

Site investigation and drilling information frequently asked questions

The British Geological Survey (BGS) holds tens of thousands of site investigations and borehole logs collected over many decades, some of which were marked as confidential at the time of collection. Very few supporting records exist to indicate why this material was requested to remain confidential at the time the deposits were made. To comply with recent legislation involving freedom of information, particularly in relation to environmental information, the BGS has started a process to release the confidentiality on information which has been deposited with the BGS for a period of over 4 years. The outcome of this work will be improved accessibility to site investigation and drilling information for all existing and potential users of the information. However, BGS will continue to keep site investigation and drilling information confidential where a valid justification is recorded or can be provided in writing by the donor/depositor.

The release of confidential information is being carried out in response to new legal regulations which are supported by advice from the Department of Justice (formerly the Lord Chancellor's Office), the Information Commissioner's Office, and guidance from The National Archives, and also in the interests of maximising access to this valuable data source and to stimulate innovation within industry.

The timetable for this work is:

April 2009	Advanced notice sent to regular donor/depositors
May 2009	Formal notification placed in London & Edinburgh Gazette
May 2009	Advertisements placed in relevant professional journals
November 2009	End of 6 month notification period
December 2009 – March 2010	Review period for responses Discussion and confirmation of confidentiality requests
April 2010	Release of confidential data where appropriate

Frequently Asked Questions

Can BGS supply the data donor/depositor with a list of all site investigation reports/borehole logs received from them?

The BGS will do this on a 'best endeavours' basis, however, we normally only record the name of the company that commissioned the site investigation or borehole in our database, as shown on the record. Due to company name changes, take-overs and mergers the name of the current owner may not be in our database. Please ask and where possible we will provide this information to donors.

Data have been supplied to the BGS before this notice was issued under agreed terms on the basis that it would be held as confidential. Do the BGS need to abide by these agreements?

This will depend on the wording contained in the agreement but the current legislation (the Freedom of Information Act and Environmental Information Regulations (EIR)) requires us to revisit all our existing agreements. Where there are substantial grounds provided by the donor/depositor for not releasing the information and these comply with the new legislation, BGS will respect the donor/depositor's wishes.

Will the BGS still accept data, which have been requested to be kept confidential, for any other length of time?

There is a presumption under the EIR that environmental information held by public sector organisations must be released, unless there are reasons to withhold it. There are also practical benefits to both public and commercial organisations having as much environmental information released as possible.

Justification for longer periods of confidentiality

All requests for extended confidentiality will be assessed against the EIR exception criteria. Please provide as much detail as possible taking into account these exceptions and the impact any release would have on your company.

Will data that are less than 4 years old remain confidential until 4 years after submission or from the general release date of April 2010?

Unless the donor/depositor has provided grounds to withhold the information then deposited data older than 4 years will be released on the general release date. More recent deposits will retain their confidentiality for the 4 year period from deposit or earlier if agreed.

Will a mandatory maximum period of confidentiality of 4 years be imposed on all new data being lodged with BGS from November 2009?

Standard confidentiality agreements will be for a maximum of 4 years unless there is justification for longer confidentiality periods (see above).

We have forwarded investigation data to BGS on behalf of a number of clients: would they have to make the case to keep records confidential for each and every report?

Justification for extended confidentiality will only be required at an appropriate level. It is not anticipated that this would have to be at report level. A recommendation would be to group together reports with similar constraints, e.g. project, site, client. For future deposits it may be helpful to note that a number of existing donor/depositors have added a clause in their contracts stating that at the end of the contract the geological records of their work will be lodged with the BGS under open-file, unless instructed otherwise.

Will BGS contact clients for consent before releasing any data to 3rd parties?

If a request is made to BGS from a third party enquirer/customer for confidential data it will not be released until written permission from the donor/depositor is provided. Standard practise is for the enquirer to obtain consent, and BGS works closely with donor/depositors and tries to meet their best interests at all times.

If data are made available by BGS can the donor/depositor be held liable if data are found to be unreliable?

Data provided by the BGS to enquirers will be supplied 'as is' and under terms and conditions which will offer no warranty as to the quality or fitness for purpose of the material.

The terms under which material is deposited at the BGS will exempt liability against the original donor/depositor where BGS releases the information,

Where the depositor requests that the BGS held data is released to a third party, any agreement will be between the depositor and third party, which should contain appropriate liability exclusion clauses.

Can we update our liability statement to include BGS and its data donors?

The BGS will only extend its liability to include named donor/depositors where the BGS is indemnified by the donor/depositor in question. However where data is released by the BGS, the original data donor/depositor will not be a party to the release and can therefore neither be held liable for the quality nor fitness for purpose of the material released. As mentioned above, the BGS will specifically exclude all liability for the quality and fitness for purpose of the material released, so a third party user will have no grounds for taking action against the BGS or an original donor/depositor.