

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE HEALTH AND SAFETY EXECUTIVE (HSE)
AND
STATES OF GUERNSEY HEALTH AND SAFETY EXECUTIVE
ON THE OPERATION OF THE GAS SAFE REGISTER

THIS MEMORANDUM OF UNDERSTANDING IS DATED 1st June 2021.

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1. Introduction

- 1.1 This document forms a Memorandum of Understanding (MOU) made between the Health and Safety Executive (HSE) and States of Guernsey Health and Safety Executive. It outlines:
 - 1.1.1 how both parties will work together to support the operation of the Gas Safe Register scheme; and
 - 1.1.2 data sharing arrangements.
- 1.2 The Gas Safe Register (“the Register”) is the official list of qualified and registered gas businesses and engineers in the United Kingdom, Isle of Man, Guernsey, and Jersey.
- 1.3 The scheme is delivered by Capita (the Provider) on behalf of HSE under the terms of a Services Concession Agreement (SCA). The HSE–Capita SCA is for the provision of a UK-wide service covering Great Britain and Northern Ireland. HSENI is a service recipient of the HSE contract and supports HSE in the procurement and management of the services, as outlined in the HSE–HSENI MOU.
- 1.4 States of Guernsey Health and Safety Executive is required to contract separately with the Provider.
- 1.5 The Provider’s role includes maintaining the Register, inspecting engineer competency while on the Register and investigating reports of illegal gas work.

2. Relevant legislation

- 2.1 HSE has designated all businesses and self-employed persons who are included in the Gas Safe Register as members of an approved class of persons under the Gas Safety (Installation and Use) Regulations 1998, regulation 3(3).
- 2.2 States of Guernsey Health and Safety Executive shall designate all businesses and self-employed persons who are included in the Gas Safe Register as members of an approved class of persons under the Health and Safety (Gas) (Guernsey) Ordinance, 2006, Section 3(3).
- 2.3 The Gas Safe Register’s Rules of Registration require employee engineers to be registered.

3. The agencies

- 3.1 HSE is an executive non-departmental public body sponsored by the Department for Work and Pensions. HSE is the lead body responsible for the promotion and enforcement of health and safety at work standards in England, Scotland and Wales.
- 3.2 The Committee for Employment and Social Security is the sponsoring Committee of States of Guernsey Health and Safety Executive. States of Guernsey Health and Safety Executive is the lead body responsible for the promotion and enforcement of health and safety at work standards in Guernsey.

4. Funding

- 4.1 There is no transfer of funds between HSE and States of Guernsey Health and Safety Executive in relation to the Gas Safe Register.
- 4.2 For the Gas Safe Register to operate in Guernsey, the Committee for Employment and Social Security is required to contract with the Provider separately for provision of services in Guernsey. An additional management fee may be payable to the Provider by the Committee for Employment and Social Security where services not covered

under the agreement are requested (e.g. to cover inspector travel costs and for any inspection services above that determined by the Risk Model.

4.3 Gas Safe registration fees for businesses and engineers are the same across all territories in which the scheme operates.

4.4 Building Regulations notification fees are the same across all territories where gas work is notified.

5. Duration (term) of agreement and review

5.1 This MOU will automatically terminate six months after the expiry or earlier termination of the SCA between HSE and the Provider.

5.2 This MOU shall be reviewed by HSE and States of Guernsey Health and Safety Executive every two years, and on any significant change to Services.

6. Roles and responsibilities

6.1 HSE will:

6.1.1 notify States of Guernsey Health and Safety Executive throughout the term of the SCA about any changes that could impact on the States of Guernsey Health and Safety Executive Services;

6.1.2 share data with States of Guernsey Health and Safety Executive as outlined in clause 7 Data sharing;

6.1.3 direct the Provider to share appropriate information (at individual business/engineer level to support enforcement, and high-level trends to support strategic decision making and service delivery oversight) with States of Guernsey Health and Safety Executive.

6.1.4 Give permission to States of Guernsey Health and Safety Executive to use Gas Safe Register brand (including logo) under licence throughout the term of the SCA in accordance with paragraph 9 of the SCA.

6.2 States of Guernsey Health and Safety Executive will:

6.2.1 throughout the term of the SCA, raise any concerns with HSE in a timely manner;

6.2.2 take reasonable steps to provide comments or notification in a timely manner to HSE in relation to any matters arising in this MOU or from the Services;

6.2.3 participate in quarterly operational review meetings between HSE and the Provider;

6.2.4 notify HSE of any disputes that arise with the Provider in connection to States of Guernsey Health and Safety Executive Services.

6.3 HSE may, from time to time, request assistance from States of Guernsey Health and Safety Executive in respect of the management and operation of the services and States of Guernsey Health and Safety Executive will use reasonable endeavours to co-operate accordingly.

7. Data sharing


7.1 See Annex 1 GDPR Article 26, Joint Data Controller Declaration.

8. Glossary

Additional Services	means any services (not being Concession Services or Ancillary Services) that the Provider performs or offers to perform for any third party, including Businesses, Engineers, Consumers or members of the Provider's Group, but excludes those services the Provider performs for members of the Provider's Group which arise solely through: (a) operation of Law, or (b) internal reporting arrangements which apply to all companies of the same description as the Provider which are members of the Provider's Group.
Ancillary Services	means those services (not being Concession Services or Additional Services) of the general description set out in Schedule 2 (Additional and Ancillary Services) provided by the Provider to HSE as HSE may require from time to time, in accordance with Clause 6 (Ancillary Services) and Schedule 2 (Additional and Ancillary Services).
Concession Services	means those services undertaken by the Provider which are set out in Schedule 1 (Concession Services Requirements).
Provider	means Capita.
Risk Model	means the model, process or algorithm used to determine a Business's Risk Rating, and subsequently the Risk Category that applies to them. It is used to assist in the selection of Gas Work to Inspect.
SCA	means the Services Concession Agreement between HSE and Capita for the operation of the Gas Safe Register for the term 1 April 2019 to 31 March 2024.
Services	means the Concession Services (listed in Annex 2), Additional Services and Ancillary Services (as approved by HSE) but excludes the Transition Activities.
Transition Activities	means all acts or things that the Provider will do or undertake from the Effective Date to the Services Start Date to ensure that it is able to provide the Services from the Services Start Date.

9. Authorisation

SIGNED by	
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<p>HSE acting by an Authorised Person</p>	 <p>..... Authorised Person</p>
<p>SIGNED by</p> <p>States of Guernsey Health and Safety Executive acting by an Authorised Person</p>	 <p>Robin Gonard Authorised Person</p>

ANNEX 1 GDPR ARTICLE 26, JOINT DATA CONTROLLER DECLARATION

1. Purpose

- 1.1 The purpose of this annex is to explain the respective roles that States of Guernsey Health and Safety Executive and HSE will play in managing the processing of personal data associated with the Gas Safe Register. States of Guernsey Health and Safety Executive and HSE are considered joint-controllers of the data collected, as both parties collectively determine the means and purpose of processing personal data as part of the functions defined in this broader MoU.

2. Data Protection

- 2.1 States of Guernsey Health and Safety Executive and HSE will comply with all relevant provisions of the Data Protection Act 2018, the Data Protection (Bailiwick of Guernsey) Law, 2017 (and the General Data Protection Regulation). States of Guernsey Health and Safety Executive and HSE will act as joint data controllers, in respect of any personal data pursuant to this MoU; they will only process such personal data to the extent defined in the relevant regulatory framework.
- 2.2 Neither States of Guernsey Health and Safety Executive nor HSE will transfer any personal data it is processing outside of the European Economic Area, unless appropriate legal safeguards are in place, such as Privacy Shield or Model Contract Clauses.
- 2.3 States of Guernsey Health and Safety Executive and HSE will ensure that they have appropriate technical and organisational procedures in place to protect any personal data they are processing. This includes any unauthorised or unlawful processing, and against any accidental disclosure, loss, destruction or damage. States of Guernsey Health and Safety Executive will promptly inform HSE, and vice versa, of any unauthorised or unlawful processing, accidental disclosure, loss, destruction or damage to any such personal data. Both parties will also take reasonable steps to ensure the suitability of their staff having access to such personal data.

3. Specific States of Guernsey Health and Safety Executive Responsibilities

- 3.1 States of Guernsey Health and Safety Executive has the following specific responsibilities:
- 3.1.1 Carrying out any required Data Protection Impact Assessment for any element of business or process change.
- 3.1.2 Following States of Guernsey Health and Safety Executive Data Security Guidance to ensure that the necessary measures are taken to protect personal data.
- 3.1.3 Ensuring States of Guernsey Health and Safety Executive staff are appropriately trained in how to use and look after personal data and follow approved processes for data handling.
- 3.1.4 Ensuring States of Guernsey Health and Safety Executive staff have appropriate security clearance to handle personal information collected as part of this process.
- 3.1.5 Secure transfer of personal data to HSE as necessary for fulfilment of HSE's regulatory functions.
- 3.1.6 Responding to Data Subject Access Requests when and where required.

- 3.1.7 Reporting any data breaches within States of Guernsey Health and Safety Executive to their Data Protection Officer (DPO) and the Information Commissioners Office (ICO) (where appropriate).
- 3.1.8 Maintaining any Article 30 processing records for data held on States of Guernsey Health and Safety Executive systems.

4. Specific HSE Responsibilities

- 4.1 HSE has the following specific responsibilities:
 - 4.1.1 Carrying out any required Data Protection Impact Assessment for any element of business or process change.
 - 4.1.2 Following HSE Data Security Guidance to ensure that the necessary measures are taken to protect personal data.
 - 4.1.3 Ensuring HSE staff are appropriately trained in how to use and look after personal data and follow approved processes for data handling.
 - 4.1.4 Ensuring HSE staff have appropriate security clearance to handle personal information collected as part of this process.
 - 4.1.5 Responding to Data Subject Access Requests when and where required in relation to personal data being processed as part of the regulatory function.
 - 4.1.6 Reporting any data breaches to their Data Protection Officer (DPO) and the ICO (where appropriate).
 - 4.1.7 Maintaining any Article 30 processing records for data held on HSE systems.

5. Individual Rights

- 5.1 GDPR specifies new rights for individuals over the processing of their data. These rights, and the process an individual should follow when making a request, are listed in both States of Guernsey Health and Safety Executive and HSE's privacy notice. Both parties should ensure they consult and comply fully with their respective privacy policies in the event of a Data Subject exercising any of their rights under data protection legislation.
- 5.2 In response to any subject access request, States of Guernsey Health and Safety Executive or HSE or the Provider (where responding to subject access requests has been delegated to the Provider) will undertake a proportionate and reasonable search and respond within 30 days of the original request.

6. Data breach

- 6.1 States of Guernsey Health and Safety Executive is responsible for reporting any breach occurring within their authority to their DPO, the Data Protection Authority (Guernsey) and the ICO (where appropriate). States of Guernsey Health and Safety Executive will also inform HSE of the breach if there is any direct impact on their staff or wider interest.
- 6.2 HSE are responsible for reporting any data breaches within their Authority to their DPO and ICO (where appropriate), as well as to States of Guernsey Health and Safety Executive if there is any direct impact on their staff or wider interests.
- 6.3 Any personal data breach as defined by GDPR Article 4(12) that meets the relevant threshold criteria will be reported to the ICO within 72 hours of notification. This will include informing the affected data subject should the circumstances warrant it. The

appropriate DPO (see below) will be responsible for making the report, following consultation their Chief Executive Officer (CEO).

- 6.4 If financial penalties are imposed by the Information Commissioner on a party in relation to any data processed under this agreement and if in the view of the Information Commissioner, one party is responsible for the imposition of those penalties, that party shall be responsible for the payment of the penalties imposed.
- 6.5 The provisions of this clause do not prevent the parties coming to a mutual agreement as to the apportionment of financial responsibility for any losses, cost claims or expenses arising from the processing of data under this agreement.

7. Data retention

- 7.1 States of Guernsey Health and Safety Executive and HSE will retain personal data associated with the Gas Safe Register in accordance with their respective organisational retention and disposal policies aligned within the Services Concession Agreement (SCA). Each party is responsible for ensuring appropriate technical and procedural functions are in place to ensure the secure retention and timely destruction of personal data to agreed timelines.

8. Information Disclosure

- 8.1 Either party to this MoU may receive a request for information from a member of the public or any other person under the various pieces of information disclosure legislation (EU General Data Protection Regulation 2016/679 (GDPR) and the Data Protection Act 2018 (DPA)), Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) etc.).
- 8.2 The recipient party to any request for information is ultimately responsible for making the final decision on disclosure. All requests for information will be considered on case-by-case basis, and all resulting disclosures must be lawful. The default position for both parties is to disclose unless one or more absolute exemptions (as defined by the appropriate legislation) apply to a specific request. Where the recipient party wishes to apply a qualified exemption (as defined by the appropriate legislation) to all or part of a request, they must ensure this is validated by a documented public interest test.
- 8.3 If a party receives a request for information that has been supplied by the other party (“the information supplier”), the party that has received the request for information will consult the information supplier as early as possible and before any information is disclosed in response to the request to enable sufficient time for the views of the information supplier, including any objections to disclosure, to be taken into account when determining whether the information is to be disclosed or withheld.
- 8.4 If a party receives a request for information that it holds and knows or believes the information is held by the other party, the party that received the request will consult the other party as early as possible and before any information is disclosed in response to the request. The purpose of this consultation is to ensure that the party that received the request is able to share any concerns about information that might be disclosed to the requester, that the party holding the information is able to take those concerns fully into account in its decision-making, and that the parties can co-ordinate their handling of requests.

9. Data Protection Officers

9.1 The contact details of the Joint Controller Data Protection Officers are:

States of Guernsey Health and Safety Executive	HSE
Nigel Henaghen Data Protection Officer States of Guernsey Email: nigel.henaghen2@gov.gg Tel: +44 (0)1481 717297	Sean Egan Data Protection Officer Health and Safety Executive 1.3 Redgrave Court Merton Road, Bootle Liverpool L20 7HS Email: Data.Protection@hse.gov.uk

ANNEX 2 SCHEDULE 1 FROM THE HSE–CAPITA SCA

1. Schedule 1 Concession Services Requirements

Extract from HSE–Capita SCA detailing the Gas Safe services provided by Capita.



SCA v1.2 extract -
Schedule 1.pdf

