisitions are now relatively commonplace in the UKCS. However, anecdotally the length of time that some third parties take to provide consent to licence assignments has been increasing, with a perceived negative impact on asset sales. The OGA raised these concerns with OGUK in the course of 2018 and, as a result, a working group was set up to address these “partner drag” issues. Subsequently, OGUK’s “Transaction Best Practice guidance” was published, which collates industry views on what constitutes reasonable and unreasonable behaviour in the context of asset transfers.

One result of these concerns has been an apparent move towards corporate rather than asset sales. Concerned that this trend could not continue indefinitely, the OGA consulted with a number of stakeholders in late 2018 and early 2019 to explore the issues arising. It has now published a summary as to what it understands the industry considers “reasonable” and “unreasonable” behaviour.

This largely mirrors the OGUK “helpful” and “hindering” behavioural guidance and fleshes it out, by detailing certain specific scenarios which may constitute each of the behaviours. For example, the OGUK guidance advises that “key information on the buyer/buyer group e.g. transparency on group structure, net assets, financial backing, group credit rating [should be provided]”, whilst the OGA guidance goes a step further to explain that a “capability pack” should “clearly set out to JV partners how the buyer demonstrates capability in these areas and be prepared to fully explain buyer funding arrangements to partners.” In effect, the “capability pack” provides an example of what might be required in providing “key information”. Whilst the coexistence of OGUK’s guidance at first instance may appear confusing, overall the commentaries are broadly consistent.

In both, there is a strong focus on laying the groundwork before a transaction commences and on facilitating open and collaborative dialogue between parties in advance. Realistic transactional timelines, early

engagement and discussions will be indications of transaction best practice whilst hiding behind claims of confidentiality and competition law to avoid co-operation may be seen to conflict with best practice. Providing a “transaction route map” is also recommended, and emphasis is placed upon keeping all parties (including the OGA) informed of any progress in the transactional timeline (or lack thereof). Delivery against the envisaged timeline and transaction milestones should be closely monitored, and early intervention is recommended if it becomes clear that certain milestones will not be achieved. Clarity, communication, and foresight are seen as the cornerstones.

Implementing this ‘best practice’ when faced with commercial reality is unlikely to be straightforward. Whether particular behaviour is “unreasonable” or “reasonable” is not a black and white question but will depend upon the specific circumstances, and both the OGUK and the OGA recognise that a hard definition of the two concepts is difficult. However, as asset sales become more complex, there are potentially a raft of novel issues to be considered against the backdrop of a maturing UKCS which may make the suggested approach difficult for many deals.

For example, the retention of decommissioning liability by the seller, which is becoming more common in the UKCS, highlights this complexity, whether structured as an asset or corporate sale. For the seller to retain

this liability more than mere partner consent will be necessary, and substantial review and amendment of agreements such as the JOA and DSA will be required to allow the seller to continue to vote in joint venture decisions in respect of decommissioning. Partners will usually have a far more significant role in reviewing and amending these agreements than in the case of a “routine” request to approve a straightforward asset sale; with multiple parties seeking to agree suitable amendments the process will naturally be more time-consuming than simply giving consent. There is no contractual obligation on the parties to re-negotiate such amendments to the agreements governing their commercial relationship, and there exist no industry-standard mechanisms to amend a DSA or JOA. This creates a relatively onerous burden on the JV partners to facilitate a transaction in which they have no active interest.

The OGA’s comments do not directly link the described behaviours to the MER UK Strategy but, although neither the OGUK guidance nor the OGA industry observations create any regulatory obligations, the OGA has stated that it may use its powers to address any behaviour which is considered unreasonable. The extent to which or circumstances in which the OGA would do so remains untested, but this approach potentially effectively elevates the industry’s own view of what is or is not reasonable to a regulatory compliance requirement.

What's Next?



Q1/Q2 2020:

Q1/Q2 2020: Consultation expected on updating OGA's role and the MER UK Strategy including in light of net zero.

Q2 2020:

Q2 2020: Decisions on Block Awards for 32nd Licencing Round expected in Q2 2020.

Publications (to end March 2020)

- [Digital Strategy 2020-2025](#)
- [UKCS Energy Integration: Interim Findings](#)
- [Sustaining Excellence in Decommissioning: the Key Messages of SPE Offshore Europe 2019](#)
- [2018 UKCS Projects Insights Report](#)
- [Thematic Review – Regulatory Obligations](#)
- [OGA Overview 2019/2020](#)
- Planned publication of Phase 2 of the OGA Energy Integration report in June 2020
- [OGA Supply Chain Strategy 2020](#)

Consultations

- [Consultation on proposals to introduce new and amended OGA fees](#)

Other announcements

- [Invitation to service providers to gather views on NDR roadmap](#)
- [Revised Measurement Guidance now available](#)
- [2019 UKCS Stewardship annual survey now open](#)
- [Onshore update - November 2019](#)
- [Launch of new Mediation Pilot Scheme](#)
- [Appointment of new OGA Director of Operations in a trio of leadership appointments](#)
- [OGA 2019/2020 Overview – Refreshed KPIs](#)

[COVID-19 Response](#)

The OGA has published a suite of guidance relating to the recent COVID-19 pandemic, Specific guidance is offered to industry participants on how to manage licences and new licence applications and how to ensure effective operatorship in addition to resources providing guidance on how financial and operational resilience can be maintained. Key contacts are provided for each of these aspects, in addition to a dedicated [COVID-19 Business Support Page](#).

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