

# North Sea Transition Authority – Regulatory Update

February 2023

This bulletin summarises some of the more significant regulatory and governance developments from the North Sea Transition Authority (“**NSTA**”) since our last update in July 2022, together with links to access the relevant releases. A list of other topics addressed by the NSTA not covered in this bulletin can be found at the end.



## Introduction



It has been two years since the NSTA published its revised Strategy, which focused the UKCS industry’s attention firmly on its role in working towards “net zero”. Throughout 2021 and 2022, the impact of those changes has become more apparent, with a number of updated guidance, reports and communications from the regulator seeking to assist and accelerate the industry’s progress on energy transition in all aspects of activity, from exploration to decommissioning. The NSTA has also continued to advance its regulatory approach. In particular, since our last update, we have seen the NSTA:

- launch the UK’s first carbon storage licensing round
- publish its second Emissions Monitoring Report
- introduce a new cost efficiency target for redundant oil and gas infrastructure
- continue to meet with industry leaders and the UK Government to discuss energy security, investment and the transition to “net zero”
- update its disputes and sanctions processes to remove the “Enquiry” stage
- exercise its powers of sanctions, in the form of financial penalty notices
- increase its focus on the corporate governance of the companies it regulates.

# The NSTA's approach to energy transition



The NSTA's focus on energy transition has become a central theme in its planning and approach to all aspects of its activities. For example:

## NSTA Corporate Plan 2022 – 2027

Although it published an updated Corporate Plan only in 2019, its new priorities have led the NSTA to update its Corporate Plan to reflect the new Strategy and focus on net zero, setting out the framework it will use for the next 5 years and identifying how it will “lead with purpose” and measure success on its key areas:

- **Energy:** with a focus on effective and efficient oil and gas asset stewardship; supporting UK oil and gas production while meeting demand as cleanly as possible; and secure and stable domestic supply of oil and gas.
- **Transition:** with a focus on regulating emissions reductions, energy integration including supporting renewable energy production, electrification projects and working with government, industry and other regulators to accelerate progress; and the creation of carbon storage opportunities on the UKCS.
- **Value:** with a focus on value creation across the whole chain; investment, efficiency and jobs; and delivering the NSTA Digital Strategy.
- **Corporate/Internal Priorities:** with a focus on ensuring the NSTA is a great place to work; and enhancing the NSTA's digital, data and technology landscape.

## NSTA's Overview for 2023

The NSTA's overview for 2023 emphasised the need to hold the industry to account on halving upstream emissions by 2030 whilst meeting the UK's energy demand and providing security. The overview report highlighted various workstreams focussed on energy transition, including:

- NSTA analysis found that the UKCS can make a major contribution to net zero and approximately 60% of the UKCS can be leveraged for carbon capture and storage (“CCS”), offshore wind and hydrocarbon projects.
- the Technology Leadership Board (which is co-chaired by the NSTA and industry) which aims to ensure existing technologies are deployed to their full effect and that relevant new technologies can be developed and adopted in the UKCS to support net zero by 2050.

The full report can be found [here](#).

## Launch of the UK's first ever carbon storage licensing round

A key plank in the North Sea Transition Deal and the Government's plans to reach its Net Zero target is the swift development of Carbon Capture and Storage Projects, in which the oil & gas industry is seen as having a central role. As the licensing authority, the NSTA is responsible for the licensing, permitting and stewarding of offshore carbon storage sites. Two licences were issued in May 2022 comprising four separate CCS sites in the Southern North Sea, bringing the total number of current offshore carbon storage licences on the UKCS to six. Each licence to date has been issued on an ‘ad hoc’ basis.

With momentum and investment in these projects gathering, on 14 June 2022 the NSTA launched the first ever round of licences for UKCS seabed carbon storage sites (the “**CCS licensing round**”).

The launch of the CCS licensing round was said to be in response to unprecedented levels of interest from companies eager to enter the CCS market, and in September 2022, the NSTA announced that the carbon storage licensing round had attracted 26 bids. A total of 19 companies expressed interest in the 13 areas on offer, off the coasts of Aberdeen, Teesside, Liverpool and Lincolnshire. Once the new sites are in operation, they could make a significant contribution to the aim of storing 20-30 million tonnes of carbon dioxide per year by 2030.

The NSTA is now evaluating the bids, with a view to awarding any new licences in early 2023.

## Carbon storage data powers consultation

The NSTA also launched a consultation on new carbon storage data powers, seeking views from the industry on information and samples related to Carbon Dioxide Appraisal and Storage Licences and the principle of new data powers in support of energy security and the transition to net zero. The consultation runs from 18 January 2023 until 1 March 2023 and its purpose is to gather feedback as to whether the NSTA should be given similar powers with regards to data retention, reporting and disclosure in respect to carbon licensees' activities as those which it currently has in relation to petroleum licensees.

## Cessation of Production Process

On 1 November 2022, the NSTA announced the withdrawal of its Cessation of Production (“**CoP**”) Guidance and process. Instead, the NSTA plans to capture the information it requires in relation to CoP using the revised Stewardship Survey and through data made available from other sources.

Licensees are therefore no longer required to complete and submit a CoP report. Once production has ceased permanently and all wells have been shut in, licensees should now email the relevant Area Manager with the date on which this occurred and provide the licensees’ written consent to the NSTA sharing this information with HMRC – should HMRC request to see it in order to process a claim for transferable tax history.

As regards to any existing CoP dates, the NSTA plans to set up stewardship meetings to discuss any queries.

The NSTA hopes this will allow more attention on workstreams which help deliver the UK net zero strategy. Previously, seeking the NSTA’s agreement on the point at which all hydrocarbon exploration development opportunities have been pursued and production may permanently cease was an important milestone leading to CoP. This allowed the industry to work towards a ‘no earlier than’ date. However, as the industry moves away from older, higher emitting assets, to newer, lower emission production, the NSTA has decided to depart from the CoP process.

## New decommissioning cost reduction target

The NSTA has set a new cost efficiency target for redundant oil and gas infrastructure, which aims to allow more money to be invested in energy security and the transition to net zero. The NSTA has challenged the industry to lower the total estimate for decommissioning redundant platforms, wells and pipelines by an additional 10% - from £37 billion to £33.3 billion – between 2023 and end-2028.

The 10% target was agreed following a consultation with the industry, and it is based on the NSTA’s decommissioning benchmark and actual cost savings secured in recent years.

## Decommissioning

Reducing decommissioning costs has been one of the NSTA’s key concerns since it was established and in August 2022, the NSTA announced that the cost estimate for decommissioning UKCS oil and gas infrastructure reduced to £44.5 billion - a reduction of just over £15bn from the cost estimate of £59.7 billion in 2017.

Decommissioning of offshore oil and gas installations is a legal requirement; however, it is an expensive and lengthy process. The introduction of targets and the industry’s ability to learn from past experiences and share lessons is considered by the NSTA to have aided the process.

The NSTA’s strategic priorities to further reduce decommissioning costs are:

- planning for decommissioning;
- supporting energy transition;
- commercial transformation; and
- technology, processes and guidance.

## ESG Disclosure Report

In December 2022, the NSTA published a report on the industry’s progress on Environmental, Social and Governance (“**ESG**”) disclosure.

The report built on the previous recommendations of the NSTA and its ESG Taskforce, which was published in March 2021 to assist the industry with ESG reporting. The report included the following key findings:

- the 2021 recommendations have been largely followed by industry;
- “Environmental” reporting appears to be easier to quantify than “Social” and “Governance” reporting; and
- the use of a standard set of templates held within a centralised ‘data centre’ could assist with reporting.

### *Environmental disclosure*

The NSTA reported that it is encouraged by the number of companies which continue to make progress with environmental disclosure; and that the vast majority of them are disclosing in line with the 2021 recommendations.

There are a number of new regulatory disclosure requirements (such as Streamlined Energy and Carbon Reporting and the Task Force on Climate-related Financial Disclosures framework) which the NSTA considers have improved environmental disclosures on climate related risks and carbon reduction targets. The NSTA identified that the most improved disclosure has been by those licensees with targets.

### *Social disclosure*

The NSTA measured social disclosures by referring to metrics relating to people management, workforce standards, community relations, and gender and ethnic diversity.

The NSTA reported that most companies are disclosing well, however considers there is progress to be made in the development of standardised social metrics and, as responsible licensees, the industry should continue in its commitment to create positive places to live, work and conduct business.

### *Governance disclosure*

The NSTA Governance Guidance was published in January 2022, and it requires the adoption of a recognised corporate governance code (such as the UK Code, Wates Principles or the QCA Code).

The NSTA reported that 74% of companies disclosed a recognised corporate governance code. Therefore, there are still a number of companies which need to review their disclosure in this area.

It is the NSTA’s intention to update the report annually. The full report can be found [here](#) and it includes a number of ESG 2022 Recommendations for all licensees to improve their ESG disclosure.



# Collaboration with the Supply Chain



The NSTA recognised early in its existence that the oil & gas industry's supply chain has a key role to play in supporting delivery of MER UK ambitions, not least in terms of cost reduction and timely project delivery. Although the supply chain is not regulated by the NSTA, the NSTA has sought to influence that part of the sector by encouraging the companies that it does regulate to engage constructively and collaboratively with the supply chain to support MER UK. In particular, operators are required to prepare Supply Chain Action Plans ("**SCAPs**") to support key project activity and decision-making.

SCAPs were initially introduced in 2018 (with associated guidance from the NSTA), following consultation with the industry, so that operators and licensees could demonstrate effective working relationships across their supply chain and to assist operators in demonstrating that their contract strategies were well positioned to deliver the 'best value' pursuant to their Field Development Plans ("**FDP**"), Field Development Plan Addendum ("**FDPA**") or Decommissioning Plans ("**DP**").

In August 2022, the NSTA updated its guidance on SCAPs (the "**SCAPs Guidance**") to ensure it aligns with its revised Strategy - which, amongst other things, places an express obligation on the industry to collaborate and co-operate with its supply chain.

The SCAPs Guidance provides that the purpose of SCAPs is to *"facilitate and evidence that relevant persons are deriving maximum value from UKCS projects activity whilst maintaining fair and equitable relationships with their chosen supply chain."*

The NSTA expects operators with any project requiring an FDP, FDPA or DP to submit a SCAP for review and approval. This includes, but is not limited to, new developments, greenhouse gas reduction projects and electrification of existing oil and gas assets (including floating offshore wind). The NSTA has reported that it expects SCAPs to be project specific and clearly relevant to an operator's overall contracting strategy.

The timing for submission of a SCAP will vary from project to project, however the NSTA expects SCAPs to be developed as early as possible in a project, prior to contract award, and probably during the "concept select" stage. They are intended to be an informed part of the NSTA's FDP consent process and DP consultation process and the NSTA expects that operators

will share a first draft of their SCAP document with the NSTA before it is formally submitted in order to encourage early discussion.

The NSTA has reported that each SCAP will be reviewed on an individual basis, but all SCAPs will be evaluated based on the evidence provided in terms of four broad criteria (which remain unchanged from the NSTA's original 2018 SCAPs Guidance):

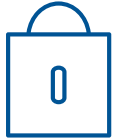
- **Engagement:** the specifics of any project should be discussed with the supply chain at an early stage and should continue throughout the project. Evidence may include the adoption of current industry tool kits, for example, Stewardship Expectation 12 (Supply Chain Collaboration and Co-operation) and the Offshore Energies UK Supply Chain Principles.
- **Trust:** trust throughout the project must be evidenced, including supporting the supply chain to deliver their contractual commitments.
- **Innovation:** the NSTA encourages the use of alternative and/or new products and processes and will consider any evidence of this.
- **Quality:** evidence of the use of industry accredited metrics and tools and inclusion of any relevant lessons learned will be reviewed.

Further details of the criteria can be found in Annexes B and C of the SCAPs Guidance. A timeline and outline of the assessment process can also be found at Annex A of the SCAPs Guidance, and the NSTA has indicated that it will seek to respond to submitted SCAPs within 60 days.

The SCAPs Guidance can be found [here](#).



# Sanctions and Powers



In November 2022, the NSTA refreshed its guidance on: (i) Sanctions; (ii) Financial Penalties; (iii) Dispute Resolution; and (iv) Disputes over Third Party Access to Infrastructure. The changes that the NSTA has made are largely process changes to try to remove duplication from the NSTA's decision-making process.

A summary of the updated guidance is as follows:

## Sanctions Procedure

Under Chapter 5 of the 2016 Act the NSTA has a series of powers in relation to dispute resolution, and the power to impose sanctions for failure to comply with a petroleum-related requirement.

Shortly after the NSTA was established, it introduced guidance outlining its process for considering whether to impose sanctions on a regulated party, and if so what type of sanction. The original Sanctions Guidance described a process called 'measured escalation', which in outline operated as follows:

- The first three stages in the escalation process were: (i) stewardship; (ii) facilitation; and (iii) enhanced facilitation. Where an issue may impact on achieving MER UK or may be non-compliant with a petroleum-related requirement, the level of facilitation increased through those stages.
- Where an issue had not been satisfactorily resolved by the measured escalation process, it would be re-classified as a case for further examination by the NSTA's Disputes and Sanctions Team, and would enter the Enquiry phase, which considered whether there was sufficient initial evidence of a potential breach or failure to comply with MER UK.

- If the NSTA considered there was sufficient initial evidence, then the matter would move to an Investigation. That would conclude with a recommendation as to whether to issue a sanction and, if so, what sanction to impose. If the decision was taken that a sanction should be issued, the 2016 Act required the NSTA to issue a Sanction Warning Notice and consider any representations, before issuing its Sanction Notice.

The main change that the NSTA has made in updating its Sanctions Procedure is the removal of the "Enquiry" stage". With experience, the NSTA has discovered there was a considerable overlap between the work conducted in the Enquiry and the Investigation stages. Consequently, the process has been somewhat simplified so that the process is now as follows:

- The first three stages of measured escalation remain the same.
- Where an issue is not resolved at that stage, the NSTA's Disputes and Sanctions team will carry out an initial assessment (which largely reflects the considerations that were previously applied at Enquiry Stage) to determine whether a full Investigation is merited. In the Sanctions Guidance, the NSTA notes that the evidential threshold for commencing its Investigations is low.





- Ultimately that process may lead to one of a number of outcomes, for example –
  - the Investigation may be closed, the NSTA having determined there has been no failure; or
  - the NSTA may issue a Sanction Warning Notice and, having considered representations in response, a Sanction Notice.

The full updated Sanction Procedure can be found [here](#).

The NSTA will publish a Sanction Notice where it considers that such disclosure would be in the public interest. The NSTA's approach has generally been to disclose on an anonymous basis when an Investigation is commenced, and then to make public the parties to that Investigation and the associated Sanction Notice when that is issued. These details can be found on the NSTA's Case Register, which can be found [here](#).

### Financial Penalty Guidance

The Financial Penalty Guidance provides details of the factors which the NSTA will consider when determining the amount of the financial penalty to be imposed by a financial penalty notice given pursuant to the 2016 Act. The current maximum amount of a financial penalty is £1 million.

The NSTA has reported that the substance of the guidance has not changed, and the reason for updating the guidance is to reflect its name change from the "OGA" to the "NSTA".

The full updated Financial Penalty Guidance can be found [here](#).

### Dispute Resolution Guidance

Sections 19 to 26 of the 2016 Act sets out the NSTA's duties and powers in considering qualifying disputes to consider those and make a non-binding dispute resolution recommendation as to how the dispute should be resolved. The NSTA's Dispute Resolution Guidance sets out how the NSTA will likely handle such disputes and the process that it will follow.

The NSTA's Dispute Resolution Guidance was updated to largely reflect the organisation's name change and to align with the changes to the Sanction Procedure and the Financial Penalty Guidance, described above.

The full Dispute Resolution Guidance can be found [here](#).

### Disputes over Third Party Access to Infrastructure

This Guidance explains how to formally raise disputes over third party access to upstream petroleum infrastructure ("**TPA Disputes**") with the NSTA, along with the likely approach that the NSTA will take in these instances. It also sets out where the NSTA may choose to intervene in any TPA Disputes. Unlike in relation to the powers in relation to sanctions and non-binding dispute resolution recommendations, the NSTA's powers in respect of TPA Disputes derive from the [Energy Act 2011.]

The main differences between the updated version of this Guidance and the previous version (in May 2019) are the updating of reference from the "OGA" to the "NSTA"; updating of references to EU legislation; reflecting that the NSTA no longer has an "Enquiry" stage in its Disputes and Sanctions process; and adding clarification to other points of detail.

The full updated TPA Disputes Guidance can be found [here](#)

### NSTA Updates its Statutory Notice on Meetings

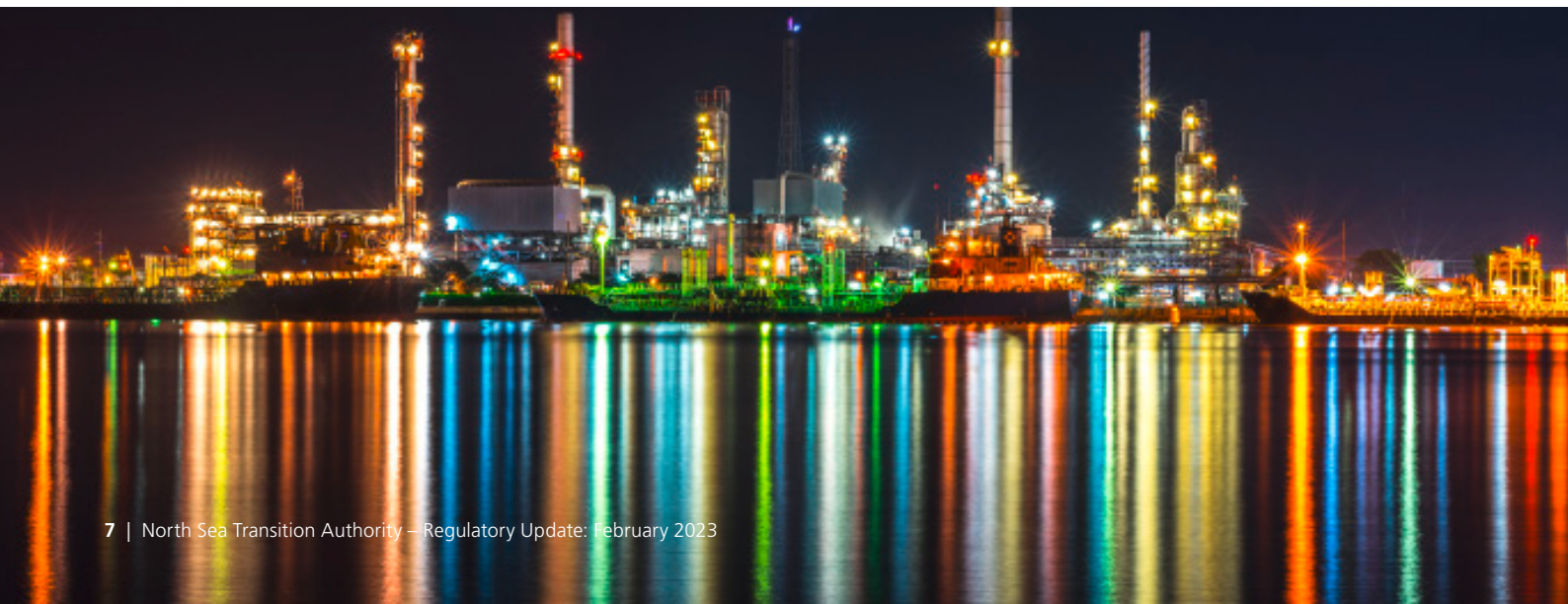
In October 2022, the NSTA updated its Statutory Notice on Meetings, amending the list of meetings that fall within the advance notification requirements in the Energy Act 2016 (the "**2016 Act**").

The 2016 Act gives the NSTA the power to attend and participate in certain 'relevant' external meetings between operators.

The 2016 Act obliges the industry to inform the NSTA in advance of these meetings, provide the NSTA with any relevant documentation, and if the NSTA does not attend the meeting, provide it with a summary of the meeting.

Failure to comply with these obligations is sanctionable in accordance with Chapter 5 of the 2016 Act.

The full notice can be found [here](#), which details the meetings that fall within the scope of the requirements.





The NSTA has rarely exercised its sanctions powers, having issued only one sanction notice prior to 2022. However, it has indicated that these powers are not simply a 'last resort' and it announced in December 2022 that three Operators have been fined a total of £265,000 for failures to comply with petroleum-related requirements.

The NSTA fined two Operators for exceeding flaring permits over the course of 2020/2021 – between them they were issued with financial penalties totalling £215,000. The NSTA's flaring and venting guidance aims to eliminate wasteful or unnecessary flaring and venting of gas, in line with meeting the net zero target, specifically targetting zero routine flaring and venting by 2030. The NSTA has reported that it has seen recent improvements on emissions but will continue to take action against any companies who fail to meet their obligations.

The third Operator received a financial penalty of £50,000 as it was held to have exceeded the maximum allowed production volumes from two of its fields over the course three years, thus breaching its production consent. The NSTA considered that producing too much oil and gas can reduce the overall long-term production from a reservoir which can be detrimental to the UK's security of supply. It is therefore vital that Operators who want to raise production levels apply for new consents so that it can be assessed by the NSTA. The NSTA confirmed that all three Operators co-operated fully with the NSTA's Investigations and have taken steps to avoid any future repeated breaches.

Separately, in November 2022, the NSTA opened an Investigation into an operator suspected of breaching one of its licence conditions, in particular to consider whether the licensee conducted a well test without consent, and whether it failed to provide timely notification of the completion of the test.

The outcomes of these Investigations are still pending, however they could result in action being taken by the NSTA, including a fine or the relevant licence being revoked.

The NSTA has a case register, which can be found [here](#). This was last updated in January 2023 and shows that two investigations opened in August 2022; one investigation opened in September 2022; and two investigations opened in October 2022. The case register states that all of these investigations are still open.





# Licensing



## 33rd Offshore Oil and Gas Licensing Round

In October 2022, the NSTA launched its 33rd offshore oil and gas licensing round. The NSTA initially invited applications for licences to explore and potentially develop 898 blocks and part-blocks in the North Sea, which may result in over 100 licences being awarded. However, this number increased following a further announcement from the NSTA stating that an additional 34 blocks are on offer.

The application period ran until 12 January 2023 and, on 17 January 2023, the NSTA announced that the 33rd licensing round attracted 115 bids across 258 blocks/part-block, from a total of 76 companies. The NSTA is now considering the bids and it is expected that the first licences will be awarded in early 2023.

Following the launch of the licensing round, a coalition of campaign groups have threatened legal challenges in a bid to stop the award of new North Sea oil and gas licences. Greenpeace, Friends of the Earth and Uplift have each written to the Business Secretary setting out why they consider the launch of the offshore licencing round to be unlawful and are seeking the decision to be reversed. It is understood that the campaigners argue the UK Government has failed to properly take into account the full scale of planet-heating gases released by the new licensing round and that Greenpeace may have filed an application for judicial review against the Government's decision.



# NSTA Internal Updates



## New Chief Executive

Dr Andy Samuel was appointed Chief Executive of the NSTA on its creation in 2015, but after 8 years in the role, he announced that he was stepping down. Stuart Payne (who also joined the NSTA when it was created) succeeded Dr Andy Samuel and assumed responsibilities on 1 January 2023.

## Non-executive director job share

The NSTA announced one of the UK's first non-executive director job share positions on a UK board. The position is being shared by Fiona Mettam and Vicky Dawe, who also job share the role of Director of Energy Development and Resilience at the Department for Business, Energy and Security.

## New director of Operations

Scott Robertson, Director of Operations, left the NSTA at the end of 2022 after nearly 8 years. Tom Wheeler, assumed responsibility for the Operations Directorate on 17 October 2022.

## Other publications and announcements:

- [Annual NSTA benchmarking reports \(July 2022\)](#)
- [UKCS Decommissioning Cost Estimate 2022 \(August 2022\)](#)
- [Emissions Monitoring Report \(September 2022\)](#)
- [UK Oil and Gas Reserves and Resources Report \(September 2022\)](#)
- [Well Insight Report \(October 2022\)](#)
- [Consultation on information and sample related matters in Carbon Dioxide Appraisal and Storage and Petroleum Licences \(January 2023\)](#)
- [Retention of Information and Samples Guidance \(January 2023\)](#)

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