



Oil & Gas
Authority

Response to the consultation on OGA supplemental guidance

For the disclosure of certain Geophysical Data
(created or acquired under an Exploration Licence
post-2017)

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The consultation can be found on the OGAs website: <https://www.ogauthority.co.uk/news-publications/consultations/2019/consultation-on-oga-supplemental-guidance-post-2017/>

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General information

Purpose of this document

This document sets out the OGA's response to the consultation on the OGA Supplemental Guidance on the disclosure of certain Geophysical Data created or acquired under an Exploration Licence post-2017.

Consultation reference: <https://www.ogauthority.co.uk/news-publications/consultations/2019/consultation-on-oga-supplemental-guidance-post-2017/>

This response issued: 14 September 2020

Territorial extent: UK Continental Shelf (UKCS).

Additional copies:

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Quality assurance

This consultation has been carried out consistent with the [government's consultation principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

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Introduction and Background

1. This document summarises the feedback on, and sets out the OGA's response to, the *Consultation on OGA supplemental guidance - Disclosure of certain Geophysical Survey Data (created or acquired under an Exploration Licence post-2017)* (the '**post-2017 Consultation**').¹ The licence terms in an Exploration Licence are granted under the Petroleum Act 1998 ('**1998 Act**').²
2. The post-2017 Consultation was conducted between 27 March and 27 April 2019, along with various stakeholder meetings held later that year. The consultation asked for stakeholders' views, including those in the UK oil and gas industry, on how Geophysical Survey Data ('**GSD**' or '**Data**') created or acquired under an Exploration Licence after 2017 will generally be published by the OGA as set out in the supplemental guidance, and particularly on the timelines proposed for the release of these Data.

geophysical data products prepared using the post-2017 GSD will lead to a higher technical baseline for work undertaken on prospects and discoveries, as well as stimulating an increase in reworking of legacy data, and increased acquisition and uptake of newer data.
3. The UKCS Maximising Recovery Review Final Report ('**the Wood Review**') recognised that the timely disclosure of data plays a significant role in the UK oil and gas industry, access to high quality data will help deliver more effective and efficient ways to maximise economic recovery from UKCS across the whole of the oil and gas lifecycle, and data acquired under an Exploration Licence forms an essential part of the national database that has been built up over the years.
4. The OGA recognises the role that readily available GSD can play in the unlocking of economic value on the UKCS, and the OGA considers that the disclosure of geophysical data is an important part of the effort to stimulate exploration, appraisal and development activity, in addition to energy transition activities, on the UK Continental Shelf. It is anticipated that the wider availability of

Additional activities on the UKCS, such as the development of carbon capture and storage and associated hydrogen production and storage schemes, are also expected to benefit from access to such legacy GSD and would similarly lead to the increased reworking of legacy data, new acquisition and/or licensing of newer available data sets. As a specific example use, carbon storage schemes will rely upon GSD to characterise potential storage sites (to an appropriate storage readiness level) and identify key subsurface risks on a regional scale, which may relate to hydrocarbon fields that have ceased production, regional aquifers, or other suitable structures/traps. In many areas of the UKCS, legacy data are required to support preliminary assessments by allowing the mapping of potential storage sites, storage complexes and hydraulically connected units and potential leak points. Such mapping will be required across areas large enough that they require access to multiple legacy datasets to be completed effectively. In many cases, such datasets will benefit from combined reprocessing. Once such preliminary work is done, it is expected to stimulate further GSD baseline surveys and, ultimately, in the case of operational schemes, will require frequent or permanent monitoring using GSD, supporting an ongoing stream of new geophysical activity.

The importance of the disclosure of geophysical data

¹<https://www.ogauthority.co.uk/media/5456/consultation-on-oga-supplemental-guidance-post-2017.pdf>

²Or under the Petroleum (Production) Act 1934 if granted prior to the 1998 Act taking effect

Rationale for the proposed guidance

6. The Energy Act 2016 ('2016 Act') sets out the powers relating to the retention of petroleum-related Information and Samples by relevant persons, reporting them to the OGA, and their subsequent publication by the OGA. In February 2019, the OGA published its **Reporting and Disclosure Guidance**,³ The Reporting and Disclosure Guidance is based on the legal framework set out in the Energy Act 2016⁴ and the relevant **Retention**⁵ and **Disclosure Regulations**.⁶ That guidance sets out the requirements for reporting information and samples acquired under an offshore Production Licence and how that information may be disclosed and only applies to certain GSD created or acquired during or after 2018 and under an offshore Production Licence.
7. The Retention and Disclosure Regulations also specify stated time periods after which the OGA may publish information including relating to surveys acquired or created by the Exploration Licensee. A summary of those timelines was set out on page 5 of the post-2017 Consultation.
8. Whilst a number of the categories of information and samples described in the Reporting and Disclosure Guidance will be created or acquired under an Offshore Production Licence, there is also important GSD information created and acquired under an Offshore Exploration Licence, which is not covered by the Reporting and Disclosure Guidance.
9. The OGA, therefore, is publishing supplemental guidance, to supplement the Reporting and Disclosure Guidance, setting out how certain defined GSD acquired or created under an Exploration Licence after 2017 should be reported to the OGA, and provide additional information on how this information will generally be published by the OGA following the completion of the Protected Periods (referred to in the Post-2017 Consultation as the 'Disclosure Protection Period').

This supplementary guidance can be found at: <https://www.ogauthority.co.uk/exploration-production/documents/supplemental-guidance-post-2017/> (referred to as the "post-2017 Supplementary Guidance" or "this Guidance").

10. The OGA is also publishing supplemental guidance in relation to the reporting and disclosure of GSD acquired or created under an Exploration Licence pre-2018. Information on that supplemental guidance can be found at: <https://www.ogauthority.co.uk/exploration-production/documents/supplemental-guidance-pre-2018/>

³<https://www.ogauthority.co.uk/news-publications/publications/2019/reporting-and-disclosure-of-information-and-samples-guidance/>

⁴<https://www.ogauthority.co.uk/media/5353/oga-guidance-on-reporting-disclosure-18-february-2019.pdf>

⁵The Oil and Gas Authority (Offshore Petroleum) (Retention of Information and Samples) Regulations 2018, <http://www.legislation.gov.uk/uksi/2018/514/contents/made>

⁶The Oil and Gas Authority (Offshore Petroleum) (Disclosure of Protected Material after Specified Period) Regulations 2018, <http://www.legislation.gov.uk/uksi/2018/898/contents/made>

OGA response to the views expressed

Summary of consultation responses

11. The OGA considers the overall response to the proposal for the disclosure of post-2017 seismic data to be positive, with the main proposals supported by all respondents. The responses that have been received represent both data owners (i.e. the geophysical contractor community) and users (i.e. exploration and production companies), and there is broad agreement that the disclosure timelines are appropriate.
12. The comments received in this consultation process are greatly appreciated, and where appropriate, have been incorporated in the post-2017 Supplementary Guidance.

Details of responses received

13. The OGA received 10 responses representing exploration and production companies (6), geophysical contractor companies (1) and industry associations (3). A full list of respondents is given in **Annex 1**. Below is a summary of the responses received.

Disclosure of Final Stack Data (Processed Information):

Question 1: The Exploration Licence clauses set disclosure timing at three (3) or five (5) years (depending generally on the date of grant of the licence) for final stack data. The Disclosure Regulations and Post-2017 Supplementary Guidance state that Final Stack Data will be disclosed ten (10) years after the completion of final processing (i.e. the Initial Confidentiality Period in respect of Processed Information).

Q1A: Do you agree that this period is reasonable?

Q1B: If you answered 'no' to Q1A, what longer period should the OGA consider? Please provide reasons for any alternative period proposed.

14. Of the ten responses to this question, four exploration and production companies, two exploration and production industry associations, one geophysical contractor and one geophysical contractor industry association supported the proposal - with two exploration and production companies indicating that the period should be shorter.
15. A question was raised regarding when the "clock starts ticking" for disclosure. The proposal indicates that data may be published 10 years after the completion of the final processing. Several respondents would prefer publication after completion of acquisition, which is an unambiguous, official and recorded date and would avoid any disagreement or discussion about what constitutes a "final processing".

OGA response

16. Reflecting the broad support for the proposal, the OGA considers that the period after which initial Final Stack Data (Processed Information) may be published should be 10 years.
17. Also, the OGA considers that the start of the Protected Period will be the date on which the original final processing relating to the relevant survey is completed. However, monitoring this will require geophysical companies to be cooperative in supplying this date to the OGA in a transparent manner. Where evidence for a verifiable processing Completion Date cannot be provided, the OGA considers it appropriate to use 31 December of the acquisition year in which the survey operations were started as the trigger date for the Protected Period.

OGA response

19. The proposal that field data should be disclosed after 15 years received considerable support. The 15-year non-disclosure period is in line with the Disclosure Regulations. The Guidance therefore sets out that the Protected Period for raw data is 15 years after finalisation of the initial processing.
20. Again, the start of the Protected Period will be the date on which the original final processing relating to the relevant survey is completed. However, monitoring this will require geophysical companies to be cooperative in supplying this date to the OGA in a transparent manner. Where evidence for a verifiable processing Completion Date cannot be provided, the OGA considers it appropriate to use 31 December of the acquisition year as the trigger date for the start of the Protected Period.

Disclosure of Field (Raw) Data (Original Information):

Question 2: Similar to Final Stack Data, the Exploration Licence clauses set disclosure timing at three (3) or five (5) years for field (raw) data. The Disclosure regulations and Post-2017 Supplementary Guidance state that Field (raw) Data will be disclosed fifteen (15) years after the completion of final processing (i.e. the Full Confidentiality Period in respect of Original Information).

Q2A: Do you agree that this period is reasonable?

Q2B: If you answered 'no' to Q2A, what longer period should the OGA consider? Please provide reasons for any alternative period proposed.

18. Of the 10 responses to this question, two exploration and production companies, one geophysical contractor and one geophysical industry association supported the proposal - and four exploration and production companies, and two exploration and production industry associations considered that the period should be shorter.

Disclosure of Value-Added Data:

Question 3: Value Added Data, being products created after the completion of final processing, have not been and will not be (pursuant to the Disclosure Regulations and Post-2017 Supplementary Guidance) disclosed.

Q3A: Do you agree that allowing value added data products to be retained by the owner will provide them with an incentive to continue to improve the quality and usefulness of the datasets, as well as develop new processing technology and techniques?

Q3B: If you answered 'no' to Q3A, what longer period should the OGA consider? Please provide reasons for any alternative period proposed.

21. Of the 10 responses, three exploration and production companies, one geophysical contractor and one geophysical industry association agreed that value added data should not be disclosed. Several respondents argued for a release of value-added data as well, especially if the 15-year release rule for raw data is maintained.

OGA response

22. The OGA considers that allowing *Value Added Data* to be retained by the owner will provide an incentive to improve the quality and usefulness of data sets. Therefore, the OGA does not propose that *Value Added Data* from post-2017 GSD will generally be subject to disclosure.

Question 4. Do you have any further comments on the matters raised in this consultation?

23. In addition to answers to the consultation questions, respondents also included a number of specific comments in answer to question four and in separate commentary and meetings.
24. Comments were raised by all respondents, many reiterating the preference to release data earlier rather than later. The topics that were raised in the comments can be summarised as requests for additional clarification in relation to:
- whether the Data will be released under a specific version of the NDR User Agreement
 - whether the disclosure will specify and include all data types, including gathers and pre-stack data
 - the right of data owners to make a representation to extend the confidentiality period for data sets that are deemed valuable for the company
 - whether information on how compliance with obligations to disclose data will be enforced if a company refuses to disclose the Data
 - ownership of the Data after disclosure.
 - what happens with the licence contract / previous commercial agreements after the disclosure period kicks in?
 - whether future changes to the guidance may be implemented without consultation with industry
 - the differences between Exploration Licences and Production Licences

There was also a concern raised about unreasonable copying charges.

OGA response

What can I do with the disclosed data?

25. The reference to disclosed Data is a reference to the OGA publishing the Data under an Exploration Licence, and the OGA has made clear that the Exploration Licences and the Disclosure Regulations refer to the OGA publishing the GSD. The Data will be published by the OGA through the NDR and the permitted use of such published Data is set out in the **NDR User Agreement**.⁷
26. The NDR User Agreement sets out, for registered users, the OGA's terms and conditions for fair and proper use of the NDR system and for use of such published Data obtained from the NDR, in particular "Public Information"; that is, information that has been uploaded to the NDR by a relevant person in fulfilment of their obligation to report information to the OGA and subsequently published by the OGA in exercise of its powers.
27. The NDR User Agreement states at Clauses 16 onwards how the GSD can then be used, once published.
28. It states at Clause 17 that the user can "*store in memory, manipulate, copy, analyse, reformat and print the Public Information*". Therefore, for example, a user can use the published Data for its own internal purposes to analyse whether or not to apply for a licence.
29. Furthermore, the user must acknowledge the use of the information by including a statement that the Data has been provided by the OGA (Clause 18).
30. If the Data is provided by the geophysical company to another party, reasonable reproduction and storage, plus media/transmission costs, may be chargeable by the geophysical company. However, there should be no charges for anything additional (e.g. copyright charges) if the Data is to be used by that other party for their internal purposes (such as considering whether to apply for a Licence): this will be different if the intent of use is to create new products for sale.
31. However, the NDR User Agreement also states (at Clause 17) that, unless the OGA is the owner of the Data, the OGA does not own the intellectual property rights in the GSD and cannot therefore authorise other specific use(s) a user may wish to make of the Information. In that case, the user should contact the data owner.
32. Geophysical companies are still free to sell their value-added products under a commercial agreement, since these are not captured under the scope of releasable Data.

⁷https://ndr.ogauthority.co.uk/dp/pages/NDRDocuments/General_Information/NDR_TermsAndConditions.pdf

What happens if the NDR User Agreement changes in the future?

33. The Data would be disclosed according to the valid NDR User Agreement at the time of disclosure.

Does the disclosure include ancillary data such as navigation data, gathers etc?

34. The Data types to be disclosed are listed in **Appendix 2** of the post-2017 Supplementary Guidance. In summary:
- The **Initial Disclosure** (after 10 years) includes disclosure of processed information, i.e. processed full stack volumes, final processed angle/offset volumes and final stacking/migration velocity data plus the original final processing report.
 - The **Full Disclosure** (after 15 years) includes disclosure of all raw and remaining pre-stack data, such as raw and processed positional data, field records, pre-stack gathers, etc.

Confidentiality protection period

35. As set out in this Guidance, and subject to the limits therein, the data owner can make a representation to the OGA, supported by evidence, to withhold disclosure of Data of a specific dataset for a period that is longer than the stated Protected Periods. This will be considered on a case-by-case basis and will take into account any relevant factors, such as confidentiality related to proprietary technology, the availability of acreage for Production Licensing through Licence Rounds and Out of Round opportunities in the survey area, and considerations to maintain an open and fair competitive environment.

What happens if a company refuses to disclose the Data?

36. The data owner is obliged under the Disclosure Regulations to report the Data to the OGA/ NDR. Failure to do so may result in a sanction.⁸ The OGA will be entitled to publish the Data on the date of disclosure (i.e. 10/15 years after completion of processing), unless the OGA has agreed in writing to extend the Protected Period.

Ownership of Data after disclosure

37. As set out in the NDR User Agreement,⁹ where the GSD is not owned by the OGA, the Intellectual Property remains with the original data owner. Therefore, any use beyond use of the Data as permitted under the NDR User Agreement will require the data owner's agreement. This is regulated by the NDR User Agreement which states that unless it is the OGA's Data, "*the OGA does not own the intellectual property rights in the information and cannot authorise, where applicable, specific use(s) you may wish to make of the information*" (Clause 17).

What happens with the data licensing contract a company (data user) has with the licensee (data owner) after the disclosure period (Confidentiality Period) kicks in?

38. It will depend on what is set out in any contract and each individual company will have to take their own legal view but, generally, a commercial arrangement is valid as per its terms.

⁸https://www.ogauthority.co.uk/media/5760/oga_sanctions_procedure-may-2019.pdf

⁹https://ndr.ogauthority.co.uk/dp/pages/NDRDocuments/General_Information/NDR_TermsAndConditions.pdf

Can this Guidance be changed in the future, and in that case, will there be a new round of consultation?

39. The OGA may change the Guidance in the future, in light of further experience and developing law and practice, and whether the OGA will consult or not on such changes will depend on what is to change.

What is the difference between an Exploration Licence and a Production Licence?

40. Different types of licences are awarded in the offshore realm, and further information about the licensing system can be found on <https://www.ogauthority.co.uk/licensing-consents/types-of-licence/>.
41. An **Exploration Licence** is a general, non-exclusive, licence to acquire data anywhere on the UK Continental Shelf, and is used for, among other things, acquisition of seismic data, seabed sampling or other acquisition of marine geological or geophysical data. An Exploration Licence gives the licence holder the right to carry out these activities in principle anywhere on the UKCS, but area-specific permissions have to be obtained before the activity can start. The licence holder of an Exploration Licence does not own the right to any acreage or the resources therein.
42. This consultation concerns only data acquired under an Exploration Licence. An Exploration Licence always has the prefix 'E', followed by a serial number (e.g. E001)
43. A **Production Licence** is a licence with a clearly defined areal extent and gives the licence holder the right to explore for and develop offshore hydrocarbon resources within the licensed area. These licences are awarded in "licensing rounds" and contain various phases, of which the **initial term** is usually an exploration phase (not to be confused with an Exploration Licence). A Production Licence always has the prefix 'P' followed by a number (e.g. P001).

Impact Assessment/Equality Impact Assessment

44. The OGA approach follows the Disclosure Regulations so we have assessed the potential impacts on business from the implementation of the Disclosure Regulations. Overall benefits from earlier disclosure of seismic data are to be expected as set out in the impact assessment section of the [pre-2018 Consultation response](#). We would expect distributional impacts in the form of lower revenues for commercial seismic companies and lower costs for those who would have purchased their data. There is also the potential for a behavioural impact, from reduced incentives to acquire such data in future, though the wider availability of geophysical data products prepared using the post-2017 GSD is expected to lead to a higher technical baseline for work undertaken on prospects and discoveries. That, as well as the expected stimulus to reworking of legacy data, should lead to increased demand for newly acquired data. Additional uses on the UKCS, such as the development of carbon capture and storage and associated hydrogen production and storage schemes would also benefit from access to GSD and would similarly lead to the increased reworking of legacy data, new acquisition and/or licensing of newer available data sets.
45. Further, the OGA has a general duty (the Public Sector Equality Duty) under section 149 of the Equality Act 2010 in carrying out its functions to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation;
 - advance equality of opportunity between different groups; and
 - foster good relations between different groups
46. We have considered whether this Guidance would have an adverse impact on persons with protected characteristics. Our assessment is that, given the corporate nature of Exploration Licensees and the general application of the requirements set out, it is not considered that there would be such an impact.

Details on which can be found at <https://www.equalityhumanrights.com/en/equality-act/equality-act-2010>.

Conclusion and next steps

47. Based on the responses provided to the consultation, the OGA has reviewed and, where appropriate, updated the contents of the post-2017 Supplementary Guidance. The OGA has published the Guidance alongside this document.
48. This Guidance will be implemented from 14 September 2020.

Annex 1: list of organisations responding to the consultation

Below is a list of organisations that responded to the consultation.

- **Encounter Oil Ltd**
- **Ineos Oil & Gas UK**
- **International Association of Geophysical Contractors (IAGC)**
- **Ion Geophysical**
- **Oil & Gas UK and Common Data Access Limited (OGUK-CDA)**
- **Oil & Gas Independents' Association (OGIA)**
- **Parkmead Group plc.**
- **Pharis Energy**
- **Siccar Point Energy**
- **Taq Bratani Ltd**



Oil & Gas Authority

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