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HEALTH AND SAFETY EXECUTIVE

The HSE Board

Gas Safety Review

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Issue

1. Reforming the domestic gas safety regime.

Timing

2. For the Board meeting on 6 December, with proposals to HSC and, if agreed, to Lord Hunt in January 2007.

Recommendation

3. That the Board makes a strategic decision about HSE's future role in domestic gas safety (para 7) and decides on the choices for positive reform (paras 8, 11 and 12).

Background

4. The regime is set out in the Gas Safety (Installation and Use) Regulations 1998. These highly prescriptive Regulations largely address gas work in domestic premises. The key feature is gas installer registration with CORGI. The Regulations also deal with landlords' gas safety duties, which are being examined separately.

5. We have reviewed the regime broadly every five years since taking it over from the former Department of Energy in 1984. The last review was described as “fundamental” but the regime has continued largely unchanged and we have been criticised for that. The statistics are good: reported fatal carbon monoxide (CO) poisonings are half what they were ten years ago. But new research suggests some 45% of all householders have seen no publicity at all about gas safety risks.

6. In the present review we were assisted by consultants “Frontline”. A summary of their report is at [Annex 1](#). Stakeholders themselves created the terms of reference and reached consensus on the areas for change at two meetings, in February and October 2006. Lord Hunt addressed both gatherings.

Argument

7. Domestic gas safety is not a priority under HSC’s strategy. But it does fit with our new business streams:

Justice: there are Regulations the public expect to be applied/enforced and the research findings on poor awareness could well create a demand for new action

Support to Ministers: Lord Hunt and John Hutton are engaged – the former continues to be particularly proactive.

So, we need first to decide the strategic questions: should we stay in domestic gas safety? If so, do we want to provide a better regime for gas consumers? And do we want more of it done through others?

8. Assuming yes is the answer to all three questions, our core proposal is to expand the role of the gas installer registration scheme. This would include new functions e.g. coordinating industry action to raise public awareness of gas safety issues, plus possibly some limited enforcement work. We could only hope to address the high level of ignorance of CO dangers with more awareness raising and the industry told Lord Hunt on 27 November it would do more, with CORGI coordinating the activity.

Details of our proposed reform are in [Annex 2](#). Does the Board support it?

9. The reform would build on CORGI’s current role. CORGI is approved under the 1998 Regulations to register gas installers and its functions are specified in HSE criteria. CORGI is the only organisation ever to be so approved, although the Regulations allow other bodies to be approved (NAPIT applied recently, unsuccessfully). There is some stakeholder dissatisfaction with the perceived “monopoly” status enjoyed by CORGI and governance arrangements are seen as weak. HSE’s approach has been light touch. But CORGI is known to the public and has been the dominant player for 15 years plus in driving up standards of gas work.

10. An HSE coronation of CORGI in an expanded role is a non-starter. Important stakeholders would view it as a “whitewash”. And we would lose goodwill built up during the review for other reforms such as simplifying the 1998 Regulations and the gas installer competence certification scheme, which is seen as onerous, inflexible and discouraging to registration.

11. There are important questions of competition policy too. The alternative market structures for providing gas installer registration are:

- competition for the market. This would involve retaining a single registration scheme provider but inviting bids to run the franchise to inject the competition. This has the potential for modest efficiency improvements and consequent price reductions (e.g. in registration fees)
- competition in the market. This would allow multiple registration bodies to operate in the delivery of the service specified by HSE. Experience suggests that there are larger price reductions under this form of competition, which could further incentivise registration by currently illegal gas fitters. However, this will need to be balanced against the potential complications for public understanding, enforcement (see below) and managing CO publicity.

Annex 3 gives further details. A steer from the Board is invited.

12. There are other reforms that we can also make:

- Enforcement. We are seen as weak for not pursuing unregistered installers more obviously. This we could do only at disproportionate cost. But it may be possible to incorporate a fixed penalty scheme for non-registration in our reforms. Our ideas are in Annex 4
- Governance arrangements for the registration scheme. CORGI is currently accountable to a Principal Representative Body (PRB) of gas safety interests. But the PRB has not performed well in a governance capacity. We see no value therefore in there being a PRB or similar body in the future arrangements. The stronger governance role proposed for HSE is more focused and is sufficient in its own right. We would need to invest in this role, especially if new enforcement powers are passed to the registration scheme
- Fees for registration. Under HSE's criteria, CORGI covers its costs largely through fees. This should continue under the new arrangements. → *Material exempt from disclosure under section 42 of the FOI Act* ←

We invite the Board's views in these three areas.

Consultation

13. FOD, CACTUS, LAO, Comms Directorate, Finance Unit and EAU on this paper, plus extensive external stakeholder consultation as part of the Review process. Lord Hunt has also expressed views.

Presentation

14. Stakeholder expectations are riding high on the outcome of this Review and there is Parliamentary interest through the All Party Group. Lord Hunt is taking a close interest in the work, with John Hutton in support. We have a communications plan, are liaising with press office, and are planning for handling the

recommendations emerging from the Commission meeting and Lord Hunt's decisions.

Costs and Benefits

15. The costs and benefit considerations of alternative market structures for gas installer registration are indicated in Annex 3. The 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. Additional costs may be offset by increased income as more business arises for gas installers from larger numbers of consumers having gas safety checks done. 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.

Financial/Resource Implications for HSE

16. The baseline HSE staff resource figures for gas safety work (excluding local authorities) are 8.5 SY for FOD and 8 SY for Policy. This amounts to £865,595. However it is suspected that the FOD figures may be incomplete and that the figure could be significantly higher; FOD is looking into this further. Legal Adviser's Office figures were not available but litigation amounts to approximately 5% of the total HSE prosecution work. HSE's Gas Safety Advice line and Info line costs on gas enquiries for 2005/6 came to £27,024.

17. Strengthened governance between HSE and the registration scheme provider(s) will involve costs for HSE in setting up and then maintaining the arrangements. However, strengthened governance arrangements should achieve improved stakeholder satisfaction and significantly reduce reactive work for HSE (and Local Authorities) on complaints handling and Parliamentary correspondence etc. Specific additional tasks for the registration scheme provider(s) such as simplifying the regime and doing more on illegal work should involve direct savings to HSE, where costs are passed to them instead.

18. The Review itself has cost £250,000 plus approximately 2 policy SY (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 10 SY this would amount to more than half a million. Taking forward the changes to the regime is estimated as involving 3 SY for 12 months (at £240,683), including specialist economist support.

Action

19. The Board is asked to consider the questions in paras 7, 8, 11 and 12.

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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 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.

AN EXPANDED GAS INSTALLER REGISTRATION SCHEME

Proposal

- 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 requirement in successor HSE criteria is introduced on the provider(s) of gas registration to lead industry activity and encourage 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 and CO poisoning especially.
- Ask the future provider(s) of gas registration to do other things such as 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.
- Develop a new specification setting out clearly and unambiguously the service we want delivered via the new registration scheme with "bids" invited for the work. This is discussed further in Annex 3.
- Create a Framework Agreement between HSE and the appointed provider(s) setting out the tasks to be performed and the key indicators for measuring performance. Performance reporting will be in the public domain and HSE should adopt a tough, proactive approach in holding the appointed provider(s) to account. This is also discussed further in Annex 3.

Possible future objectives for the registration scheme

- Maintain an efficient register of competent gas installation businesses, cooperating with other appointed providers as appropriate.
- Act as custodians or joint custodians 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.
- Establish and operate a mechanism for better coordinating the interests of the gas industry and for gathering funds across the industry to contribute to planned,

coordinated and targeted activity on gas safety awareness raising and the importance of using competent, registered installers for gas work.

- Establish efficient mechanisms for following up complaints of unregistered gas work, working with HSE towards the possible devolution of some enforcement powers.
- Carry out a thorough review of the 1998 gas safety regulations as they relate to competence in gas work, making recommendations to HSE for simplifying them and developing an authoritative industry code of practice on safe gas work.
- Agree with HSE a challenging set of headline performance indicators against which the delivery of these objectives will be publicly measured and evaluated.

Gains from this reform

- Industry leads on some initiatives, not HSE.
- More investment from industry into gas safety publicity.
- Improved awareness where we now know it is needed of the risks of CO poisoning 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 CO 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.
- Stakeholders concentrating on delivering better gas safety rather than attacking each other and/or HSE.
- A maturing industry that the public can trust, leading to fewer complaints for HSE to investigate.

Annex 3

A SINGLE GAS REGISTRATION BODY OR MULTIPLE PLAYERS?

1. Little is known of the information impacts associated with the number of registration bodies in operation. We cannot for certain assess the effect on gas safety standards from having multiple registration bodies because it is hard to know whether public information on registered gas installers would be improved or diluted by such a reform, and the extent to which unregistered installers respond to price reductions by becoming registered. It can be argued, as CORGI do, that a single registration body is easier for the public to understand and that such simplicity is better for safety. On the other hand, a single body could tend to mean higher costs for installers and higher prices for consumers, thus helping to expand the use of unregistered installers. That said, CORGI have held their fees static, achieving - in effect - reduced registration fees that may have filtered down to consumers. Because competition promotes innovation, we could also expect new and improved ways of communicating with consumers about gas safety with multiple bodies, or competition for the sole franchise through the bidding process (see below).
2. Some industry stakeholders view a single body as anti competitive e.g. CORGI run other competent person schemes (plumbing, electricians, etc) under Building Regulations and organisations like → *Material exempt under section 43 of the FOI Act* ← say they can't compete with this "one stop shop" for multi skilled operatives because they cannot offer gas registration in their packages. There is also, we understand, an embryonic scheme for multiple electrical contractor registration bodies with a central database to which the consumer can turn to find a "registered" electrician. In relation to a single body, there are legal constraints both in terms of preventing unfair competition and in terms of exercising HSE's discretion reasonably.
3. Competition already exists in competence training and certification leading to registration: aspirant registrants can choose their training provider and certification body from a mature market of providers. However, there are alternative market structures for providing the registration scheme, for which HSE economists have undertaken a preliminary assessment of the costs and benefits; further analysis would be needed to strengthen the evidence base. In short, there are two structures available:

competition for the market. This would involve retaining a single registration scheme provider but inviting bids to run the franchise to introduce the competition. This has the potential for modest efficiency improvements and consequent price reductions (e.g. in registration fees).

competition in the market. This would allow multiple registration bodies to operate in the delivery of the service specified by HSE. Experience suggests that there are larger price reductions under this form of competition, which could further incentivise registration by currently illegal gas fitters. In order to provide consumers with data on quality (i.e. safety standards achieved by installers registered with each registration body), it would be necessary to have a larger re-inspection programme, with the results made available to the public. These re-inspection costs could be substantial.

4. In order to achieve competitive effects under the competition for the market approach, the franchise mechanism would need to be carefully designed and this would require additional resources (currently HSE does not have sufficient economic resources to do this and would have to employ a regulatory economist to do so, or buy-in the expertise). Issues to consider include the optimal length of time for the franchise to run, how to assess whether the franchisee is fulfilling contractual obligations, and how (if any) price caps should operate. Closer governance by HSE of the franchisee would be needed to avoid the shortcomings some stakeholders say are prevalent with CORGI. The danger is that, if poorly designed, franchising will fail to achieve any competitive gains, with little downward pressure on process or incentives for innovation. The governance structures need to be right to win stakeholder confidence and buy-in.
5. The considerations are different in the case of competition in the market because consumers/installers are buying services from competing providers, so HSE is not in the position of designing a contract but of approving those organisations that meet minimum standards set by HSE for such services. Clearly, this would still involve investment by us to ensure that we specify those services accurately. The challenge for HSE under competition in the market would be to ensure that consumers/installers have sufficient information on quality to make appropriate choices: if such quality information is available there would be a reduced need to “vet” suppliers of services as consumers/installers would do this work for us.
6. Subject to justifying any possible prevention of competition, change could be achieved in one of three ways:
 1. Introduce new arrangements without changing the 1998 Regulations: the Regulations allow HSE to appoint one provider, as now. Or we can appoint multiple providers, in which case each player would need to demonstrate how cooperation would be effected. A factor to weigh here is that other bids may come in within the franchise period that we would need to consider and this could be a distraction to our work, as was the case with the NAPIT application.
 2. A changed approach through the existing Regulations: as above but we could make clear that, once the provider(s) have been appointed, no further applications from other organisations would ordinarily be considered within the franchise period. HSE has the discretion under the existing legal framework to do this.
 3. Change the law to introduce a legal monopoly: this could be achieved through a short amendment to the 1998 Regulations.

AN ENFORCEMENT ROLE FOR THE REGISTRATION SCHEME PROVIDER?

What we could do

1. We have explored something akin to a fixed penalty being issued by CORGI for non-registration but unlike speeding or parking, the evidence is not immediately available. But it should be possible to require the future providers(s) of the registration scheme to follow up reports of non-registration via correspondence and then issue a fixed penalty notice if the response to the enquiries is silence. There options for achieving this set out below. As a starting point, the proposed specification for a new registration scheme could set out our intentions and ask applicants to show how they would run and develop such arrangements, should HSE chose to introduce them.

How we could do it

2. 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.
3. 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 - if desirable policy wise. 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 it without payment?

4. 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.