Department for
Business, Energy
& Industrial Strategy

OFFSHORE RENEWABLES DECOMMISSIONING GUIDANCE FOR INDUSTRY

Summary of responses to consultation

June 2018

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Introduction

Context

1. The former Department for Energy and Climate Change (DECC), now the Department for Business, Energy and Industrial Strategy (BEIS), published the most recent edition of its guidance for the decommissioning of offshore renewable energy installations (OREIs) in 2011 under the relevant provisions of the Energy Act 2004. In January 2018, BEIS published an updated draft of this guidance, reflecting changes in approach based on the learning and experience of decommissioning that were developed in the intervening seven years. A consultation on this draft guidance ran from 7 February to 16 March 2018, and received 19 responses from industry, trade bodies, regulators, and other organisations. BEIS is grateful to all those who took the time to contribute.

2. This document serves to summarise the responses received to the consultation, though it does not reflect the full detail of every one of the many different views and points that stakeholders responded with. However, all of the responses received will be considered in full by BEIS to inform future policy development. Annex A sets out a list of organisations that provided responses to the consultation.

3. The consultation document asked 15 questions in total, relating to the profile of respondents, comments on the existing (2011) guidance document, comments on the draft updated guidance document, and comments on future decommissioning policy questions to be addressed in future updates to the guidance.

Next steps

4. The responses will be further analysed and used to inform a final, updated guidance document. The aim is to publish this final guidance document in autumn 2018, allowing time for full and careful consideration of the issues raised.

Summary of responses received to the consultation

Questions 1 and 2: Level and profile of responses

5. The breakdown of respondents was as follows:

Respondent type	**Responses**	**Percentage of total**
Developer or owner-operator	12	63%
Industry representative body	1	5%
Regulator	5	26%
Academia	1	5%

Respondent location [respondents were able to pick more than one]	**Responses**	**Percentage of total**
England	15	79%
Wales	13	68%
Scotland [where decommissioning has been devolved recently but there are still legacy cases managed by the UK Government]	7	37%
Northern Ireland [which has a separate devolved decommissioning regime]	5	26%

6. The majority of responses were from owner-operators of existing offshore renewables projects across England and Wales (and in some cases Scotland).

Questions 3-4: Comments on the existing (2011) guidance

These questions sought views on the usefulness of the current guidance and whether any of it was considered irrelevant or unclear. They also asked for feedback on the costs to owner-operators of putting in place financial securities in the form of bank guarantees or letters of credit.

7. The majority of respondents felt that the existing guidance was somewhat unclear, and welcomed the greater clarity provided by the updated draft. Developers and operators welcomed the "best practicable environmental option" framework and the flexibility to consider multiple factors when deciding on decommissioning methodology. However, regulators felt the guidance risked giving too much leeway for operators to leave infrastructure in situ following the end of the project's life. Respondents felt the sections setting out timings for casework and reviews, expectations around financial securities, and the contents of a model decommissioning programme were the most helpful.

8. Many respondents did not feed back on the costs of putting in place bank guarantees or letters of credit, as these tend to be options primarily selected by windfarm developers. The responses received indicated that these security options were likely to be more cost-effective for operators than cash reserving, varying from 1% to 3-4% of the secured value. One respondent also stated that increasing the amount to be reserved by 20-30% would add tens of millions of pounds onto costs for operators. A few responses suggested increasing flexibility for operators to "mix and match" different forms of security in order to find the most cost-effective solution.

Questions 5-10: Comments on the draft updated guidance

These questions sought views on the key changes in the updated version of the guidance, which mainly related to requirements for financial securities. The changes on which feedback was sought were as follows:

- Allowing operators to draw down on their securities during decommissioning, with a proportion to be held back until receipt of a satisfactory post-decommissioning survey;
- Requiring operators to factor in CPI (Consumer Price Index) inflation over the project lifetime into securities;
- Introducing new criteria for assessing project risk to inform decisions around timing of securities (early life or mid-life);
- More detailed requirements for reviewing decommissioning programmes during the project lifetime;
- Requiring operators to have an approved decommissioning programme in place prior to construction.

Respondents were also invited to provide any further comments on the draft updated guidance.

9. Respondents largely welcomed the proposal to allow for draw-down of securities during decommissioning, although views on the proposal to hold back a proportion until receipt of a post-decommissioning survey were mixed. Several operators felt that holding back a set proportion of securities was too restrictive, and the proportion should be decided on a case by case basis. Others felt that holding back any securities at all was too burdensome, particularly if the amount and purpose were unclear. However, regulators generally supported the need for robust checks before the release of decommissioning securities, including checks on the financial stability of companies. Some respondents did suggest set proportions that could be held back, including around 10% for offshore windfarms and around 5% for OFTOs (Offshore Transmission Owners). There was support for allowing draw-down of all securities, not just cash, and for a quick and simple process to be put in place for release of funds.

10. There was broad support for the proposal to include CPI inflation in securities, although some operators pointed out that other regulators of offshore renewables use RPI inflation, and BEIS should work with those regulators to avoid conflicting requirements. There were also requests for more specific guidance for how to forecast inflation beyond the available OBR (Office for Budget Responsibility) forecasts. Some operators felt it should be left to individual companies to provide their own inflation calculations, while others felt it unreasonable to require inflation at all as it ought to be cancelled out by interest on the securities held.

11. Several different views were put forward on the timings of securities required for different types of projects. Some operators felt that the only requirement should be for securities to be in place in full at the end of the subsidy period, rather than accruing from several years before, while regulators mostly thought that the current approach was appropriate, but that more details should be provided on the types of security to be set up, for example on terms and conditions or legal requirements. Operators of pre-commercial projects highlighted the challenges of providing upfront securities, not only due to cash flow issues but due to the signal given to investors regarding project risks. One operator also made a point regarding proposals to retain securities for projects that are re-powered, arguing that this would effectively treat re-powered projects as higher risk by requiring securities for the full project lifetime.

12. Most operators felt that the proposed review schedule was too frequent and risked being burdensome to developers. The ideal frequency of reviews varied between operators, with some content with a 3-year cycle, others preferring a 5-year cycle, and others proposing no set review cycle at all, but rather “trigger points” for reviews, or some flexibility in the timings. Regulators, on the other hand, preferred more frequent reviews and monitoring, particularly of financial securities, to minimise the risk of costs falling to Government.

13. Most respondents were supportive of BEIS' desire to have approved programmes in place for all projects prior to construction. However, developers highlighted the risk that making this a formal requirement could mean that any delays in approving programmes would delay construction, resulting in significant additional costs to developers. It was also pointed out that many project details are not confirmed until close to the construction date, particularly for projects using new or innovative methods or technologies, and this may cause difficulties in trying to get a decommissioning programme approved. One suggestion was to request a more basic decommissioning programme before construction with cost assumptions taken from previous business planning and applications for any subsidies, and several construction options included which could then be narrowed down and more detail added during a post-construction review.

14. A wide range of other comments were provided on the draft updated guidance. Common themes in the responses from operators included requesting increased leniency in requirements for OFTOs, given the protections built into the OFTO regime; more flexibility for operators where possible and clarity over where flexibility is not possible and requirements are fixed; and more clarity over the status of VAT in decommissioning securities. There was concern over how the new guidance would be applied to existing projects and additional clarity on this was sought, along with faster casework processing times. It was also suggested that the guidance is particularly onerous for small-scale developers and emerging technologies, signalling a risk-averse approach that does not encourage investment.

15. Regulators felt that the guidance should emphasise that leaving any infrastructure in situ should be a last resort, with full removal explicitly stated as an objective including at the design stage; and that the framework for assessing whether assets can remain in situ should align more closely with the Habitats Directive and Conservation Regulations. It was suggested that the guidance should address the status of intertidal areas, and that financial models should be sought from developers as part of the assessment process. There was also support for the proposal to incorporate VAT into securities but exclude revenue from scrap metal, and a suggestion to add in some guidance on optimism bias, exchange rates, and securities for short-term demo projects.

16. Several respondents felt the policy on test centres needed further clarification to ensure that tenants would have to meet the same decommissioning requirements as other developers. There were also comments about the need for more focus on waste management, including the risk that the durability of infrastructure, and costs of decommissioning, are underestimated.

Questions 11-15: Comments on early-stage proposals for future updates to policy

These questions sought views on early stage proposals for potential changes to the guidance in future years. In particular, views were sought on the following policy areas:

- Acceptance (or otherwise) of Parent Company Guarantees as a form of security;
- The workability of an industry-wide insurance scheme to cover financial securities;
- Mechanisms for managing residual liabilities for infrastructure remaining in place following decommissioning, possibly an industry-wide insurance scheme as mentioned above;
- Flexibility on the timing of decommissioning towards the end of a project's life, where some assets wear out more quickly than others;
- Any other issues not previously mentioned.

17. Operators were strongly supportive of BEIS accepting Parent Company Guarantees, arguing that they would save operators, and therefore bill payers, a significant amount of money, and that a system to require an alternative security once the parent company's credit rating drops below a certain level could be put in place without being too burdensome. It was also pointed out that The Crown Estate and the Ministry of Defence already use PCGs in their agreements with offshore windfarms. However, regulators felt that the additional monitoring required to ensure ongoing reliability of PCGs would be too burdensome for Government. It was also suggested that PCGs may become less attractive if developers are to remain liable for an asset after it has been sold on and new securities put in place (as would be the case under the draft updated guidance).

18. Most respondents welcomed the idea of exploring insurance for decommissioning, while recognising that significant work would need to be done to develop workable proposals. Some felt individual insurance products would be more cost-effective than an industry-wide scheme at this stage. An industry-wide scheme was seen as very beneficial for small-scale developers, although this would need to be backed by Government.

19. In terms of insurance specifically to cover post-decommissioning liabilities, this was acknowledged to be a very complex area presenting significant challenges. In particular, OFTOs as Special Purpose Vehicles that are designed to dissolve following decommissioning will have difficulty managing any ongoing liability. An industry-wide scheme could be a potential solution but would need to ensure fairness and not penalise those who decommission more fully than others. Some respondents suggested alternative approaches, such as a "contingency mutual" paid into per project, to be used in the event individual insurance is not obtainable; or holding back a proportion of securities (though it would be difficult to determine the right amount). An added complexity mentioned was the ongoing uncertainty over the exact extent of

decommissioning that will be required, and what the residual liability might be once decommissioning and monitoring of the site has been completed.

20. There was broad agreement that arrangements for decommissioning a project in stages or leaving inactive assets in situ until the full site can be decommissioned, should be agreed on a case by case basis allowing for flexibility and responsiveness to enable operators to maximise cost-effectiveness. Regulators emphasised the need for monitoring of any inactive asset to be left in situ to ensure no risks to personnel, navigation, the environment or the public. This was also recognised to be a complex area that might benefit from further specific consultation.

21. Most of the other comments received under this question related to issues addressed in the updated draft guidance and have been noted above. However, other issues raised for future iterations of the guidance included allowing flexibility for multiple end of life options including repowering, replanting, asset transfer, full and partial removal; and incorporating a review of developers' financial models prior to the allocation of Contracts for Difference to ensure no penalisation of those fully accounting for decommissioning costs.

Annex A

A list of organisations that provided responses to the consultation is below.

Balfour Beatty Investments Ltd.

Blue Transmission Investments Ltd.

The Crown Estate

Diamond Transmission Corporation

EDF Energy

Equitix

Innogy Renewables UK Ltd.

The Marine Management Organisation (nil response)

Nova Innovation Ltd.

Natural Resources Wales

Ofgem

Orsted

RenewableUK

Scottish Government

ScottishPower

Tidal Lagoon Power

Transmission Capital Services

University of Leeds, School of Civil Engineering

West of Duddon Sands Transmission

Annex B – Glossary of Acronyms

BEIS – Department for Business, Energy and Industrial Strategy

CPI – Consumer Price Index

DECC – Department for Energy and Climate Change

OBR – Office for Budget Responsibility

OFTOs – Offshore Transmission Owners

OREI – Offshore Renewable Energy Installations

PCG – Parent Company Guarantees

VAT – Value Added Tax

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