

“It’s a failure if we have to undertake enforcement – it’s much better to find less formal resolutions.”



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What was it like operating through 2020?

The Oil & Gas Authority (OGA) is a relatively contained organisation of about 180 people. With thanks to our great IT team, we already had in place the right level of support for home working. A lot of that planning comes from being over two sites and nations – Aberdeen and London – so we’ve had this remote communication for the last five years. We did a number of large projects in 2020, including reviewing our strategy for offshore regulation, and we did that remotely, including having various townhall meetings with stakeholders and then publishing the draft that’s now been made public. The work progressed well despite not having face-to-face meetings.

Could you give us some background into how the OGA works?

It was set up in 2015 as an executive agency of the then Department for Energy & Climate Change. We became an arms-length body in 2016, when we were incorporated as a Government company. Part of our role is to influence and promote the industry as well as to regulate it. With this in mind, we have at our statutory core, collaboration with industry and the UK Government, and that’s hard-wired into legislation, which is unique among public bodies such as ourselves. That we work not only with industry but UK Government generally on our matters has helped shape industry’s views on energy transition this year. We primarily look at maximising economic recovery in the offshore area and we’ve published the reviewed strategy, which expressly includes, as part of this, energy transition matters. Within that, we are now requiring those we regulate to take appropriate steps to assist the Secretary of State in meeting the net-zero target.

You highlight collaboration – is the OGA undertaking much enforcement?

As a consequence of the Energy Act 2016, our enforcement powers offshore were enhanced. We can make declarations, we can fine up to £1m, we can take people off licences. But it’s a failure of communication if we have to get to an enforcement decision where we do this. It’s much better if we can find less formal resolutions to any disagreements, including agreeing binding compliance plans.

We set up an escalation process whereby our operations team works with companies to resolve any issues and then they move to something called ‘enhanced facilitation’ if it needs to be moved to a senior level. If there is no agreement at this stage, it is then handed over to the regulatory directorate, which would likely open up an enquiry. If it moves to the enquiry stage, we have powers to investigate. We’re dealing in this space not only with licensees who don’t follow their licence rules, but also with companies who fall out because there is so much investment needed on joint projects – sometimes billions of pounds. That we haven’t needed to issue an enforcement decision as yet I see as a positive – that our staged enforcement approach is working.

“Disputes can take up a lot of unnecessary time, effort and money, when we’d often be able to resolve things if we’d been approached at the start.”

A lot of GCs are thinking about environmental issues as risks they will have to manage more in future. How do you see energy policy evolving in the next five to 10 years?

This is a positive move for societal benefits, but it’s how that’s best done. This is about making sure we’re working together towards this common aim, because what people want to do about offshore is not just about oil and gas. We’re also looking at things like oil and gas platform electrification to reduce emissions and the support of offshore energy hubs, which are one-stop shops for the generation and transition of different types of energy. A big part of this debate will be the consideration of the investment levels needed to make the transition work, getting the reward/risk balance right, and getting companies to invest. Ultimately, while we can help support industry, it’s industry that needs to make the moves towards this. In the oil and gas industry, you are seeing companies doing that. Once you start getting the demand, you start getting the market.

Is the investor aspect significant? Many oil majors currently have depressed share prices amid concerns about fossil fuel’s long-term viability.

There is a changing approach now to investment and that’s one of the things we have in mind about encouraging investment in the UKCS [UK continental shelf]. Certain companies, for example, are repositioning themselves for their long-term future in this area, which companies should be at least considering. Sometimes at a company you have to take this lateral step to reassess and regroup and then look to push forward in different areas.

How much impact does Brexit have on energy policy and regulation over the next few years?

The UK Government is certainly taking energy transition seriously – we’re one of the world leaders. You just have to look at the energy white paper that’s been published [in December 2020]. We’ve also got COP26 [the UN Climate Change Conference of the Parties] coming in November in Glasgow, so it’s a real time for the UK to show the great work it’s been doing. We’re also looking at the North Sea transition deal for the oil and gas industry, which outlines how the UK Government plans to support the transformation of the UKCS to a net-zero basin by 2050.

If you were advising GCs on how to manage environmental liabilities or de-risk their business, are there obvious steps you’d highlight?

As far as disputes with the OGA is concerned, it’s opening up the conversation. It can take up a lot of unnecessary time, effort and money when a company has a dispute with us, that many times could have been resolved if we’d been approached at the start of things. One of the steps the OGA has done in relation to commercial disputes is to work with CEDR supporting a pilot UKCS mediation scheme, to try to help companies come together. We’re only six months into it, and while it has been used, it hasn’t been used as much as I’d hoped. It is a great opportunity for businesses to de-personalise their disputes, which sometimes mar win-win negotiations, and try and find common ground.

Looking ahead at how environmental policy will change over the next 10 years, what should companies be expecting?

To see it as a benefit and an opportunity. It's all change management and this is one of the most fundamental change periods for companies they will be facing because this has been so sudden. There has been much talk over the years about climate change, but in probably in the last few years it's really crystallised. The UK Government's move in the Climate Change Act to set the net-zero target has really focused people's minds and attention.

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