



Oil & Gas Authority

21 Bloomsbury
London WC1B 3HF

Helen Chuntso

By email to: request-513381-917d8083@whatdotheyknow.com

Our ref: FOI-2018-0048

6 November 2018

Dear Ms Chuntso,

Thank you for your email of **28 August 2018** in which you requested:

"Dear Oil and Gas Authority,

I note from the following guidance you sent to me which is available at:

https://emea01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ogauthority.co.uk%2Fmedia%2F4693%2Fmarch-2018_consolidated-onshore-guidance-compendium_vfinal.pdf&data=02%7C01%7Cfoirequests%40ogauthority.co.uk%7C3b6738f80a4e4e57b9e708d60cca1ebe%7Ce681c59d868e488780face36f1f21b0f%7C0%7C0%7C636710459571542472&data=eNYqXeJSf9aU3L9xf10MY7dN09qHAuDlqCfzE0afiM%3D&reserved=0

that p21 states that you require :

'A Board letter confirming scope of insurance or availability of necessary funds for any required remedial work'

Therefore, as per your previous response :

https://emea01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.whatdotheyknow.com%2Frequest%2Fcuadrilla_insurance%23incoming-1145265&data=02%7C01%7Cfoirequests%40ogauthority.co.uk%7C3b6738f80a4e4e57b9e708d60cca1ebe%7Ce681c59d868e488780face36f1f21b0f%7C0%7C0%7C636710459571542472&data=ixTOulkzX%2F5LkzuFdqxvwah3UO4hrVjN248xSvVFkAl%3D&reserved=0

to my initial request

https://emea01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.whatdotheyknow.com%2Frequest%2Fcuadrilla_insurance%23outgoing-745792&data=02%7C01%7Cfoirequests%40ogauthority.co.uk%7C3b6738f80a4e4e57b9e708d60cca1ebe%7Ce681c59d868e488780face36f1f21b0f%7C0%7C0%7C636710459571542472&data=i7bf%2FxlXsu2fZyIT%2FWOGXY0SRvkih05p%2BylRqV2Njw8%3D&reserved=0

I now make request the following information.



Oil & Gas Authority

1) Please provide a copy of all email communications between OGA and Cuadrilla (Resources), detailing Cuadrilla's provision of the company insurance, to include

- i) the dates of all communications*
- ii) the extent of the policy cover - including the total total liability covered*
- iii) any exclusions to the policy.*

2) Please detail and explain how the insurance criteria of 'Energy Package - including Onshore Property and Operator's Extra Expense Public Liability, Pollution Liability and Products Liability Excess Public Liability, Excess Pollution Liability and Excess Product Liability'

- provides cover for*
- i) third party liability,*
 - ii) environmental liability*
 - iii) loss of well control*

Please provide confirmation

3) that you are satisfied that the insurance criteria on PEDL 165 are met by the operator

4) that 'an additional £40M limit for any one occurrence or series of occurrences' is satisfactory, (if this is still the 2018 limit)."

1. We have considered your request under the Freedom of Information Act 2000 (**FOIA**) and, where relevant, the Environmental Information Regulations 2004 (**EIRs**).
2. The OGA holds correspondence between the OGA and Cuadrilla (Resources) relating to Cuadrilla's provision of its company insurance to the OGA, and a copy of that insurance (your **Request 1**).

REQUEST 1

3. The information you have requested was requested previously by you in case ref: FOI-2018-0011, with this current request covering a further period of time.
4. Noting that your request covers a further period of time, please find attached copies of the communications between the OGA and Cuadrilla relating to confirmation of insurance funds, levels of cover and liability which we hold subsequent to the request made for FOI-2018-0011. Also, we have since had confirmation that this insurance has been renewed as of 1 October 2018.
5. You will note some of the information has been redacted. While the OGA strives to disclose as much information as we are able, some information is



Oil & Gas Authority

exempt from disclosure under one or more of the exemptions/exceptions in FOIA and/or the EIR.

6. Having considered the information which falls within the scope of your request, we consider the information which has been withheld to be exempt under the following exemptions provided for under FOIA:

- i) Section 40(2) FOIA (personal data).
- ii) Section 41(1) FOIA (*information provided in confidence*)
- iii) Section 43(2) FOIA (*commercially confidential*)

Where applicable, the following EIR exceptions also apply:

- Regulation 12(5)(e) EIR (*commercially confidential*)
- Regulation 13(1) EIR (*personal data*).

An explanation of the reliance on each of these exemptions/exceptions is set out below.

Section 40(2) FOIA and Regulation 13(1) EIR (personal data)

7. The names, signatures and contact details in the disclosed correspondence have been redacted. The redacted information is being withheld under *Section 40(2) FOIA* and *Regulation 13(1) EIRs*.
8. The disclosed correspondence contains the names and contact details of a number of individuals. This information is being withheld under *Section 40(2) and 40(3A) FOIA* and *Regulation 13(1) EIRs*. *Section 40(2)* provides that personal data is exempt from if one of the conditions in 40(3A) is satisfied. One of the conditions in *Section 40(3A)* is a breach of any of the data protection principles in the *Data Protection Act 2018 ('DPA')*. The data protection principles include that any processing of personal data must be fair and lawful. The provisions of *Section 13* EIRs mirror those of *Section 40(2) FOIA*.
9. The OGA considers that disclosure of the names and contact details of the individuals would breach the principles of fairness and lawfulness. The individuals whose details have been withheld have and are entitled to an



Oil & Gas Authority

expectation of privacy. In any event, the relevant individuals have not consented to their personal data being disclosed.

10. As such, disclosure would meet neither the fair nor lawful processing principles. In light of this, this is being withheld under *Sections 40(2) and 40(3A) FOIA* and *Regulation 13(1) EIR*.

Section 41(1) FOIA (Information provided in confidence)

11. Also, in respect of the identity of the insurance provider concerned, insurance policy including level of cover, policy number, and total liability, *Section 41(1) FOIA* provides that information is exempt from disclosure if it was obtained by the public authority from any other person (including another public authority) and the disclosure of the information would constitute a breach of confidence actionable by that or any other person.
12. The information was provided to the OGA in the course of discharging its statutory functions. But for the exercise of its statutory functions the OGA would not be able to obtain information in respect of Cuadrilla insurance for potential liabilities in respect of its oil and gas licensing activities. The circumstances in which the OGA obtained Cuadrillas insurance information was such that it has the necessary quality of confidence to justify the imposition of an equitable obligation of confidence. To breach this confidence would firstly be “actionable” – i.e. Cuadrilla could bring a legal case against the OGA for breach of confidence and the OGA considers that such an action would be likely to succeed.
13. While *Section 41* is an absolute exemption which does not usually require consideration of the public interest, the OGA has nonetheless considered whether it is in the public interest for the requested information to be disclosed. In this particular case, the OGA considers that the appropriate balance has been struck between transparency in letting the public know that an adequate level of insurance is provided for and preservation of the legitimate economic interests of the company concerned. The OGA does not consider that revealing the identity of the insurance company would be of any greater service to the public that would outweigh the genuine harm that could be brought to Cuadrilla and the insurance company as a result.
14. In light of the matters set out above, the OGA is also withholding any information it may have received in respect of the identity of the insurance provider, unique identifying numbers and exact levels of cover under *Section 41(1) FOIA*.



Oil & Gas Authority

Section 43(2) and Regulation 12(5)(e) EIRs (commercially confidential)

15. *Section 43(2) FOIA* provides that information is exempt from disclosure if disclosure would, or would be likely to prejudice the commercial interests of any person (including the public authority holding it). *Regulation 12(5)(e) EIR* provides that a public authority may refuse to disclose information to the extent the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.
16. The OGA is withholding information in respect of the identity of the insurance provider concerned, insurance policy including level of cover, policy number, and total liability under *Section 43(2) FOIA* and *Regulation 12(5)(e) EIR*. One of the functions of the OGA is to regulate the oil and gas industry. In exercising its regulatory functions, the OGA obtains information such as details of insurance arrangements in place by licensees which cover activities regulated by the OGA.
17. The OGA is withholding information in respect of the identity of the insurance provider concerned and the terms of the policy including the level of cover and exclusions, under *Section 43(2) FOIA* and *Regulation 12(5)(e) EIR*. One of the functions of the OGA is to regulate the oil and gas industry. It regularly requests and receives information in the discharge of its functions. Information in respect of insurance provisions for adverse events arising as a consequence of licensed oil and gas activities is an example of information the OGA requests and receives.
18. Disclosure of the identity of the insurance provider the level of cover and the policy exclusions, would disclose the terms on which Cuadrilla was able to obtain the policy. Such disclosure would or would be likely to prejudice the commercial interests of Cuadrilla by weakening its bargaining position in a competitive environment. Further, disclosure of the requested information would disclose to Cuadrilla and the insurer's competitors, the terms on which the insurance policy was being provided. This would, or would be likely to, prejudice the commercial interests of Cuadrilla and its insurers.

Public Interest

19. In withholding the requested information, the OGA has considered whether the public interest in withholding the information is outweighed by the public interest in disclosing the requested information. The OGA acknowledges that disclosure of the requested information can lead to greater transparency and enhanced scrutiny of public authorities. However, the need and desire for greater transparency must be balanced against the need to protection the



Oil & Gas Authority

commercial interests of both the public and private sectors and the OGA's objective of having an effective system of regulation.

20. Therefore, in light of the matters set out above, the requested information is being withheld pursuant to *Sections 43(2) FOIA* and *Regulation 12(5)(e) EIR*.

REQUESTS 2 - 4

21. In relation to the other matters you raise (**Requests 2, 3 and 4**), you have either asked for legal advice on how insurance policies work or the OGA's views on certain matters related to that insurance, on which we do not hold the information you have requested. The insurance is in line with general Industry standards to provide the necessary cover in such circumstances.

22. This concludes the OGA's consideration of your request.

Appeals procedure

If you are unhappy with the way the OGA has handled your request, you may request an internal review. A request for an internal review should be made within 40 working days of the date of receipt of the response to your request and should be addressed to:

FOI Manager
Oil and Gas Authority
21 Bloomsbury Street
London
WC1B 3HF
Email: foirequests@ogauthority.co.uk

Please quote the reference number above in any future communications with regard to this request.

If you are unhappy with the outcome of the internal review, you may contact the Information Commissioner at www.ico.org.uk or at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.



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Yours sincerely,

FOI Officer