



Oil & Gas Authority

21 Bloomsbury Street
London WC1B 3HF

Richard Bales

By email to: request-522085-d9fbf7f8@whatdotheyknow.com

Our ref: FOI-2018-0054

19 November 2018

Dear Mr Bales,

Thank you for your email of **26 September 2018** in which you requested:

"Dear Oil and Gas Authority,

Would you please confirm what form of Parental Guarantee has been provided by Ineos Holdings Limited or other parts of the Ineos Group to underpin the liabilities and obligations of Ineos Upstream Limited, in respect of the various PEDL agreements currently in place. Please provide copies of relevant documentation or correspondence."

1. We have considered your request under the Freedom of Information Act 2000 (**FOIA**), and where relevant, the Environmental Information Regulations 2004 (**EIRs**).
2. While the OGA strives to disclose as much information as we are able, some information is exempt from disclosure under one or more of the exemptions/exceptions in FOIA and/or the EIR.
3. The OGA is provided from time to time Deeds of Guarantee (**'Guarantee'** – previously known as a Parental Guarantee) from companies. In this instance, for the reasons set out below, we are neither confirming nor denying whether or not we have been provided with a Guarantee from INEOS.
4. To confirm the same is exempt under the following exemption:
 - *Section 43(3) FOIA (commercially confidential).*



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Where relevant, the following EIR regulation exception also applies:

- *Regulation 12(5)(e) EIR* (commercially confidential).

Section 43(3) FOIA and Regulation 12(5)(e) EIRs (commercially confidential)

5. Whether information exists and is held by the OGA is itself the disclosure of information.
6. *Section 43(3) FOIA* provides that the duty to confirm or deny whether the OGA holds the requested information *does not* arise if confirming the same would, or would be likely to, prejudice the commercial interests of the OGA or a third party. *Regulation 12(5)(e) EIRs* 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.
7. Even confirming whether or not the OGA holds a copy of a Guarantee in this instance would likely provide Ineos' competitors with information on their financial status and, by doing so, would likely undermine Ineos' commercial position (for example by undermining Ineos' ability to get credit, or making such credit more expensive, forcing Ineos to provide guarantees more widely, thus increasing liability, or not providing them, thus losing business).
8. All of this is likely to have negative repercussions for Ineos in a competitive environment.

Public Interest

9. The OGA acknowledges that disclosure of whether or not it holds 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 protect the commercial interests of both the public and private sectors and the OGA's objective of having an effective system of regulation.
10. The public may rightly wish to understand whether a licensee's liabilities can be met by the company rather than fall to the tax payer in the event of a company's financial failure. However, in disclosing whether a Guarantee exists would likely impact negatively Ineos' commercial interests and also make it more difficult for the OGA to request Guarantees from licensees in the future.



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11. In light of the matters set out above, the OGA is withholding any information regarding the existence or not of a Guarantee.
12. This concludes the OGA's consideration of your request.

Appeals procedure

13. 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

14. Please quote the reference number above in any future communications with regard to this request.
15. 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.

Yours sincerely,

FOI Officer