

Meeting Date:	9 January 2007	Open Gov. Status:	Fully open
Type of Paper:	Above the line	Paper File Ref:	
Exemptions:	none		

HEALTH AND SAFETY COMMISSION

GAS SAFETY REVIEW

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Issue

1. Reforming the domestic gas safety regime to improve safety standards for gas consumers.

Timing

2. For the HSC meeting on 9 January. Lord Hunt has asked for recommendations as soon as possible.

Recommendation

3. That the Commission agrees that:
 - HSC/E should retain oversight of the domestic gas safety regime;
 - the gas installer registration scheme should be reformed to improve domestic gas safety and over time reduce direct demands on HSE staff;
 - a competition should be run for a 5 year franchise to run the new scheme, to include strengthened oversight, with HSE setting out new governance requirements;
 - an announcement should be made later in January 2007 in line with the next steps/timetable set out in para 16 below.

Background

4. Domestic gas safety has been an HSC/E responsibility for over two decades. The Commission agreed in April 2005 (HSC/05/32) that we should look for ways in which the regime could be sustained or improved with others assuming more responsibility (thus allowing HSE to reduce investment to release resources for other priorities). We set out in MISC/05/15 a plan to review the regime by late 2006. We have done this and in this paper we set out proposals for change. We were assisted in the review by consultants "Frontline" and a summary of their

report is at [Annex 1](#). Stakeholders themselves created the specific terms of reference and reached consensus on the areas for change at two meetings, in February and October 2006. Lord Hunt has taken a close personal interest in gas safety and addressed both gatherings.

5. The regime is based in the Gas Safety (Installation and Use) Regulations 1998. These highly prescriptive Regulations address gas safety in domestic (and some commercial) premises. A key protection for consumers is safe gas work, aided by the requirement for gas installer registration with CORGI. The Regulations also place positive duties on landlords in respect of annual gas safety checks in rented property, which are being considered separately under the HSC/E Simplification Plan.
6. HSC/E took over responsibility for domestic gas safety in 1984 from the then Department of Energy. The reforms we have since made are set in [Annex 2](#). HSE statistics show an improved record on fatalities. For example, there were 16 fatal gas related carbon monoxide (CO) poisonings in 2005/06, which is half the number there was ten years ago. This is a good record when considered in the context of 22 million households using gas. However, reported non-fatal incidents in the same period are broadly static at around 200 per year. Added to this, new research conducted for the review suggests 45% of all households have received no information about gas safety risks. The regime targets rented accommodation as a key risk area for CO poisoning. But this new research indicates that nearly a half of all households may be at risk through ignorance of gas dangers. This equates to nearly 11 million households.

Argument

Should domestic gas safety be an HSC/E function?

7. This is a key strategic question. The new research evidence reinforces domestic gas safety as a widespread consumer protection issue. However, HSE's focus has shifted away from areas such as this towards workplace health and safety in line with HSC's strategy.
8. We have considered whether responsibility for the complete regime could be transferred out of HSE. DTI and DCLG are the obvious candidates: DTI because of its role in consumer safety; DCLG because of its responsibility for Building Regulations and for Local Authorities (as enforcers). However, DTI have now ceased proactive work on consumer safety. DCLG is unlikely to be keen or a popular choice with consumer stakeholders: the competent persons schemes under Building Regulations are lighter touch than gas installer registration (though are still developing); there is also no appetite to add to DCLG's regulatory functions or to the already stretched responsibilities of LAs as enforcers. In the review consultations, stakeholders said they favoured HSE continuing to "own" the regime. Added to this, the Hampton review positioned HSE as the regulator of worker and public health and safety, which provides a renewed fit for the domestic gas safety function in our work.

The balance of argument weighs in favour of our retaining the domestic gas safety function. We invite the Commission to agree.

An improved regime delivered through others

9. Retaining guardianship of the regime does not mean we need to increase HSE investment. We can stimulate improvements for gas consumers through greater involvement of others; and also, if we get this right, reduce HSE's input over time.
10. The review revealed strong support for the regulation based gas installer registration scheme as a well-established feature of the current regime. Our proposal is to expand the role of the registration scheme so that it becomes the main engine for improved domestic gas safety. This would include:
 - new arrangements for coordinating stronger industry action to raise public awareness of gas safety issues;
 - new incentives to registration (e.g. simplified registration requirements) to strengthen its image and hence consumer/installer confidence too; and
 - possibly new limited enforcement work for the scheme provider (see below).

Increased public awareness is the only valid way in which we can reverse the evident high level of ignorance of gas safety dangers. The gas industry has recently committed itself to cooperate on new action. But this has not been wholly successful in the past and we need to formalise new machinery to ensure future action is delivered.

11. We have been criticised for not pursuing enough unregistered installers but HSE could only follow up all complaints at disproportionate cost. So we also propose a new enforcement function for the registration scheme of following up reports of non-registration via correspondence and then issuing a fixed penalty notice for unregistered gas work. It may also be possible for the new scheme to follow up complaints where landlords have not provided evidence to their tenants that annual safety checks of appliances have been completed.
12. We recommend there should be a single provider of the new registration scheme - to assist public understanding and the delivery of the new functions on enforcement and publicity management. The new scheme would build on CORGI's current role. However, the market has matured since CORGI was first approved by HSE. There are registration bodies in other fields such as plumbing and electrical contracting; and there may be other organisations interested in entering this market. Competition for the new provider role also has the potential for efficiency improvements and consequent price reductions (e.g. in registration fees and costs to consumers).
13. So we propose to run a competition inviting bids to operate a "franchise" for the new registration scheme. HSE would appoint the successful franchisee on advice from a panel with independent representation. We envisage a franchise period of 5 years within which there would be an efficiency and effectiveness review from which changes could flow. Ordinarily, no other bids would be entertained during the franchise period. Governance of the franchisee would not be as now for CORGI but achieved through stronger HSE oversight. There would be a framework agreement with HSE setting out key requirements and performance criteria. Monitoring of performance would be in the public domain.

14. The new scheme could be achieved via the existing Regulations because they afford HSE a wide discretion. Or we could cement it in law through an amendment to the 1998 Regulations. In both respects the policy would need to be justifiable and consistent with competition law.

Annex 3 gives further details of our proposals. We invite the Commission to approve them and to offer a view on amending the 1998 Regulations.

Consultation

15. Internally: the HSE Board, plus FOD, CACTUS, LAO, Communications Directorate, PEFD and EAU. Externally: DTI, DCLG, the Scottish Executive, Welsh Assembly and LACORs; plus extensive external stakeholder consultation as part of the review process.

Next steps and presentation

16. The review has been an open process in which we have engaged fully with stakeholders. Lord Hunt has taken a close interest and the All Party Parliamentary Gas Safety Group are interested in the outcome. We want to continue being open. Our timetable is as follows:

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|---|----------------|
| • HSC and Lord Hunt agree reforms | January 2007 |
| • Press release announcing reforms; publish full Frontline report and CO awareness research | January 2007 |
| • Reconvene stakeholders to discuss reforms | March 2007 |
| • Publish specification for new registration scheme | May 2007 |
| • HSE panel assesses bids, makes recommendation and HSE decides | July 2007 |
| • Press conference to announce new franchisee | September 2007 |
| • Franchisee begins work | By April 2008 |
| • Amending Regulations (if needed) | By late 2007 |

Costs and Benefits

17. Our aim is that any additional costs arising from these proposals should fall on the gas industry who may in turn pass them on to installers and consumers in the form of (marginally) higher prices. Our proposed franchise requires the franchisee to set registration fees at affordable levels and to reduce those fees in real terms over the period of the franchise. This should offset some of the additional costs. Those costs may also be offset by increased income as more business arises for gas installers from larger numbers of consumers having gas safety checks done.

18. While this increases consumers' costs, the benefits from improved risk based public awareness of gas dangers should enhance safety standards in millions of homes. Greater gas safety awareness should also reduce the levels of ill health from CO poisoning in the population with consequent benefits for fitness for work and demands on the health service. Ill health from CO poisoning is often mistaken for other illnesses and is suspected to be widespread but this is unquantifiable. If there were to be an increase in gas safety standards such that it lead to a reduction of 1 fatality and 1 major injury/serious illness per year, then

over the proposed franchise period of 5 years there would be a total saving of £7m in net present value terms for society. Over 10 years this saving would be £13.4m (NPV).

Financial/Resource Implications for HSE

19. The minimum HSE staff resource figures for gas safety work (excluding local authorities) are estimated to be 8.5 staff years for FOD and 8 for policy work. This amounts to £865,595. These figures may be higher. Litigation amounts to approximately 5% of the total HSE prosecution work. HSE's Info line costs on gas enquiries for 2005/6 was £27,024.
20. Strengthened governance between HSE and the franchisee will involve costs for HSE in setting up and then maintaining the arrangements. However, strengthened governance arrangements should reduce reactive work for HSE (and Local Authorities) on complaints handling and Parliamentary correspondence etc. Specific additional tasks for the franchisee such as proposing ways for simplifying the regime and doing more on illegal work and landlords' duties should involve direct savings to HSE, where costs are passed to them instead.
21. The review itself has cost £250,000 plus approximately 2 policy staff years (included in the previous policy figures at £160,455). The proposed new regime should reduce HSE's overall role significantly but the quantifiable savings are hard to predict at this stage particularly as the baseline is uncertain. If we were able to achieve savings of 15 staff years as identified in MISC/05/15, this would amount to around £0.75m. Taking forward the changes to the regime is estimated as involving 3 staff years (at £240,683), including specialist economist support.

Environmental and other Implications

22. None.

Action

23. As in para 3 above. HSE will brief Lord Hunt on HSC's recommendations.

Annex 1

Gas safety review: terms of reference agreed with stakeholders

- **Legislative framework and standards** - This will look at which parts of the existing framework add value and which parts don't. It will explore whether the legislation should be more goal setting with details set out in industry standards to allow for more flexibility. It will also consider HSE's role, enforcement responsibilities and options and links with various other government departments. This workstream will include looking at any opportunities that may flow from the various ODPM (now DCLG) competent person schemes. HSE has stated that in line with its strategic priorities, it would like to release resources from gas safety work, but this has to be dependent on securing overall improvements in the regime through better ways of working.
- **Illegal installers** - This will examine options to reduce illegal gas installation work including the penalties available and who is best placed to undertake enforcement. It will look at building on opportunities for partnership working.
- **Gas installer competence** - This consider links between the Accredited Competence Scheme (ACS), the Gas Work Notification (GWN) scheme, and the registration scheme. It will investigate how to increase credibility of the registration scheme and gain greater stakeholder acceptance. Consideration will be given to insurance and public liability requirements and to the possible benefits of a provisional license scheme.
- **Public & other groups' awareness** - Options for funding research, raising awareness and encouraging industry ownership through voluntary contributions will be revisited. Education and awareness raising of certain key groups such as health professionals and the DIY sector fall into this category. There could also be lessons learned from initiatives which raise awareness of fire safety.
- **What is the extent of the CO hazard?** - The University College of London (UCL) research project will look at the levels of CO connected to gas installations in a sample of 600 homes. This will help establish the extent of the CO problem in people's homes. It will also help inform an assessment of the potential benefits of available CO monitoring devices including flue gas analysers.
- **Integration of knowledge and experience within a fragmented industry** - This will consider how to develop a more coherent and better partnership approach for tackling the current and future issues facing the consumer gas industry.

**Review of Domestic Gas Safety Regime
Executive Summary for the
Health and Safety Executive**



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Review of Domestic Gas Safety Regime Executive Summary

1. **The purpose of this review** is to explore the current arrangements to promote domestic gas safety across the UK, to identify areas of strength and weakness, and to make recommendations for the future.

This is a surprisingly complex subject, involving a number of disparate stakeholders and some significant tensions both within the industry and from external interests, including pressure groups.

This report has been produced after an extensive period of stakeholder consultation and involvement, commencing in February 2006 and including 2 stakeholder conferences, a questionnaire, over 50 interviews with organisations and individuals, and a series of working groups. It covers piped gas and LPG used in domestic homes in the UK. We would like to thank all those who have given so much of their time and were so helpful.

2. **The responsibility for administration of the existing regulations** rests with HSE, which delegates certain functions to a registration body known as CORGI. Any gas installation business undertaking commercial installation or maintenance of a gas appliance in UK domestic premises must be registered with CORGI. There are a number of requirements for registration, including – for every employed gas fitting operative – an assessment of competency every 5 years (the ACS scheme), a portfolio of experience and, normally, a qualification. CORGI inspects the work of registered installers at intervals. HSE is empowered to enforce the relevant legislation and may issue a written warning in response to a compliant or institute formal legal proceedings with respect to a more serious incident.
3. **This has been widely regarded as a safe industry**, and reported fatalities have reduced to less than 30 pa. Most deaths are caused not by fire or explosion, but by CO poisoning: CO is a colourless, odourless gas given off by burning a combustible fuel, such as gas or oil, in the absence of adequate ventilation. Exposure to CO can cause death, permanent serious disability, or, at lower levels, more temporary, flu-like symptoms. As well as affecting quality of life, undiagnosed CO poisoning may prevent individuals entering employment, be a charge on the NHS, on sick pay and other support schemes.
4. There is, however, some indication that **the incidence of CO poisoning and even the level of fatalities may be under-reported**. Research also suggests that there may be a number of homes with potentially dangerous levels of background CO linked to patterns of use and faulty, or poorly ventilated, gas appliances, representing an unquantified health risk.

Recent studies further suggest that the public may have a poor awareness of the concept, dangers and causes of CO poisoning. Industry efforts to raise awareness are limited and not well co-ordinated. There is a real risk that, in the light of emerging evidence about the potential prevalence of CO, the industry may be judged irresponsible if action is not now taken to address this issue. This could have a far more damaging commercial effect than measured communication that alerts the public, including health professionals, to the dangers of CO and how to manage these.

5. **Risk patterns are changing with regard to CO poisoning:** households most at risk appear increasingly to be those where current laws do not identify a duty holder to ensure safe installation and regular checking of gas appliances, eg: owner-occupied premises rather than multiple occupancy rented accommodation. It seems unlikely that legislation and the associated enforcement will be introduced to cover this area: increased awareness of the potential CO hazard therefore appears the only option if the risk is to be reduced.
6. **It is essential that steps are taken to increase public awareness of the CO hazard,** given the potential to cause death and serious injury, changing patterns of risk and recent evidence suggesting that the public health risk may be more widespread than previously acknowledged. In order to deliver this, there will need to be:
 - additional funds
 - a co-ordinating body
 - involvement from a wider range of interests, including Health

We therefore recommend that an industry co-ordinating body be set up to initiate work and fund raising in support of CO awareness. This should be chaired by a respected and high profile public figure, and should involve a variety of interest groups and government departments, including DWP, DCLG and DH. The domestic gas registration body/bodies may play a significant and increasing role in the management and support of this group, and should be encouraged so to do. Indeed, there is logic in this co-ordinating function being assigned to the gas registration body/bodies and we so recommend.

The CO awareness co-ordinating body should explore cases for a variety of initiatives, some focused, others more wide ranging, and should act to co-ordinate existing efforts and take advantage of untapped but inexpensive opportunities, eg: leaflets which could be sent with gas bills, left by installers and the emergency services. Funds may come from a variety of sources including industry contributions, existing surplus from registration fees, rise in registration and ACS incomes from additional registration, CORGI Trust (which receives the profits from CORGI's commercial activities). If these funding streams are insufficient, legislation may be needed to produce a levy on the industry: if this is required, other fuels which can produce CO in situations of incomplete combustion should also be included.

Other initiatives considered by the CO awareness co-ordinating body should include:

- audible CO detection alarms, which can be very effective and reliable
- what more can realistically be done by the emergency gas services when attending at a possible CO poisoning situation
- phasing out of old and open flued appliances, especially boilers, which represent higher risk
- use of the home energy rating scheme to highlight hazards and safety measures connected with domestic gas
- promotion of clinical awareness of CO symptoms and detection, especially among GPs and pathologists

Increased public CO awareness will also reduce some of the tensions within the industry. For example, if householders are aware of the dangers, they are more likely to use a registered gas professional, thus reducing the level of illegal, unregistered installers and consequent pressure from legal installers for greater investment in enforcement. This will also drive more current illegal installers to register, increasing the flow of revenue to ACS providers and the registration body: this could be used to reduce costs to installers and/or to part-fund a CO awareness campaign.

7. The current **ACS scheme** and registration systems are widely seen by installers as being too onerous and inflexible and may well discourage registration. A strong, independent voice is required to challenge the assessment system and standards for ACS certification. Steps within the industry to address this should be encouraged and accelerated. The aim should be to produce an approach that is:

- risk based
- simplified
- allows individuals to demonstrate competence with a more flexible mix of assessment, inspection, qualifications, experience and continuous professional development

The registration body/bodies must ensure that registration criteria also reflect this changed approach.

8. There are some concerns about the **competence of registered installers**, particularly following recent introduction of more random inspections by CORGI. This needs further attention and we would suggest:

- that the ACS scheme aims to improve overall standards of competence by engendering more generic skills
- that CORGI review the action taken if a substandard installation is found, eg: compulsory additional training, higher levels of inspection and an increased registration fee
- while supporting the concept of the gas works notification scheme, which allows more random inspections, the methodology should be reviewed, eg: allow the installer to certify his work direct with the customer and send a copy of the paperwork to CORGI, rather than the other way around

- use of flue gas analysers should be mandatory when installing or servicing open flued appliances
9. A number of issues of some substance have been identified with respect to the interface between HSE and **the registration body**, and its management and role. We recommend that HSE review these issues and invite expressions of interest from appropriately qualified organisations wishing to take on the role of the registration body. An assessment of competency should be made by an HSE panel against a number of criteria, including:
- delivery of key issues outlined in this report, especially co-ordinating action to promote CO awareness and changes to competency and registration systems
 - a business case to demonstrate how the registration scheme will be funded without additional cost to installers
 - an improvement in key safety issues
 - ability to work with stakeholders and other registration bodies
 - innovative approaches and added value
 - probity and transparency in governance, especially with regard to conflict of interest, commercial enterprise, interface with HSE
 - delivery of key aspects of the registration scheme, eg: geographic cover, installer and public help lines, managing complaints
 - a consumer voice

Organisations satisfying the panel would be recognised as registration bodies for a reasonable period, perhaps 5 years. If the case made by one body were considerably stronger than the others, or offered substantial additional benefits, the panel may decide to recognise only one registration provider. Registration bodies should be subject to regular and transparent reviews of performance against key indicators. This is a process akin to that used nowadays in most substantial procurements.

We recommend this process to review recognition of registration bodies be repeated at regular intervals determined from time to time by HSE: perhaps every 5 years in normal circumstances, allowing the drivers and direction of the registration body/bodies to be revised and updated, yet giving a level of consistency and ability to recover investment through a minimum period of tenure.

There is considerable debate as to whether one or more registration bodies should be recognised: there are advantages and drawbacks to either approach, none of which is currently of overriding priority or cannot be managed. While it is important that there is only one registration *scheme*, providing the system is properly set up and regulated, it could be administered by more than one registration *provider*. Whatever the short-term decision, we recommend that HSE retain a framework that allows the appointment of more than one registration body.

10. The **legislation** dealing with domestic piped gas and LPG – The Gas Safety (Installation and Use) Regulations 1998 – would benefit from some changes, especially:
- simplification: some of the current legislation appears, in practice, to be redundant, or a duplication, and it is therefore more confusing than it needs to be

- the clear and unambiguous use of a goal-setting approach, which recognises an industry code of practice to define specific standards relating to technical issues of installation and servicing, rather than setting these out in law: this would promote changes in line with technology and practice, address some ambiguity with regard to the competence of foreign workers, and could provide greater clarity about standards in prosecutions
- rationalisation of prescriptive clauses, in support of an industry code of practice
- if the above were in place, a “Haynes workshop manual” approach to standards could more readily occur, potentially making installation and servicing easier to understand, and therefore safer
- more minor issues relating to non-process factory gas appliances

11. The issue of **landlords’ duties** with regard to gas safety may benefit from a further review. Current legislation requires an annual safety check certificate for all multiple occupancy households where there are gas appliances. Incidents in such accommodation appear to have reduced in consequence. There are criticisms, however, that the system is not risk-based and is too onerous, and, in complete contrast, that an annual service should be required, not merely a safety check.

12. While the law with regard to **unregistered installers** appears clear – they are acting illegally if they charge for their work – it does not support a significant number of successful prosecutions, despite the apparent prevalence of illegal activity. From the perspective of the industry, action taken against illegal installers is seen as limited and an insufficiently effective deterrent. The lack of successful prosecutions may be due to:

- limited initiation of formal enforcement by HSE (or other bodies)
- courts being unconvinced that non-registration should have serious consequences
- difficulty in identifying individuals and linking them with a particular job of work
- some uncertainty about installation standards: this could be rectified by the formal recognition of an industry code of practice (see para 10)

As non-registered installers are unlikely to take part in assessment and inspection, and will probably undergo minimal levels of training and professional update, they are likely to be less safe than registered installers. We explored a number of ideas in support of reducing the number of non-registered installers, and have concluded that there is no one answer. Instead, progress should be made through a variety of ‘carrots’ and ‘sticks’, including:

- higher public awareness of CO hazard and prevention will ensure more demand for registered installers
- targeted episodes of prosecution from HSE, using current resources in a different way
- strengthened efforts to publicise prosecutions and other enforcement activity
- further exploration by HSE of penalty systems and the possibility of an increased role for the registration body/bodies
- a less rigid approach to registration and assessment, which still ensures a high level of competence, but attracts more installers

- efforts to raise penalties administered by the courts on these health and safety offences and encourage consideration of alternative sentencing which might serve as a greater deterrent, eg: community service

13. **Standard setting** within the industry generally works well, and there is consultation with ACS providers and other stakeholders. There could, however, be improvements to the ad hoc way in which standards are published for use. If released in a controlled way, perhaps in batches, it could be easier for all stakeholders to keep up to date and could minimise some uncertainty about when a change becomes compulsory or only advisory for training purposes. Further, this could be an opportunity to release associated standards at the same time, removing problems that may occur when the implications of one change in practice have not been worked through.

14. **The industry is fragmented and without a single voice or co-ordinating body.** Difficulties highlighted include: lack of rapid feedback about safety issues and incidents, lack of co-ordination over CO awareness opportunities and difficulty in driving change even when the direction of travel is broadly supported. There have recently been some modest steps towards self-governance within the industry, through the creation of mechanisms to revise the ACS regime. It is possible that the review of the registration system recommended above could create a body with the ability and support to draw stakeholders together: this would be welcome and we so recommend.

Annex 2

DOMESTIC GAS SAFETY: REFORMS

Regulations, etc.	Change	Reason for change
Gas Safety Regulations 1972	Regulations introduced by Department of Energy (based on British Gas Standards) CORGI set up as a voluntary registration scheme	Introduced as a result of the Ronan Point gas explosion in 1968, which killed four people and left 100 families homeless.
Gas Safety (Installation & Use) Regulations 1984	1986 Gas Act amends HSWA etc. to make gas regulations relevant statutory provisions	Responsibility for domestic gas safety transferred to HSE.
Gas Safety (Installation & Use) (Amendment) Regulations 1990	CORGI registration made mandatory	Following privatisation of British Gas in 1986, the Government and parts of the gas industry asked the Health and Safety Commission (HSC) to propose a fresh approach to gas safety regulation
Gas Safety (Installation & Use) Regulations 1994	Landlords are required to maintain appliances and have them checked annually for safety, using CORGI registered installers. Majority of LPG installations are brought within scope.	Maintenance duty Introduced in response to the high number of incidents relating to rented accommodation. Annual safety checks introduced at ministerial prompting.
Major review of CORGI 1994/95	New HSE governing criteria introduced. Accredited Certification Scheme introduced.	HSC dissatisfaction, prompted by consumer dissatisfaction.
Gas Safety (Installation & Use) (Amendment) Regulations 1996	Two sets of amendments to 1994 Regulations, in particular, Landlords' duties	Clarified and strengthened the 1994 Regulations
Gas Safety (Installation & Use) Regulations 1998	Regulations revised and consolidated.	Further clarification required but essentially a consolidation exercise
Fundamental review of gas safety 1999/2000	Largely industry focused.	

AN EXPANDED GAS INSTALLER REGISTRATION SCHEME

HSE proposals

- **Retention of regulation based registration of gas installers.** The principle is firmly rooted in industry behaviour and stakeholders support retention. Standards of competent gas work have improved since registration was introduced in 1990 and this has assisted the improved gas safety record. The principle is a sound foundation on which to build new arrangements.
- **A new “franchise” is developed for running a reformed gas installer registration scheme.** The franchise would replace the existing HSE criteria. The franchise period would be 5 years. Within that period, there would be an efficiency and effectiveness review from which changes could flow.
- **The franchise includes a new function to lead industry activity in fund raising in support of enhanced gas safety awareness.** This new function is a good fit with running gas installer registration because regular servicing and safety checks by competent registered installers are the best prevention against gas safety risks.
- **The franchise includes other new functions** such as limited enforcement work for HSE (see below); plus reviewing the competence related provisions of 1998 Regulations and the Accredited Certification Scheme for gas fitters and make proposals to HSE for new, simplified arrangements. This would demonstrate HSE’s confidence in the strengthened registration scheme, and also assist incentivising registration to encourage illegal installers to register.
- **A specification is developed setting out clearly and unambiguously the service HSE wants delivered via the new franchise and “bids” are invited for it.** We would consult stakeholders about the proposed specification at a reconvened meeting in March 2007.
- **There is a new Framework Agreement** between HSE and the franchisee setting out the tasks to be performed during the life time of the franchise and the key indicators for measuring performance. Performance reporting will be in the public domain and HSE would adopt a tough, proactive approach in holding the franchisee to account.

Possible objectives for the reformed registration scheme

The primary focus of the reformed scheme is to secure gas consumer safety. The franchisee’s work will be open and based on fully effective consultation with relevant stakeholders.

Objectives

- Improve consumer gas safety through publicising gas safety risks and the importance of regular appliance maintenance using competent, registered installers to minimise those risks. Coordinate delivery of industry funded action to that end.
- Maintain an efficient register of competent gas installation businesses, ensuring the name of the registration body supports public understanding that its function is promotion of gas safety.
- Act as custodian of the Accredited Competence Scheme for gas operative competence, with a specific remit of proposing to HSE ways the present arrangements can be simplified. This should include making it easier to register and, at the same time, at least maintaining and, preferably improving, gas installer competence for the consumer.
- Establish efficient mechanisms for following up complaints of unregistered gas work, working with HSE towards the possible devolution of some enforcement powers in this area and also on landlords' gas safety duties.
- Carry out a thorough review of the 1998 gas safety Regulations as they relate to competence in safe gas work, making recommendations to HSE for simplifying them and developing an authoritative industry code of practice on safe gas work with the consumer interest at its core.
- Carry out other relevant functions as may, from time to time, be agreed with HSE such as reviewing the efficacy of use of flue gas analysers by gas operatives; and proposing arrangements to assist compatibility between gas installer registration and the competent person schemes.
- Set fees for registration at affordable levels; work towards reducing those fees in real terms during the lifetime of the franchise.
- Conclude with HSE a Framework Agreement that sets challenging headline performance indicators against which the delivery of these objectives will be publicly measured and evaluated.

Gains from this reform

- Industry leads on most initiatives, not HSE.
- More investment from industry into gas safety publicity.
- Improved public awareness where we now know it is needed of gas safety risks and how ill health and death can be prevented.
- More households having regular servicing and gas safety checks by competent, registered installers leading to potentially dangerous faults being identified and put

right. This should lead to even fewer gas safety incidents and reduce the reactive work HSE puts into gas safety.

- A simplified gas registration scheme to incentivise registration and so encourage illegal installers to register.
- New action to address illegal gas work.
- Stakeholders concentrating on delivering better gas safety.
- A maturing industry that the public can trust, leading to fewer complaints for HSE to investigate.

Possible enforcement role for the franchisee

Proposals

It is proposed to require the franchisee to follow up reports of non-registration via correspondence and then issue a fixed penalty notice for unregistered gas work. The options for achieving this are set out below. As a starting point, the proposed franchise could set out HSE's intentions and ask applicants to show how they would run and develop such arrangements, should HSE chose to introduce them.

It is also possible to require the franchisee to follow up complaints of non-production by landlords of evidence that CORGI registered installers have completed annual gas safety checks.

In both areas, pursuing tougher enforcement action for alleged offences of unsafe gas work or breaches of landlords' duties would remain with HSE.

How this could be achieved?

Section 15(3)(a) of HSWA provides for regulations to make "a specified authority or class of authorities responsible, to such extent as may be specified, for the enforcement of the relevant statutory provisions". Are CORGI, or other bodies who may be appointed to run gas registration, an authority or authorities? CORGI is a private company performing public functions. That raises doubt that it is an authority for these purposes. Thus, it is probable that either primary legislation would be needed to make CORGI or any other private registration body an enforcing authority; or there may be scope for an order under section 2 of the Legislative and Regulatory Reform Act 2006 ("LRRRA") to do so. A section 2 order can be made when the purpose is "securing that regulatory functions are exercised so as to comply with the principles in subsection (3)". Those principles are that "regulatory functions should be carried out in a way which is transparent, accountable, proportionate and consistent"; regulatory functions should be targeted only at cases in which action is needed.

Another way forward involves section 13(1)(a) of HSWA. This allows HSC to "make agreements with any government department or other person for that department or person to perform on behalf of the Commission or the Executive (with or without payment) any of the functions of the Commission or, as the case may be, the Executive". This would

seem to allow HSC to agree with a body that the body would perform some of HSE's enforcement functions. HSE would, though, remain responsible for the particular enforcement field. The body would only be enforcing on behalf of HSE. The extent to which enforcement functions could be performed by the body on HSE's behalf would need further consideration. For example, it is not at all clear that HSE's function of appointing inspectors could be given to the body to perform on HSE's behalf. There would be policy issues to be considered as to which functions would be proposed to be performed by the body. One aspect would be whether CORGI/the body would be paid for any enforcement role and, if so, how would this be funded? Would it do so without payment?

The proposal for issuing a fixed penalty for failing to respond to enquiries about non-registration would require either primary legislation or there may possibly be scope for an order under section 2 of the LRRRA to achieve this.