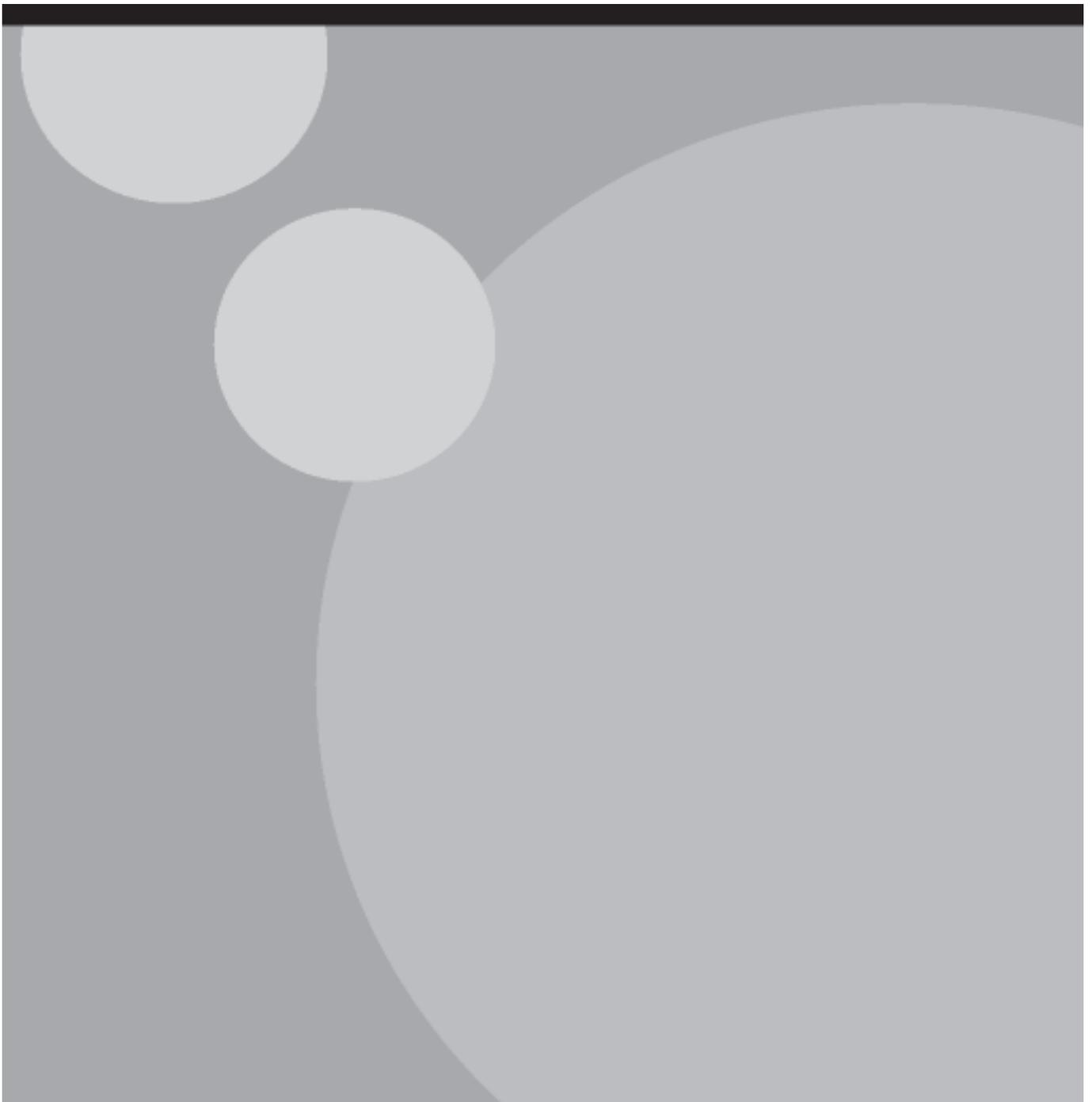




Changes to the Conditions of Authorisation for Building Regulations Competent Person Self-certification Schemes

Final impact assessment





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Title: Changes to the conditions of authorisation for Building Regulations competent person self-certification schemes IA No: DCLG 12010 Lead department or agency: Department for Communities and Local Government (DCLG) Other departments or agencies:	Date: 22 February 2012 Stage: Final Source of intervention: Domestic Type of measure: Other Contact for enquiries: Ian Drummond (0303 444 1791) or Kevin Flanagan (0303 444 1809)
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Summary: Intervention and Options	RPC Opinion: AMBER
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£.37.0m	£40.3m	-£4.4m	Yes Out

What is the problem under consideration? Why is government intervention necessary?
 DCLG proposes to make changes to the administrative conditions of authorisation for the operation of Building Regulations competent person self-certification schemes in England. The changes proposed are designed to address perceived weaknesses in the current system. Currently there is a lack of consistency which has arisen from the gradual evolution of competent person schemes to cover different types of building work, meaning the Department has set different conditions for similar schemes which has led to confusion and an uneven competitive playing field. There is also evidence that compliance with the Building Regulations could be improved. Self-certification, through competent person schemes, is an appropriate response to market failure in a situation where information is costly and difficult to obtain. However, these schemes need to be governed effectively and consistently to help ensure there is compliance.

What are the policy objectives and the intended effects?
 The objectives are to provide a single set of clear and more robust conditions of authorisation for all competent person schemes to work to and be assessed against. This will enable schemes to work in a more structured way, resulting in more consistency and transparency in the system, better services to the consumer and a competitive level playing field across the schemes. The proposed revised conditions will also help improve the level of compliance with the Building Regulations, provide a higher level of quality assurance and align competent person schemes more closely with the Green Deal initiative making it easier for it to be delivered.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 The options considered are to
 (1) do nothing and retain the current conditions of authorisation; or
 (2) introduce a new set of conditions of authorisation to meet the policy objectives identified above.
 The Department prefers option 2 as if we do not introduce these conditions, inconsistencies between schemes will continue, causing confusion within the relevant industries, to members and consumers; the lack of compliance by some schemes with the current conditions and the Building Regulations will not be addressed; and the successful introduction of the Green Deal will be made more difficult.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: Month/Year					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: n/a	Non-traded: n/a	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: Andrew Stunell Date: 22 February 2012

Summary: Analysis & Evidence

Policy Option 2

Description: Changes to the conditions of authorisation for Building Regulations competent persons schemes

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 18.9	High: 51.0	Best Estimate: 37.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£3.3m	£3.1m	£29.6m
High	£7.2m	£4.1m	£42.3m
Best Estimate	£5.2m	£3.4m	£34.2m

Description and scale of key monetised costs by 'main affected groups'

Main costs are from continuing training (£22,310,000), cost of financial protection (£3,700,000), action to increase membership (£1,610,000), ensuring minimum technical competences (£3,800,000), surveillance (£1,570,000), UKAS accreditation (£830,000), other actions (£360,000 – see table on page 8). Most of these costs will fall on the competent persons schemes themselves although £57,000 of the costs will be picked up by government.

Other key non-monetised costs by 'main affected groups'

All main costs involved in these changes have been monetised.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	-	£7.1m	£61.2m
High	-	£9.4m	£80.6m
Best Estimate	-	£8.3m	£71.2m

Description and scale of key monetised benefits by 'main affected groups'

The primary benefit (£70,930,000) from the package of changes will be through a new surveillance/inspection regime which will ensure a more efficient, effective, risk-based governance regime while requiring fewer inspections. There is also a small benefit from the current monitoring regime being replaced by UKAS accreditation (£250,000).

Other key non-monetised benefits by 'main affected groups'

Many of the measures in this policy contribute to the functioning of a more effective governance regime while requiring less surveillance through risk-based inspections. This benefit is monetised only in the surveillance section, to avoid double counting, with sensitivity undertaken to reflect uncertainty. Some additional benefits have been identified, e.g. a better skilled workforce and greater customer satisfaction, improving compliance with the Building Regulations and more transparency. These have not been monetised.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

A number of high and low estimates have been made and sensitivity testing undertaken to reflect uncertainty. For instance, estimates have been made of the proportion of members in schemes who would require annual inspections and the proportion which can be brought into the proposed three-yearly inspection regime. Details of these can be found on pages 27-28.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m: (2011 prices)			In scope of OIOO?	Measure qualifies as
Costs: 3.6m	Benefits: 8.2m	Net Benefit: 4.7m	Yes	OUT

Evidence Base (for summary sheets)

Background

The Building Regulations and development of competent person schemes

The Building Regulations (currently the Building Regulations 2010, as amended) set minimum standards primarily for the design and construction of buildings and the provision or extension of controlled services or fittings in buildings, for the purposes of the health and safety of people, energy efficiency and accessibility. Until 2002, anyone carrying out building work was required to use a building control service provided by a building control body, i.e. local authorities or private sector approved inspectors, to check plans and/or inspect work to help ensure compliance with the applicable requirements of the Building Regulations. Building control bodies levy charges for the use of their services.

By the late 1990's the significant increase in the amount and types of building work subject to the Building Regulations that had to be notified to a building control body for checking could no longer be practicably accommodated within the traditional building control framework. The 1991 Building Regulations had already exempted the installation of heat-producing gas appliances from notification to local authorities where the work was carried out by an installer registered with the CORGI (Council for Registered Gas Installers) registration scheme approved under the Gas Safety (Installation and Use) Regulations.

A formal public consultation in 1997 on the general principle of allowing installers (i.e. businesses, mostly sole traders/small firms) assessed as competent to self-certify that their work complied with the relevant requirements of the Building Regulations showed general support. In 1999 the Department consulted more specifically on the appropriateness of self-certification for whole buildings and/or specific types of work. There was no support for self-certification of compliance for whole buildings but much support for specific types of work, provided that the type of work was of relatively low incidence of risk to health and safety or sustainability and of such a high volume that made building control involvement difficult, diverting resources from areas of higher risk. However, progress in taking forward the proposal was initially slow.

In April 2002 the revision to Part L (Conservation of fuel and power) extended Building Regulations requirements to areas not previously covered, notably the energy efficiency of replacement glazing and combustion appliances. It was anticipated that for each type of installation there would have been over one million notifiable jobs per year, which would considerably stretch building control resources. It was also considered that the incidence of risk associated with non-compliance was low. It was therefore decided that self-certification would be appropriate in these areas and a number of schemes - known as *competent person schemes* - were introduced. Within this the role of CORGI was extended to the energy efficiency of heat-producing gas appliances and two new schemes were authorised for the installation of oil-fired and solid fuel appliances, operated by OFTEC and HETAS respectively. FENSA was also authorised to allow self-certification of replacement glazing in dwellings by its registered installers.

OFTEC and HETAS had been successfully operating voluntary installer schemes for some years before authorisation and at the time it was considered unnecessary to impose any conditions of authorisation on them. FENSA was a newly created body and it was decided that two main conditions should be imposed by the Department, i.e. requirements for a surveillance regime to check randomly that installations complied with the Building Regulations and an insurance-backed warranty to protect customers.

When Ministers made the decision in 2004 to regulate electrical installation work in dwellings through Part P of the Building Regulations, it was agreed this could only be practicably implemented if there were competent person schemes in this area. Five full competence and five defined competence (where electrical work was only part of the main activity, e.g. kitchen or gas fitters) schemes were authorised to operate from 1 January 2005.

The schemes authorised in 2004, and subsequently, had to agree to conditions of authorisation (also referred to as 'authorisation criteria' - see Annex B) set by the Department as a prerequisite for authorisation. However, these conditions were not imposed retrospectively on FENSA, HETAS or OFTEC although they have voluntarily brought their operations into line with most of them.

In 2006 Part L of the Building Regulations was revised once again and Articles 3 to 6 of the Energy Performance of Buildings Directive implemented. It was decided that the revised provisions could only be practicably implemented if further competent person schemes were authorised. Following an invitation in 2005, a number of applications were received and approved, for new and to extend existing schemes, covering the plumbing, heating, hot water, mechanical ventilation and air-conditioning sectors.

Since that time the Department has received applications for and authorised new schemes for a number of other types of work, e.g. cold water supply, cavity wall insulation, replacement roofing, microgeneration and renewable technologies, as well as approving extensions for some existing scheme operators. There are currently **18** competent person schemes (there were 12 when the consultation stage Impact Assessment was prepared in 2009) - a full current list can be found in Schedule 3 of the Building Regulations 2010 (as amended) and on the Department's website at:

<http://www.communities.gov.uk/planningandbuilding/buildingregulations/competentpersonsschemes/existingcompetentperson>.

Information provided by scheme operators indicates that about 2.5–3.0 million jobs are currently self-certified under competent person schemes each year, compared to an estimate of around half a million other notifiable jobs in total supervised by building control bodies.

Authorisation and operation of competent person schemes

To become a competent person scheme operator, applicants must demonstrate to the Department, in consultation with other relevant organisations, that they have the managerial, financial and technical ability to operate a self-certification scheme and are able to comply with conditions of authorisation. Authorisation for a new or extended scheme is formally given through an amendment to the Building Regulations. Installers who wish to self-certify must pay a membership fee to join a scheme and demonstrate that they have the necessary skills and technical competence to carry out a type of work to Building Regulations standards and are subject to ongoing monitoring.

There is no requirement that a body should apply for authorisation as a competent person scheme operator. The decision is *voluntary*, based on what advantages and benefits a body considers might accrue to it. Equally, membership of a scheme is *voluntary*; installers who do not wish to join a scheme can continue to use the services of a building control body to check their work.

Rationale for intervention and policy objective

Allowing competent installers who are members of competent person schemes to self-certify their own work as compliant with the Building Regulations means that they are not required to notify in advance and pay a charge to a building control body to check the work. Instead the work is simply notified to the local authority within 30 days of completion for authority records.

This saves time and removes a cost and burden on installers and consumers (i.e. building owners/occupiers) and also on building control bodies as it frees up their resources to concentrate on other areas of building work where the risk is higher and self-certification is not considered appropriate. Enlisting the installers undertaking the work in delivering compliance can help installations achieve a higher level of compliance with the Building Regulations, particularly where the incentives are aligned.

Therefore, self-certification, through competent person schemes, is an appropriate response to market failure where information is costly and difficult to obtain. It provides an alternative, cost effective and deregulatory means of delivering compliance with the Building Regulations and its success is generally evidenced by past monitoring reports (see below). However, these schemes need to be operated and governed effectively and consistently to help ensure that there is compliance.

It has become clear from discussions with competent person scheme operators that there are differences between them on the conditions on which they had been authorised, which some consider to cause confusion and create an uneven competitive playing field both generally and in relation to specific types of work. The lack of consistency arose from the gradual evolution of competent person schemes to cover different types of work as explained above. Decisions taken on an individual basis may have been sensible at the time but led to the situation where the Department was requiring different things from similar schemes.

In addition, the Department has commissioned *ad hoc* monitoring exercises of competent person schemes since they were first introduced in 2002. Although the reports received indicate that most schemes have been operating effectively and have proved to be a success, the latest report in 2009 found that some schemes were not complying fully with their conditions of authorisation or achieving a sufficiently high level of compliance with the Building Regulations. There is also some evidence from local authorities, complaints received by the Department and more recently the Red Tape Challenge website that compliance with the Building Regulations could be improved. The Department considers that these issues need to be addressed to provide a fair basis on which existing schemes can work and new schemes authorised and ensure good administration in the future.

The Department has therefore carried out a review of the administrative provisions for the approval and operation of competent person schemes with the aim of introducing a new set of more robust and transparent standardised conditions of authorisation and to ensure regular monitoring of adherence to the conditions. The Department's proposal to introduce these conditions was initially consulted on informally and developed in working groups consisting of representatives from the schemes, LABC (the body representing local authority building control departments) and the Department. The proposal was also supported by the Building Regulations Advisory Committee (BRAC).

Consultation

The Department published a consultation document *Building Regulations competent person self-certification schemes* in December 2009, which is available on our website at: <http://www.communities.gov.uk/publications/planningandbuilding/competentschemechangesconsult>.

The consultation document described in detail the proposals for a new set of conditions of authorisation for competent person schemes by amending some of the existing conditions and introducing some new ones, the reasons for the proposals and included a consultation Impact Assessment with the estimated costs and benefits of doing so. It also explained the Department's proposal for a more formal and transparent application process.

The Department received 47 responses to its consultation (11 from competent person scheme operators, 10 from building control bodies, 16 from professional or trade bodies and 10 from other various respondents). A clear majority supported each of the proposed new conditions. The responses contained a number of queries and suggestions on how the conditions might be implemented in practice, for example on complaints procedures, surveillance of scheme members and consumer financial protection. Some concerns were also raised by the minority opposed to one or more of the proposed conditions, for example relating to the cost of the requirement for United Kingdom Accreditation Service (UKAS) accreditation - see consideration of responses below. In addition a number of the respondents provided comments on the consultation Impact Assessment which have been taken into account in preparing this final Impact Assessment.

The summary of responses *Building Regulations: Competent person self-certification schemes – Analysis of responses to consultation* is also available on the Department's website at: <http://www.communities.gov.uk/publications/planningandbuilding/competentschemeanalysis>. The *Introduction and overview of responses* section of the report is replicated at **Annex C** of this Impact Assessment for ease of reference.

Consideration of the consultation responses and further developments

Following the public consultation carried out in 2009/10, the Department fully considered all the responses received, in particular those made by competent person scheme operators, and then updated the draft conditions of authorisation as appropriate. The Department recognised that some scheme operators had concerns about the costs of some of the proposed changes, in particular the cost of UKAS accreditation, but, in general, the concerns were not supported by evidence and in the case of UKAS accreditation by a misconception of what it would require.

However, to help allay those concerns, there were a large number of subsequent meetings with scheme operators (about 12 meetings with all the operators present, two sector specific meetings and a number with particular scheme operators) and extensive correspondence to discuss particular issues. The Department has since made some amendments to the conditions and significantly revised the second column to the conditions, i.e. the *Notes on how to demonstrate meeting the conditions*, to set out how we considered that a scheme operator could most easily and at least cost demonstrate compliance with the conditions. As a result the feedback we have received indicates that the scheme operators are now generally content with the proposed new set of conditions of authorisation as they now stand (**Annex A**).

The Department has also had many meetings with UKAS, some with scheme operators present, to discuss the costs and process of UKAS accreditation (condition 1) as some scheme operators in their responses commented that we had underestimated the costs of this in the consultation Impact Assessment. These discussions provided much better evidence as to the costs of applying to UKAS for accreditation, the number of days that UKAS would need to consider an application and for which an applicant would need to pay. These costs are reflected below in the estimate of costs and benefits of condition 1. As the scheme operators are currently engaged in the accreditation process the costs estimated below have turned out to be the actual costs that schemes are currently paying.

The consultation Impact Assessment also anticipated and attributed a present value cost of £20m over ten years to extra inspections needed as a result of UKAS accreditation. However, UKAS has now stated that no extra inspections of the members of schemes will in fact be needed (regular surveillance inspections required under condition 12 are costed below). As no extra inspections are required the cost of £20m has been removed from the final Impact Assessment.

Since the consultation the sector skills bodies have developed (or are developing) National Occupational Standards (NOS) and Minimum Technical Competence (MTC) Standards

documents for all the types of work covered by competent person schemes. These generally reflect the older competence standards used by most of the schemes except for the replacement window schemes where there were previously no available competence standards. With the development of NOS and an MTC for windows the new conditions of authorisation will require all current and future window installers in schemes to have their competence assessed, which was not costed in the consultation Impact Assessment. This has meant a significant increase in the costs of complying with condition 9 from a present value cost of £275,000 to £3.8m over ten years, primarily for the replacement window schemes. .

Since the consultation document was issued there has been an increase in the number of scheme operators from 12 to 18 and within schemes there has been in many cases an increase in the number of members. This means that where costs and benefits are based on the number of schemes or the number of members that multipliers are greater, in some cases magnifying costs and in others benefits, beyond those in the consultation Impact Assessment.

In the consultation document the Department proposed a number of options to provide financial protection to consumers and did not fully cost the options. In line with the Green Deal and the Microgeneration Certification Scheme the Department has subsequently decided that there will be automatic financial protection for all consumers. This also reflects the responses to the consultation where a majority of respondents (including competent person scheme operators) expressed the view that financial protection should be automatic. This means a present value cost of £3.7m over ten years compared to just £10,600 in the consultation Impact Assessment.

Green Deal and Microgeneration Certification Scheme

Since the consultation on the conditions of authorisation was carried out, the Department of Energy and Climate Change (DECC) has decided to implement a new programme (from 1 October 2012), the Green Deal, to encourage greater energy efficiency in existing buildings. The architecture of the parts of the Green Deal dealing with installers (assessment of competence and surveillance of installer's work and UKAS accreditation) is very similar to that of competent person schemes.

As most scheme operators and many of their installers would wish also to participate in the Green Deal to take advantage of the commercial opportunities, the Department considers that it is sensible and practicable to align the conditions of authorisation for competent person schemes as closely as possible to Green Deal requirements in PAS (Publicly Available Specification) 2030 and PAS 2031 and the Green Deal Code of Practice. This will allow scheme operators and installers to derive the benefits of mutual membership meaning that they would need to be assessed only once for both purposes and surveillance would cover both sets of requirements, saving scheme operators and installers unnecessary expense. The Green Deal has therefore had a significant impact on the costs, most notably those of UKAS accreditation, originally identified in the consultation Impact Assessment. All currently authorised competent person schemes except BINDT have applied for Green Deal accreditation. The effects are shown below in the analysis of costs and benefits under condition 1.

The Department is similarly working with DECC to align the competent person scheme framework with the related Microgeneration Certification Scheme (MCS), a quality assurance scheme relating to renewable microgeneration technologies which has also come into being since the consultation. The following six competent person scheme operators are currently UKAS accredited for MCS: Ascertiva, Benchmark, ECA Certification, HETAS, NAPIT and STROMA.

The Green Deal and MCS have adopted the same MTCs and NOS as competent person schemes for the assessment of the competence of installers. A scheme operator would therefore need to undertake only one competence assessment of installers and the assessment would apply across all three schemes (Green Deal, MCS and competent person schemes).

These synergies will make it more convenient and less costly for installers to become registered with the different schemes if appropriate. It will be for each installer to decide whether to become a member of all three schemes. As we have no evidence to estimate the current or likely level of membership take-up of all three schemes, particularly as the Green Deal has not yet launched, the benefit of the synergy cannot be monetised. This Impact Assessment therefore includes all the additional costs of competence assessment.

Options considered

We have considered two options following the consultation exercises referred to above:

Option 1 - To do nothing and retain the current conditions of authorisation.

Option 2 - To take forward the proposed new set of conditions of authorisation in order to create a more robust and transparent framework and address the deficiencies in the current conditions. This will provide more consistency, a competitive level playing field, enhance quality assurance and improve the level of compliance with the Building Regulations. It will also support the successful introduction of the Green Deal.

Proposed changes to the conditions of authorisation

The Department proposes to proceed with option 2 above. The proposed new set of conditions of authorisation (21 in total) for competent person schemes are stated in column 1 of **Annex A** and are also referred to in italics below in the sections considering costs and benefits. Column 2 of Annex A provides notes to assist scheme operators to demonstrate meeting the conditions. The new set of conditions derive from making the old conditions clearer, merging some into new enlarged conditions, and adding new conditions.

Annex B shows the conditions of authorisation as they currently stand (also referred to as 'authorisation criteria'), as published on the Department's website (15 in total - although further details were included in the letters notifying schemes of their authorisation).

Total Costs and Benefits

Costs Summary – central estimate	
Type	Present Value Cost £ (Rounded)
UKAS accreditation	830,000
Membership growth	1,610,000
Accounts	120,000
Minimum technical competence	3,800,000
Continuing training	22,310,000
Surveillance	1,570,000
Sharing of names	10,000
Membership lists	80,000
Complaints procedure	40,000
Financial protection	3,700,000
Information provision	110,000
Total – PV Cost	34,180,000
Benefits Summary – central estimate	
Type	Present Value Benefit
Surveillance saving for all schemes	70,930,000
Monitoring saving	250,000
Total - PV Benefit	71,180,000
Net Impact (Benefits – Costs)	
Net Present Value: (Rounded)	£37.0 million

Estimates/Assumptions

In looking at the costs and benefits of the proposed new set of conditions of authorisation we have made a number of estimates/assumptions as to the unit costs per scheme or per member. These estimates/assumptions are based on evidence derived from a number of sources, including the responses to the consultation, discussions with scheme operators and UKAS, comparison with costs in other Departments' schemes (i.e. Green Deal, Microgeneration Certification Scheme and TrustMark) and knowledge built up within the Department over the last decade from monitoring the performance of schemes.

In costing the time of employees of scheme operators below we have used an annual salary FTE figure of £40,000, based on a typical approximate salary of a middle manager/professional in the building sector. The sources for this assumption are the ONS Annual Survey of Hours and Earnings (ASHE) and the UK figures in the Hays Construction International Salary Guide 2012. In some cases, particularly in the larger competent person schemes, it is likely that some of the tasks required by the changes to the conditions would be carried out by staff on lower salaries than £40,000 per annum FTE, but in respect of this Impact Assessment we have chosen to use that figure to make sure we fully capture the costs for all the schemes.

Conditions not changed or with no additional cost

Some of the current conditions have not been changed in substance as they deliver the required outcomes. There will therefore be no additional costs or benefits. The proposed conditions which fall into this category are:

Condition 4

Scheme operator to ensure that the scheme is financially viable and self-sufficient within a reasonable timescale.

The scope of this condition has not changed. It means that scheme operators must have sufficient resources to operate their scheme without dependence on other organisations. There should be no additional cost to scheme operators as fees structures should be set to achieve this condition.

Condition 5

Scheme operator to have an absence of, or methods for avoiding, conflicts of interest between the commercial interests of any sponsoring or parent organisations and management of the scheme.

This is in effect a current condition. Where schemes are part of, or owned by, a larger commercial, trade or professional group, the scheme should document how any conflicts of interests will be managed. No additional cost.

Condition 11

Scheme operator to provide ongoing technical and other help and advice to members (i.e. post registration), provided such help/advice does not cause any conflicts of interest with certification activities of the scheme operator.

Although not a current condition, in practice all scheme operators provide this service for their members, so there will be no additional cost in making this a condition.

Condition 13

Scheme operator to have effective sanctions in place for dealing with non-compliance with the Building Regulations and/or a breach of scheme rules by members of the scheme.

This builds on a current condition which requires scheme operators to have in place processes to deal with scheme members whose work is found not to comply with requirements of the Building Regulations, but it has been expanded to include non-compliance with scheme rules. The scheme's rules should set out the range of sanctions to be applied in circumstances particular to that scheme. No additional cost.

Condition 18

Scheme operator to require its members to remain responsible for ensuring that all scheme work carried out under a contract with the customer is compliant with the Building Regulations.

This is covered by a current condition, but the new more targeted wording will give greater clarity on responsibility for compliance in cases where some of the work is subcontracted. No additional cost.

Condition 19

Scheme operator to take measures to ensure that it is notified by members of all completed work required under the scheme and to forward to all customers a certificate of Building Regulations compliance.

This is a current condition which puts in place the process to comply with a duty in regulation 20 of the Building Regulations 2010. No additional cost.

Condition 21

Scheme operator to take measures to ensure that it is notified by members of all completed work required under the scheme and to forward this information to the relevant local authority in the format agreed with LABC.

This is also a current condition which puts in place the process to comply with a further duty in regulation 20 of the Building Regulations 2010. No additional cost.

Conditions with negligible additional cost

Scheme operator technical expertise

Condition 3

Scheme operator, including assessors and inspectors that it employs, to have the technical ability to assess/inspect the competence of prospective and existing members to deliver compliance with the requirements of the Building Regulations.

This condition is more targeted than the current similar condition as it helps to make sure that the staff of the scheme operator, whether directly employed or subcontracted, have the relevant technical expertise to carry out the assessment and inspection of members where such expertise is needed.

Costs

The Department considers that all currently authorised schemes have the degree of technical expertise required already, some directly employed as in the Ascetiva scheme, some on contract as in the FENSA scheme. We also consider that no new scheme operator would apply for authorisation unless it had arrangements in place for the required technical abilities. We therefore estimate that there would be no or negligible additional costs in complying with this condition.

Benefits

Currently applicants to operate a competent person scheme have to comment only on experience in the relevant 'field' applied for. To open up to fairer competition this more robust condition will require applicants to demonstrate that they have the technical ability to run a scheme or are able to 'buy in' the expertise.

Scheme rules publication

Condition 8

Scheme operator to establish and publish scheme rules, including its application and certification processes and fee structure.

This is in effect a current condition. The notes on meeting the condition indicate that publication should be on the scheme's website, which most schemes already do. Where they do not, this information would be held by the schemes and would just require formatting and insertion on its website.

Costs

For the reasons explained above, any additional cost would be negligible.

Benefits

This will enable a prospective member to ascertain exactly the level and types of scheme fees and how the scheme is run. This will give a prospective member more choice to see which scheme is best suited to their needs

Conditions incurring additional costs

UKAS accreditation and requirement for a robust management system

Conditions 1 and 2

Scheme operator to give a commitment to achieve/maintain UKAS accreditation to standard BS EN 45011:1998 (or latest equivalent standard) within a period agreed with DCLG and to ongoing external monitoring by UKAS. Scheme operator to meet all the relevant requirements in EN 45011 whether or not separately specified in these conditions of authorisation.

Scheme operator to have a robust and non-discriminatory management, quality and administrative system.

Note: BS EN 45011:1998 is available at: www.standardsuk.com.

Monitoring of scheme operators to assess compliance with the requirements of the Building Regulations and whether a scheme operator is operating within the existing conditions of authorisation has to date been carried out on an *ad hoc* basis by the Department through contracts with external consultants or research bodies. This has proved unsatisfactory for a number of reasons:

- each monitoring exercise was carried out as a one-off activity by different consultants and therefore lacked consistency over time
- the Department has not been able to monitor as frequently as desired resulting in some significant scheme operator deficiencies coming to light only after a long period
- monitoring was not against a standard set of conditions of authorisation or a defined and objective quality assurance standard which to some extent devalued the results of the monitoring.

The Department has therefore proposed a new condition (no 1) that it would be beneficial to require all scheme operators to achieve UKAS accreditation to British Standard EN 45011 and to commit to periodic monitoring by UKAS against that standard and the new set of conditions of authorisation, much of which overlap. The requirement for UKAS accreditation for competent person scheme operators aligns with the accreditation requirements for certification bodies in DECC's Green Deal and Microgeneration Certification Scheme. We are also proposing to introduce a more robust condition (no 2) to underpin EN 45011, which requires quality assurance for a scheme's management and administrative systems.

Costs of introducing and operating under UKAS accreditation

The following factors have been taken into account in estimating the costs of UKAS accreditation:

Fees to cover work by UKAS

The analysis of the cost of UKAS fees is carried out in three sequential scenarios:

1: If the Green Deal did not exist and DCLG policy bears all of the costs

- i. Of the 18 current competent person scheme operators, nine are already accredited to EN 45011 for other purposes and the other nine are not.
- ii. For a body which had not been previously accredited to EN 45011 for any purpose UKAS charges an application fee of £1,200 to cover its costs incurred. UKAS estimate for bodies in this category 10-12 days would be needed on average for the assessment and UKAS's current day rate for assessors is £965. This would result in costs in the range £10,850 to £12,780, with a central estimate per scheme operator of £11,815. For nine schemes this would give a one-off cost of £106,335.
- iii. For a body which had been previously accredited to the standard for another purpose there would also be an application fee of £1,200 for an extension to the accreditation but UKAS estimate in this case only 4-6 days would be needed for assessment at a cost of £965 per day. This would result in costs of in the range £5,060 to £6,990, with a central estimate of £6,025. For nine schemes this would give a one-off cost of £54,225.
- iv. UKAS also carry out ongoing periodic surveillance of accredited bodies to check that they are maintaining the accredited systems and quality. On agreement with UKAS, this may be risk-based for schemes at some stage but UKAS estimate initially an average annual cost of £3,000 per body. In respect of the 18 currently authorised competent person schemes this would represent an annual cost of £54,000 for the nine years following initial accreditation.

2: With DECC Green Deal policy bearing some of the costs with DCLG policy

i. 17 of the 18 currently authorised schemes are seeking to become Green Deal certification bodies. The Green Deal also requires accreditation to EN 45011 and UKAS are carrying out the Green Deal assessments and the competent person scheme assessments as one assessment per body, as the requirements and arrangements are the same for most aspects of the bodies' work. DCLG and DECC therefore agree that it would be a fair assumption to attribute half of the initial accreditation costs and ongoing surveillance costs to the requirement in the competent person schemes conditions of authorisation and the other half to Green Deal requirements. This would give the following costs attributable to competent person scheme requirements as:

- for eight of the nine schemes not previously accredited - £47,260 initial accreditation costs

- for the one scheme not involved in the Green Deal - £11,815 initial accreditation cost
- for the nine schemes seeking an extension to accreditation - £27,113 initial accreditation costs
- for the 17 schemes in the Green Deal - ongoing surveillance costs per year of £25,500 for the nine years following accreditation
- for the one scheme not in Green Deal - ongoing surveillance cost per year of £3,000 for the nine years following accreditation.

ii. As mentioned elsewhere in the Impact Assessment, the Department estimates that there would be on average one new scheme operator per year which would then need to apply for UKAS accreditation. We also estimate that half of the new scheme operators would also be applying for Green Deal accreditation. Ignoring the fact that some of the applicants might have been accredited for other purposes and would in fact be applying for an extension to accreditation (this would only be known on receipt of an application to run a competent person scheme) this would give the following costs:

- one new scheme every second year not in Green Deal, £11,815 initial accreditation costs plus £3,000 per year surveillance costs
- one new scheme every second year in Green Deal, £5,908 initial accreditation costs plus £1,500 per year ongoing surveillance costs.

3: With DECC paying for some of the costs of both DCLG and DECC policy

i. In actual practice 17 of the existing schemes are not going to have to bear all of the cost of their initial UKAS accreditation fees. As part of the preparations for the Green Deal DECC has agreed to pay all of the accreditation costs of ten of the competent person scheme operators and half of another seven. This will result in a cost to DECC of amounts attributable to this policy of £57,000. This would greatly reduce the costs given above for the existing schemes. Two of the seven schemes are already accredited for other purposes and their initial costs of UKAS fees would be £3,013 each; the costs for the other five would be £5,908. DECC would not be bearing any of the costs of ongoing surveillance.

ii. This gives a total present value cost over 10 years for UKAS of carrying out the accreditation of £435,000.

Internal scheme costs preparing and maintaining accreditation

In addition there will be internal costs of preparing for and maintaining UKAS accreditation for schemes. EN 45011 is in effect a quality management system and requires a significant amount of documentation and recording of quality system policy and procedures. Well run schemes will have most of the information needed but perhaps not in quite the right format. Other scheme operators will have considerably more work to do to be able to demonstrate to UKAS their fitness to be accredited. If a scheme has been accredited to EN 45011 for other purposes it will have little additional work to do for accreditation for its competent person scheme activities.

Bearing this in mind, the Department estimates that where schemes have no current accreditation there would be additional internal costs of £20,000 to be ready for a UKAS assessment for competent person scheme purposes, based on half a person's annual salary FTE of £40,000 (source explained under *Estimates/Assumptions* above). Ten of the existing schemes are in this category giving a total one-off cost of £200,000. Where such accreditation had been achieved for other purposes the estimate is £5,000 per scheme operator. Eight of the existing schemes are in this category giving a total one-off cost of £40,000, a total of £240,000.

For new scheme operators authorised in the future the Department has assumed, as above, that half will be also in the Green Deal. We have also assumed that none would have been

previously accredited for other purposes. At an average of one new scheme operator per year this would give internal costs of £20,000 per year.

This gives a total internal scheme present value cost of £390,000, on top of the UKAS fees costs identified above which have a present value cost of £435,000, resulting in an overall present value cost (rounded) over 10 years for UKAS accreditation of **£830,000**. This includes an initial one-off transition cost to business in respect of existing schemes of £330,000 – made up of £90,000 initial costs to UKAS and £240,000 initial internal scheme costs.

Benefits of UKAS accreditation

If UKAS accreditation were not required the Department would need to undertake the monitoring of competent person schemes itself, at the Department's expense as the Building Act 1984 does not allow the Department to charge schemes. As the Department does not have staff resources to do this itself it would have to employ a contractor to carry out this task on its behalf. Based on the cost of the past two monitoring reports the Department commissioned and assuming we carried out a monitoring exercise every two years there would be a saving to the Department of approximately £50,000 every second year.

This gives a total present value benefit over 10 years for monitoring savings of **£250,000**.

We anticipate that UKAS accreditation would enhance the performance of scheme members so that a smaller proportion of schemes would require annual inspection of their members through risk-based surveillance than would otherwise be the case. This benefit is monetised below (condition 12). There are a significant number of other non-monetised benefits to UKAS accreditation of competent person schemes:

- a level playing field between schemes as all would be accredited to the same quality assurance standard
- greater assurance for the Department and Ministers that schemes were achieving their primary objective of compliance with the Building Regulations and also that the conditions of authorisation were being adhered to
- greater assurance for the customers of members of the schemes that the work they had carried out complied with the Building Regulations
- greater customer assurance would enhance the reputation of competent person schemes and make potential customers more likely to choose members of schemes for work to be carried out
- more frequent and consistent surveillance of schemes which would pick up any deficiencies earlier than under the current *ad hoc* arrangements.

Note: The accreditation costs given above are significantly less than estimated in the consultation stage Impact Assessment and as feared by some respondents to the consultation. Accreditation is currently being carried out by UKAS and a number of the Department's earlier assumptions on costs have not been borne out in practice by the costs that schemes are currently paying. For example, we have a much better indication of the number of assessment days UKAS estimates it would need for its assessments. We also overestimated the number of additional staff which schemes would need to devote to preparing for UKAS assessment. Rather than take on additional staff for this purpose, evidence indicates that schemes have generally chosen to redeploy existing staff (the consultation document is available on the Department's website - see address on page 5).

Membership growth

Condition 6

Scheme operator to promote the development and growth of the scheme to potential members and its use to customers.

This condition is in part a new requirement as it is targeted at achieving action by scheme operators to recruit more members from installers not already in a scheme and to publicise to potential customers the benefit of employing its members. The current similar condition simply required scheme operators to publicise the scheme. It will help ensure that scheme operators actively pursue the growth and use of their schemes. There will be a cost involved as the scheme will have to advertise and recruit. Successful schemes will continue to attract new members and the members more customers.

It is the Department's policy that as many competent installers as possible join competent person schemes for the authorised types of work as this will bring them more firmly into the regulated sector and help achieve higher levels of compliance with the Building Regulations. It is also our policy that the use of registered installers by consumers be encouraged so that consumers have a higher chance of getting work done that is compliant and an avenue of redress through the scheme operator should the work not meet the requirements. The Department considers that the schemes should contribute towards these policy aims.

In the responses to the consultation, most scheme operators (but not the other respondents) felt that this condition could undermine the maintenance of proper standards or lead to "poaching". The Department considers that compliance with conditions 1, 9, 10 and 12 would prevent any lowering of standards. However, the revised notes to condition 6 make clear that the target for growth is not to be by means of poaching members from other schemes but by attracting competent members who are not in any other scheme.

Many existing schemes already carry out promotional activities within their trade areas in order to attract more members as there is an incentive in terms of their income. This includes advertising through their websites, in trade journals and at trade events. All the scheme operators also contribute to the Competent Persons Register, a website designed to provide consumers with the opportunity to search for an installer registered with one of the schemes. However, few use funds to make the existence of their schemes and the benefits of using registered installers more widely known to potential customers. If they were to do so their members would be likely to have more customers which would benefit the schemes.

The condition is therefore aimed particularly at the latter wider purpose. For example, in some cases scheme operators are now jointly promoting schemes for types of work rather than as individual schemes, maximising the benefit of promotional activity (e.g. for domestic electrical installations through the Electrical Safety Council). The Department cannot require, but would certainly encourage, more collaborative effort of this nature in other type of work areas.

The Department would expect schemes to advertise their schemes, but considers that it is not best placed to decide on what further promotional activity would be best for a particular scheme or sector and that schemes should develop whatever they think would be most effective. Factors that may demonstrate whether schemes are complying with this condition include: an appropriate budget allocated to promotional activity in their accounts; a sustained increase in their membership, where feasible; and a sustained increase in the total number of jobs that their members carry out.

Costs

Schemes vary greatly in size and therefore financial resources. The Department is mindful that schemes with relatively few members will not have funds to devote large amounts to promotional activity. We have therefore based costs on what the Department considers average expenditure should be without taking account of the size of each scheme individually.

We have estimated an average transitional cost of £10,000 per scheme, based on one quarter of one person for one year at a FTE cost of £40,000, for planning and project management of

promotional effort, which would result in a total transition cost of £180,000 for all 18 current schemes.

In some areas, for example replacement glazing, cavity wall insulation or, air-tightness testing, there remain very few installers in the industry not already in schemes and it would be unreasonable to expect scheme operators to have to expend large amounts on promotional activities to attract further members. However, we consider that it would be reasonable for them to incur sufficient expenditure to make new businesses aware of the benefits of registering with their schemes and help raise public awareness.

Where there is little further opportunity to recruit additional members except from new businesses in the areas where the schemes operate (i.e. 7 schemes) we estimate that schemes would each be expected to spend £5,000 per annum on this and on publicity to customers.

For the other schemes (11) we consider that promotion and publicity costs would total £10,000 per annum, but have assumed that one scheme per year of these schemes would reach maturity and reduce spend to £5,000 per annum.

In addition any new scheme operator would need to spend a similar amount of £10,000 per annum and we estimate that there would be on average one new scheme operator each year.

This would give a total present value cost over 10 years of **£1,610,000**.

Benefits

Growing membership of the schemes and greater public awareness of the benefits of using members of schemes will lead to more compliant work being carried out by competent installers and thus more customer satisfaction, and place less burden on building control bodies as a higher percentage of lower risk building work will be self-certified. It also reduces the costs to householders of having work carried out as no building control charge is payable. It will also lead to higher income for scheme operators and their members, making them stronger and more effective, and increase the reputation of both. These benefits have not been monetised.

Accounts

Condition 7

Scheme operator to provide annual accounts, independently audited, for the scheme itself.

Currently scheme operators are required only to produce accounts. As most are part of or subsidiaries of larger organisations some of the schemes have incorporated their accounts as part of the larger organisation's consolidated accounts and it has not always been possible to ascertain the financial health of the schemes or their income and expenditure. The revised condition requires scheme operators to produce accounts specific to the scheme itself, which should be independently audited.

Costs

All scheme operators produce accounts of some nature at the moment, which they need for internal business purposes. We estimate that 50% of the schemes produce accounts currently in the form required and would incur no additional costs. For the others it would be required to extract a subset of information from the consolidated accounts of the larger organisation and present that separately for auditing. To give an indicative sense of the additional costs of the change to this condition we have estimated a first year transitional cost of £2,000 to change systems etc and an annual ongoing cost of £1,000, based on an annual salary FTE cost of £40,000 per person. We also estimate that the number of scheme operators would grow by one

per year but such new operators would not face a transitional cost, only the ongoing one. This indicative estimate gives a total present value cost over 10 years of **£120,000**.

Benefits

This will give enhanced transparency and accuracy of the operation of the schemes along with better risk management. This will also give a reassurance to the Department and Ministers, scheme members and the general public that the scheme operator is complying with conditions 4 and 5 relating to financial viability and avoidance of conflicts of interest. These benefits have not been monetised.

Minimum Technical Competence

Condition 9

Scheme operator to assess existing members and applicants as technically competent, against National Occupational Standards (NOS) under a Minimum Technical Competence (MTC) assessment procedure where one is in place for the relevant type(s) of work. For applicants this should be before registering them with the scheme. The assessment must include an on-site inspection.

This condition will set defined national minimum technical competence requirements for all existing members and prospective scheme members rather than as currently scheme-based competence requirements. There are now MTCs with their associated NOS in place or in later stages of development for almost all types of work authorised for competent person schemes. These will form the technical competence requirements against which existing members and all new applicants to schemes must be assessed in future. Where existing members have previously been assessed as competent against NOS there will be no requirement to assess them again. The method of assessment set out in the MTCs is more rigorous and will be the same for all scheme operators authorised for a particular type of work.

NOS are developed by the relevant sector skills bodies (e.g. Summit Skills or Construction Skills) at no cost to scheme operators. MTCs have been developed by the scheme operators with the help of outside bodies such as professional or trade associations with no cost except in time.

Costs

All existing competent person scheme operators except those for replacement glazing have already carried out a competency assessment for members when they joined the schemes and therefore there will be no need to reassess these existing members. Doing this in future following a standard MTC procedure to common NOS arguably should be cheaper than the various scheme based systems that have grown up. Some scheme operators are already using the new MTC/NOS documents for this purpose. For these schemes we do not think that this revised condition would entail any additional expenditure on the scheme operators or applicants to the schemes.

At present there is no pre-registration competence assessment for those wishing to register with the existing five schemes authorised for replacement glazing. The new condition means that these scheme operators will need to assess all existing members against the relevant MTC/NOS documents. As at 30 September 2011 there were a total of 11,324 members for the five schemes, according to the last membership statistics collected by the Department. We estimate the cost of assessment would be on average £225 (low £150, high £300), based on costs arising in other schemes. As there are such a large number of firms to be assessed we consider that this would be done over a two year period, half in the first year and the other half in the second. This would give a one-off total transition cost of £2.50m, discounted over two years.

It is now estimated that there is a 95% penetration of replacement glazing firms already in competent person schemes so the number of potential new members is relatively small and consists mainly of new firms being founded. Based on statistics collected on membership of schemes we estimate that there would be about 500 new glazing firms per annum whose competence would need to be assessed on joining a scheme and that each competence assessment would cost £300. This is a higher figure than for existing scheme members where scheme operators will already hold compliance records on these firms. This would give a present value cost over 10 years of £1.29m.

The total present value cost over 10 years of introducing minimum technical competences is therefore **£3,800,000**.

New scheme operators are already required to assess the competence of applicants for registration based on scheme-designed competency requirements. These requirements will now be based on MTC/NOS requirements but we do not think that there will be any additional costs to future scheme operators because of the change to this condition.

Benefits

This condition will bring consistency and reliability in the way that competence is measured throughout each industry and in the long term save money after the initial cost. It will ensure that installers are competent and deliver more compliant work leading to increased customer satisfaction in the short term. In the longer term the customer should face fewer problems when it comes to selling their property. A rigorous initial assessment of competence means that there is less risk in moving to a risk-based surveillance regime.

This change, together with a number of other new conditions outlined in this assessment, including the requirement for continuing training (condition 10) and a more robust complaints procedure (condition 16), is intended to increase compliance leading to fewer inspections. The impacts of these changes are monetised under condition 12 on surveillance, to avoid double counting (see also 'Benefits – general' on pages 26-27).

Continuing training

Condition 10

Scheme operator to ensure that its members' competences are kept up to date, for example, as a result of changes to the Building Regulations and/or BS/EN standards or technical approvals.

The purpose of this new condition is to help ensure that members of the schemes remain fully up to date with requirements and standards and the ways in which they can be achieved. Keeping up to date could, for example, take the form of formal training courses provided in-house or at a technical college, seminars or distance learning packages which should be available to all members.

The Department has now instituted a periodic review timetable for the different parts of the Building Regulations which in general means that each part is likely to be reviewed and amended as appropriate periodically; for the purpose of this analysis we have assumed once every six years which was the original intention. This would mean that members of schemes would normally need to undergo mandatory training for each type of work at least once every six years. However, it is possible that changes to European or British Standards might increase this. As many scheme members are authorised for more than one type of work they would in some cases need to undergo mandatory training more often than once every six years.

Costs

All those currently authorised for gas appliance installation work (about 50,000 installation firms) and for electrical installation work in dwellings (about 52,000 firms) already undergo competence update training for other purposes and thus there would be no additional cost to them. This would leave up to 50,000 firms (including members of other existing schemes and potential new schemes over the next ten years) which would incur additional costs in keeping their competences up to date. We have assumed an estimated cost of £250 every six years. This cost is estimated on the basis of an average cost of one day external training courses, in-house seminars or courses and the costs of using a distance learning package. This gives an indicative estimate present value cost over 10 years of £17,930,000.

Much of the continuing training will take place outside normal working hours (i.e. at weekends or in the evening). For example, FENSA has in the past scheduled seminars only in weekday evenings. There would thus be no loss of earnings for those participating in such training.

However, some will take place during working hours. It is not possible to give an evidence-based estimate of the numbers who might suffer a loss of earnings because they were unable to work round the times they would need to undergo continued training as this will depend on the future choices of the method of continued training adopted by scheme operators. If half of those needing continuing training (i.e. 25,000 firms) lost on average £112 earnings (based on an average wage in the building trades of £14 per hour) there would be an overall cost of £2,800,000 every six years, giving an indicative present value cost of £4,020,000.

There will be a one-off cost of setting up the additional training activity, such as liaising with technical colleges and other training providers, which we estimate at £20,000 per scheme, based on 50% of the annual salary FTE of one person for one year of £40,000. This gives a one-off total transitional cost of £360,000.

This gives a total present value cost over 10 years for continuing training of **£22,310,000**, which represents an annual equivalent cost of £2.59m.

Benefits

Ensuring that scheme members are kept up to date with regulatory and standards changes will ensure competence and deliver more compliant work leading to increased customer satisfaction and potentially the need for fewer risk-based inspections. See also condition 9 (Minimum Technical Competence) benefits and 'Benefits – general' on pages 26-27.

Surveillance

Condition 12

Scheme operator to undertake surveillance of its members' work, including carrying out periodic random inspections of a representative sample of each member's work, during or after completion, to check compliance with the Building Regulations.

To help ensure that members of schemes comply with the relevant requirements of the Building Regulations scheme operators are currently required by a condition to carry out surveillance of members' work through random inspections. The work to be inspected is chosen by the scheme operator, not the member, and must encompass a representative sample of the members' work.

At present the surveillance requirement for most schemes is that there should be at least one random annual inspection per year. There are two significant variations to this:

- for 11 schemes (all except those listed in the following bullet points), at least one annual random annual inspection
- for HETAS and OFTEC (which have had no inspection requirement placed on them), respectively three years and five years.

- all replacement glazing schemes (FENSA, CERTASS, Network Veka, BM Trada and BSI) 1% of members' work with at least two random inspections of members per year and a maximum of 100 per year.

Costs and Benefits

The current numbers and cost of these inspections are shown as the baseline costs in the following table:

Current scheme	Average cost per inspection	No of inspections annually	Annual cost
HETAS - 3 yearly inspection -	£310	655	£203,000
OFTEC - 5 yearly inspection	£310	1,993	£618,000
10 schemes - annual inspection	£310	43,131	£13,371,000
5 replacement glazing schemes - see note ii below	£125	22,648	£2,831,000
BINDT (Air tightness testing scheme) – annual inspection	£570	306	£174,000
Total: 18 schemes	n/a	68,733	£17,197,000

Notes to table:

i. The number of inspections is based on reported membership figures at 30.9.11.

ii. The cost per inspection is based on information provided by the schemes themselves.

iii. The number of inspections for replacement glazing schemes is based on two per member per annum. A few installers will be sufficiently large to have more inspections per year but as the Department does not know how many there would be in respect of these large installers no allowance has been made for them.

We are proposing that inspections of scheme members' work will in future be carried out on a risk-basis. This means that those scheme members which had established a good track record of compliance would be inspected (and have to pay for inspections) less often. For example, most scheme operators are required now to carry out one random inspection of members annually. Where an inspection identifies faults there is currently no sanction beyond the member being required to put the faults right; i.e. there is no increase in the number of inspections. Under a risk-based system members could benefit by moving to one inspection every three years. To control the risk, this privilege would be granted only to those members who had established a track record of full compliance over the preceding two or three years and the privilege would be lost if an inspection (either random or following a complaint) found a significant non-compliance with the Building Regulations. The loss of the privilege would mean members paying for more inspections than if they had not lost the privilege.

This should lead to more consistency within the industry sectors. The financial benefit of this will be gained by members of those schemes currently inspecting more frequently than will be

required under the new policy. There will also be a greater incentive for members to comply as if they do not to do so they will incur a financial penalty of having to pay for more inspections.

All installers currently registered with competent person schemes would move to a risk-based system of surveillance with a maximum of three years between inspections. Previous monitoring reports carried out by the Department and other information received periodically from schemes has shown that surveillance inspections identify that about 5% of installers are found not to have complied with the Building Regulations. These would therefore not move to a risk-based surveillance regime but would continue (or move to) on an annual basis until they had re-established a good record of compliance. We estimate on average that there would be also a 5% churn of members, with some firms ceasing to trade but replaced by new members. These new members would only move to a risk-based system after two full years in the scheme.

This would have the following effects on costs for schemes, with at any one time an estimated 90% of members on a three year cycle and 10% on an annual cycle:

HETAS: This scheme is already on a three yearly inspection cycle so the only change would be that those who failed an inspection would be inspected more often. Based on the scheme membership at 30 September 2011, in any one year there would be 590 inspections for those who were on a three yearly cycle and 197 for those who had lost the right to three yearly inspections and had reverted to an annual inspection or were new members; a total of 787 inspections per year.

OFTEC: This scheme is currently on a five yearly inspection cycle and would be asked to move to a three year risk-based inspection cycle. Based on membership as at 30 September 2011, in any one year there would be 2,989 inspections for those on a three yearly cycle and 997 for those who had lost the right to three yearly inspections and reverted to an annual inspection or were new members; a total of 3,986 inspections per year.

Schemes currently on annual inspection (excluding BINDT): The 10 current schemes would be allowed to move to a three year risk-based inspection basis. Based on membership as at 30 September 2011, in any one year there would be 12,939 inspections for those on a three yearly cycle and 4,313 for those who had lost the right to three yearly inspections or were new members; a total of 17,252 inspections per year.

Replacement glazing schemes: The five current schemes would be allowed to move to the same arrangements as for the schemes currently on annual inspection. Based on membership as at 30 September 2011, in any one year there would be 3,397 inspections for those on a three yearly cycle and 1,132 for those who had lost the right to three yearly inspections or were new members; a total of 4,529 inspections per year.

BINDT: BINDT would be allowed to move to the same three yearly arrangements as for other schemes currently on annual inspections. Based on membership as at 30 September 2011, in any one year, there would be 92 inspections for those on a three yearly cycle and 31 for those who had lost the right to three yearly inspections or were new members; a total of 123 inspections per year.

As most scheme members will be inspected less often than previously it seems likely that inspections would in many cases look at a broader selection of work and take a bit longer. We have therefore added 20% to the average cost per inspection to take account of this.

This is summarised in the following table:

	Risk-based surveillance			
Current scheme	Average cost per inspection	No of inspections annually	Annual cost	Saving over baseline
HETAS	£372	787	£293,000	- £90,000
OFTEC	£372	3,986	£1,483,000	- £865,000
10 schemes annually	£372	17,252	£6,418,000	£ 6,953,000
5 replacement glazing schemes	£150	4,529	£679,000	£2,152,000
BINDT	£684	123	£84,000	£90,300
Total	n/a	n/a	£8,957,000	£8,240,000

For all the schemes together, this £8,240,000 saving gives a total present value benefit over 10 years of **£70,930,000**. This estimates the benefit, through fewer, more effective risk-based inspections which will be realised as a result of both this change to the risk-based regime and other changes outlined which will reduce the number of inspections through improving the general functioning of the system.

To reflect the uncertainty in the assumed proportion of members who will require annual rather than three yearly inspections, we have carried out sensitivity testing which is reported under the sensitivity analysis (pages 27-28).

There will also be a one-off transition cost for scheme operators of setting up an electronic surveillance timetabling system, estimated at £4,000 per scheme (based on one-tenth of an annual salary FTE of £40,000 per person) or a present value cost of £72,000 in total for all schemes.

The changes to the surveillance regime will involve little additional effort for members as the inspection process will be largely unchanged. However, some familiarisation time may be needed for some to understand the new risk-based regime. We have therefore estimated half an hour per business at a rate of £30 per hour for approximately 100,000 businesses, based on average hourly costs for the managers/owners of member businesses, which gives a one-off cost to member businesses of £1.5m and a total transitional cost of **£1.57m**.

The above analysis does not take into account two factors:

- i. Overall the Department considers that there will be a net increase of members over time, i.e. there may be more new members of the current schemes than allowed for under the estimated churn of members. However, the Department cannot foresee which schemes might have a net increase or estimate the number of members in any such net increase.
- ii. The Department has estimated that there is likely on average to be one new scheme operator authorised each year. It is not possible to know how many members any new scheme operators might have and therefore how many inspections might be needed.

Overall the Department considers that risk-based surveillance will be more efficient than the previous system as surveillance will be targeted specifically at the areas of greatest risk of non-compliance. Due to the proposed safeguards, we do not anticipate any loss of compliance following this approach; it may be that there will be a small improvement due to targeting and mitigating areas of greatest risk.

Sharing of names

Condition 14

Scheme operator to use an agreed mechanism to make available to other competent person schemes and other interested parties the names of former members whose membership has been terminated by the scheme and the reason for termination.

This is a new condition to prevent 'rogue' members whose membership is terminated by one scheme simply transferring to another scheme without the receiving scheme's knowledge, and to make sure that the receiving scheme is aware that the applicant has been dismissed from the previous scheme. This will be accomplished by adding the names of terminated members to a password protected website available only to scheme operators.

The notes to condition 14 make it clear that all registered members must be informed that their names will be added to the website if their membership is terminated by a scheme operator. The information will be given to the applicants for membership who would have the opportunity not to proceed with their application if they objected to this condition. Existing members will be told of this condition at the time of annual membership renewal with the opportunity not to renew their membership if they object to the condition. No names would be given to the website until the members had the opportunity not to join or to leave the scheme if they objected to this condition.

Costs

There will be a cost of setting up the password protected site which will probably be operated as an adjunct to the existing LABC site used for other competent person scheme notifications. Based on discussions with LABC, we estimate a one-off present value cost of doing this of **£5,000** covering all schemes.

The cost of adding names to the site should be negligible given the very small number of members which have their registration terminated.

Benefits

This condition will help remove 'rogue' installers from the competent person scheme system and encourage greater compliance with the Building Regulations and with scheme rules. See also condition 9 (Minimum Technical Competence) benefits and 'Benefits – general' on pages 26-27.

Membership lists

Condition 15

Scheme operator to keep and publish membership lists and the type(s) of work for which members have been assessed as competent.

Scheme operators are currently required to hold this information and make it available in some form, at least as far as membership lists are concerned, on their own websites. Inclusion of the type of work for which members have been assessed as competent is new.

Costs

Scheme operators already hold this information and we estimate that there might be on average a one-off administrative cost of £3,000 per scheme operator, based on an annual salary FTE cost of £40,000 per person, to add the type of work information to their websites. This would give an initial one-off cost for the 18 existing schemes of £54,000 plus £3,000 per year for assumed new scheme operators, resulting in a total present value cost over 10 years of **£80,000**.

Benefits

This will allow customers to check if a named firm is in fact a member of a scheme for a particular type of work or to find a competent installer for that type of work. This benefit has not been monetised.

Complaints procedure

Condition 16

Scheme operator to have a robust and publicised complaints procedure.

Scheme operators' complaints procedures must at a minimum cover complaints from customers of non-compliance with the Building Regulations by scheme members, but many will also entertain other types of complaints relating to the scheme. As this is a current condition, all scheme operators currently operate formal complaints procedures which in almost all cases successfully deal with justified complaints from customers. However, as indicated in the notes accompanying this condition, the Department will in future require each scheme operator to set out on its website the stages of its complaints procedure so that those wishing to use it are aware of how to do so and what to expect at each stage.

We are also asking schemes to make sure that their complaints systems are consistent with the principles of complaints management in the Office of Fair Trading Consumer Codes Approval Scheme. This will have the benefit of a clearer route for the customer to follow and a more uniform approach across the schemes.

Costs

We have estimated a one-off administrative cost of £2,000 to the scheme operator in respect of placing complaints procedures information on their websites and checking that the procedures are consistent with the OFT Code. This would give a one-off present value cost of **£36,000** for existing scheme operators.

Benefits

The new requirement to publicise the scheme's complaints procedure will allow customers wishing to make a complaint to ascertain what types of complaints can be dealt with by scheme operators and a better idea of how to follow the necessary procedures. If customers submit better formulated complaints there may be some savings in effort by scheme operators in having to clarify the nature of complaints before being able to act on them, but this benefit has not been monetised.

If a complaint is found to be justified in terms of non-compliance with the Building Regulations, an installer would lose the right to a risk-based inspection regime and would return to an annual inspection until the installer had re-established a record of compliance, which would incentivise installers to increase compliance over time. See also condition 9 (Minimum Technical Competence) benefits and 'Benefits - general' on pages 26-27.

Financial protection

Condition 17

Scheme operator to arrange to provide customers with appropriate financial protection to put work to dwellings right, which is non-compliant with the Building Regulations, where the original installer cannot do so.

There will be circumstances where the work carried out by installers is found not to be compliant with the requirements of the Building Regulations. In such circumstances the scheme operator will direct the installer to return to the customer and carry out such remedial work, at no

additional cost to the customer, as is necessary to bring the work up to Building Regulations standards.

However, there may be circumstances where the original installer cannot return to put matters right, particularly where the firm has gone out of business through death, retirement or insolvency. It is in these cases where the customer will need a source of finance to enable the work to be put right by a different firm. Such protection has been provided to date mainly through insurance-backed warranties (paid for by customers - all schemes except BINDT) or by professional indemnity insurance (paid for by the scheme member - only BINDT).

Currently it is a condition that such protection (except for BINDT) should be offered as a possibility to customers leaving it to them to decide whether to purchase the protection. In future the new condition will require scheme operators to arrange for such protection to be provided to all customers, whether they wish to have it or not, at the customer's expense. This will bring competent person schemes into line with the financial protection arrangements under the Green Deal and the Microgeneration Certification Scheme.

Two of the current scheme operators decided voluntarily some years ago that they would provide protection to all customers. The result was very low premiums for insurance-backed warranties based on the volume of business that would accrue to the insurers. Making financial protection compulsory and in line with Green Deal and Microgeneration Certification Scheme arrangements should also result in much lower premiums than would otherwise be the case.

Costs

Most of the current scheme operators already have made arrangements with insurance providers to provide insurance-backed warranties so any extra costs should be limited to notifying additional customers' details for the policies to be issued direct to the customer. The Department considers that such notifications would be carried out electronically so the cost would be limited to setting up an electronic system to do so. The cost of the insurance would be debited from the bank accounts of the scheme members at the same time as the cost of the notification fee for the work is debited, the members having already added the cost of the financial protection to the customers' bill for the work done, i.e. the cost will fall to the consumer not to scheme operators or their members.

We estimate that the additional cost of setting up the electronic system would be a one-off transitional cost of £10,000 per scheme operator (based on an annual salary FTE of £40,000 per person) or £180,000 in respect of all existing scheme operators. If it assumed that there would be one additional scheme operator added per year there would then also be a cost of £10,000 per year for each of the following ten years.

In addition to the one-off costs to scheme operators of establishing a system to provide financial protection, there will be a small administrative cost in providing consumers with copies of standardised documentation setting out the terms of the protection. We estimate that this would be an added cost of £0.20 per job administrative cost where protection was given. There are about two million jobs per year where the protection would be given where it is not currently given, making an annual cost of £400,000. The insurance documentation would be sent to the customer along with the already provided building regulations compliance certificates at no extra postal costs. This will have the effect of spreading the risk amongst consumers so that the costs of fixing a problem will be borne by all consumers and not just those who have incurred the problem.

This gives a total present value cost over 10 years for financial protection of **£3,700,000**.

Benefits

The unmonetised benefit is universal protection for consumers who have had work done by members of competent person schemes.

Information provision

Condition 20

Scheme operator to provide the information DCLG requires in order to carry out its oversight functions, both on a regular basis or ad hoc as required.

This is in effect a current condition but the Department intends to require more specific information than in the past. The Department already requires schemes to provide a six-monthly statistical report on membership numbers and number of work notifications and also *ad hoc* information needed for queries and complaints made to the Department, so there would be no additional costs in respect of these types of information. As indicated in the notes to the condition, in future the Department also intends to ask scheme operators to provide:

- a six-monthly report on the number of formal consumer complaints received and their outcome
- financial information from the scheme's annual audited accounts
- information from UKAS reports on scheme accreditation.

Costs

The provision of information from the scheme operators' annual accounts and from UKAS reports will add only minimal costs as it will be a case of selection of the relevant information and forwarding it to the Department. We have therefore estimated a cost of £50 per annum for each of the 18 scheme operators.

There will be a higher cost in preparing six-monthly reports of formal consumer complaints. The Department intends to give scheme operators a template on which to make such reports. Most of the scheme operators as part of their quality management systems already keep information on complaints made to them by customers of their members. We estimate that the cost of transferring this information to the Department's template would on average cost a scheme operator £500 per annum for each of the existing scheme operators.

This gives a total present value cost over 10 years for information provision of **£110,000**.

Benefits

The information requested will help reassure the Department and its Ministers that the schemes are achieving compliance with the requirements of the Building Regulations and their conditions of authorisation, in particular accounting requirements and the requirement for a robust system to deal with complaints. This benefit has not been monetised.

Benefits - general

In considering the synergies between the benefits of the policy it is important to avoid double counting. We have therefore focused above on monetising the benefits which arise through less surveillance as a result of a risk-based inspections regime. This will result in a more efficient and cost effective system, but could potentially reduce the impact of the other non-monetised benefits. For instance it could be that an improved surveillance regime with fewer inspections reduces costs, but the impact on improved compliance is marginal with many schemes achieving the same level of compliance but more efficiently.

Given these synergy issues, we highlight below four main non-monetised benefits:

(1) Many installers wishing to join a competent person scheme will need to update their competences in order to achieve the required competence standards for membership (condition 9). In addition, the proposed new requirement for continuing training for existing members of schemes will help ensure that those members keep their competences up to date (condition 10). In those types of work where schemes are authorised this will result in a better trained and qualified workforce to the overall benefit of the construction sector and consumer satisfaction. This aligns with requirements for the Green Deal and helps support the Government's skills agenda.

(2) The proposals for more robust assessments of the competence of installers applying to join a competent person scheme (condition 9) and more robust random inspections of their completed work (condition 12) will mean that more work done by scheme members should fully meet the relevant requirements in the Building Regulations. A more robust complaints procedure (condition 16) will also incentivise installers to increase compliance over time. This in turn will lead to greater customer satisfaction with the work that they have carried out by scheme members. This will also help support the Green Deal.

(3) The proposals will ensure an enhanced level of transparency in several areas, e.g.:

- scheme operators will know that the conditions apply equally and fairly to all schemes
- more transparency on scheme funds to make sure that the funds are used to benefit the scheme and its members (conditions 4 & 7)
- more available information about schemes so prospective members will be better able to choose the scheme which best suits their needs and customers can make a better, more informed selection of someone to carry out their building work (condition 6).

(4) More robust competent person schemes should result in higher levels of compliance with the Building Regulations and provide assurance that self-certification is an effective way of achieving compliance. This benefits the building control system as a whole by allowing building control bodies to focus on higher risk areas of work.

Costs covered by Government

The only significant costs to be borne by the Government are those associated with Green Deal accreditation where DECC has agreed to pay all the accreditation fees to UKAS for ten of the current competent person scheme operators and half of such costs for another seven. These are explained more fully in the analysis of the costs and benefits of condition 1 above and are an estimated £57,000 in total, attributable to this policy.

Transitional costs to business

There will be some transitional costs incurred both for the scheme operators and for members, in adapting to the new conditions of authorisation, with a total present value cost of **£5.2m** (High: £7.2m, Low: £3.3m), which has been included in the total present value costs over 10 years. This is made up from Minimum Technical Competence (£2.5m), surveillance (£1.6m), continuing training (£0.4m), UKAS accreditation (£0.3m), membership growth (£0.2m), and financial protection (£0.3m) (with the rest accounting for under £0.1m). Details are outlined in the relevant sections above.

Sensitivity Analysis and Ranges

In order to reflect uncertainty in relation to the above assumptions and estimates, the impact of ranges on the costs and benefits in the summary sheet have been analysed and some sensitivity testing carried out.

Ranges have been assessed as follows:

- For **UKAS Accreditation**, we have assumed that the initial work by UKAS for schemes with no initial accreditation will be 11 days central estimate (High estimate: 12 days, Low estimate: 10 days) and for schemes with some initial accreditation will be 5 days (High: 6 days, Low: 4 days). Internal accreditation costs to the schemes themselves will be £5,000 (High: £5,500, Low: £4,500) if there is previous accreditation or £20,000 (High: £22,000, Low: £18,000) if there is no previous accreditation. Benefit due to less other monitoring estimated at £60,000 (High: £70,000, Low: £50,000) every two years giving a present value benefit of £250,000 (High: £300,000, Low: £210,000).
- For valuing the benefits of the **surveillance regime** it is estimated that under the new regime 10% of scheme members will require an annual inspection and inspections will cost 20% more (High: 5% of members inspected annually with inspections costing 15% more, Low: 15% of members inspected annually with inspections costing 25% more). Transition costs assume an average equivalent of 30 minutes per member familiarisation effort (High: 45 minutes, Low: 15 minutes).
- **Continuing training** costs incurred will be £250 per firm every six years (High: £300, Low: £200) with a loss of time of £112 (High: £128, Low: £96). Transition costs assumed an average of one half of a full time equivalent employee per scheme for one year (High: three-quarters, Low: one-quarter).
- Estimates for expenditure on **membership growth** are £10,000 per annum (High: £15,000, Low: £5,000) for schemes actively encouraging growth and £5,000 (High: £7,500, Low: £2,500) for more mature schemes only focusing on new business. Transition costs assumed an average of one quarter of a full time equivalent employee per scheme for one year (High: one-third, Low: one-fifth).
- **Financial protection** will typically cost a scheme £10,000 per annum (High: £15,000, Low: £5,000). Small ongoing costs for administering the scheme are estimated to affect 2 million jobs per annum (High: 2.5m, Low: 1.5m).
- The cost per scheme member of meeting the **minimum technical competence** requirements is estimated at £300 per annum (High: £400, Low: £200) with an additional transitional cost for the five replacement glazing schemes of £225 (High: £300, Low: £150). This results in present value costs of £3.8m (High: £5.1m, Low: £2.5m).

These ranges to reflect uncertainty give total present value costs of **£29.6m - £42.3m** (central: £34.2m) and total present value benefits of **£61.2m-£80.6m** (central: £71.2m). Low benefits and high costs give a net present value of **£18.9m**. High benefits and low costs give a net present value of **£51.0m**. This provides an upper and lower estimate around the central net present value of **£37.0m**.

Sensitivity Analysis using the 'Low' estimate for the surveillance regime outlined above (15% of members inspected annually with inspections costing 25% more) reduces the present value benefits and hence net present value by **£9.9m**. **The central net present value remains positive but falls to £27.1m.**

Sensitivity Analysis using the 'High' training costs per firm above (£300 every six years and loss of time valued at £128 every six years) increases present value costs by **£4.3m** and so reduces net present value by the same amount to **£32.7m**.

Impact on business for one in one out purposes

Most of the costs and benefits above fall on business as indicated below, except that DECC will contribute towards some UKAS accreditation costs and some of the benefits from less

monitoring will be to government. Ongoing financial protection costs will be to clients/ consumers, not businesses (as will the benefits - see pages 24-26).

Costs and Benefits to Business

OIOO Costs Summary – central estimate	
Type	Present Value Cost £ (2011 prices - Rounded)
UKAS accreditation	770,000
Membership growth	1,610,000
Accounts	120,000
Minimum Technical Competence	3,800,000
Continuing training	22,310,000
Surveillance	1,570,000
Sharing of names	10,000
Membership lists	80,000
Complaints procedure	40,000
Financial protection	260,000
Information provision	110,000
Total – PV Cost	30,680,000
Benefits Summary – central estimate	
Type	Present Value Benefit
Surveillance saving for all schemes	70,930,000
Total - PV Benefit	70,930,000
Net Impact (Benefits – Costs)	
Net Present Value: (Rounded)	£40.3 million
Annual Equivalent net Benefit to Business:	£4.7million

The result is that the present value cost to business is £30.7m, the present value benefit is £70.9m, giving a **net present value of £40.3m (rounded)**. This translates to an **annual equivalent net cost to business of minus £4.7m in 2011 prices (-£4.4m in 2009 prices)**.

Wider impacts

Economic

The main groups affected by the new conditions of authorisation are competent person scheme operators and members, and consumers.

Small and micro-businesses

It is possible that a small number of competent person scheme operators would fall into the category of small businesses and thus be subject to the proposals. However, the decision to operate a scheme is a voluntary one so none of the existing or future operators need comply with the new conditions if they did not wish to do so. In any event, as the benefits of the new conditions exceed the costs, it is thought that most scheme operators would choose to operate under them.

Most of the members of competent person schemes will be small or micro-businesses. Membership of a scheme is voluntary and businesses if they wish can choose not to be scheme

members (i.e. they can use a building control body to check their work instead). Nevertheless the changes, in particular to the surveillance of members, should reduce costs for most members of schemes. The requirements on compulsory continued training will increase member costs a little but these will be more than compensated for by the savings for reduced risk-based inspections.

Competition

The proposals should not affect the competitive position of the scheme operators as they apply to all equally. The proposed conditions of authorisation will help create a more level playing field between schemes and encourage competition on quality rather than price.

As the proposals should mean that members of schemes are assessed to a high level of competence as set out in MTCs and associated NOS it is likely that the work of the members will more often meet the requirements of the Building Regulations. This should increase customer satisfaction and enhance the reputation of the schemes. This in turn would make it more likely that customers would choose to employ a member of a scheme than someone who was not, giving a competitive advantage to scheme members.

Social

An Equality Impact Assessment Initial Screening has been carried out and no impacts on any of the affected groups have been identified.

Environmental

One of the main reasons for bringing forward the proposals is to achieve a higher level of compliance with the Building Regulations, including compliance with the energy and water efficiency provisions in the Regulations. The proposals will therefore help achieve higher environmental standards in work carried out by members of schemes.

Other specific impact tests

These are not relevant to this Impact Assessment.

Implementation plan

The Department proposes to proceed with option 2 above and introduce the new set of conditions of authorisation for competent person schemes operating in England as soon as possible in 2012. The new conditions will be published on the Department's website (replacing the current set) and all existing scheme operators will be asked to confirm in writing that they will aim to fully comply with them as part of their authorisation, following an agreed period of transition (likely to be a maximum of two years from the date of publication). Applicants to become scheme operators in future will also be required to comply with the new conditions.

BUILDING REGULATIONS: COMPETENT PERSON SELF-CERTIFICATION SCHEMES¹ - CONDITIONS OF AUTHORISATION FROM XXXX 2012²

	Conditions of Authorisation	Notes on how to demonstrate meeting the conditions
		<i>N.B. In all cases the demonstration shall be sufficient to meet the relevant requirements in BS EN 45011.</i>
No.	Section 1 The scheme operator³	
1.	Scheme operator to give a commitment to achieve/maintain UKAS (United Kingdom Accreditation Service) accreditation to standard BS EN 45011: 1998 (or latest equivalent standard) within a period agreed with DCLG and to ongoing external monitoring by UKAS. Scheme operator to meet all the relevant requirements in EN 45011 whether or not separately specified in these conditions of authorisation.	The scheme operator shall familiarise itself and demonstrably comply with the requirements of EN 45011. UKAS accreditation should normally be achieved within two years from the date of authorisation of a new scheme or an extension of a scheme (but see also footnote 2 below).
2.	Scheme operator to have a robust and non-discriminatory management, quality and administrative system.	The scheme operator's management, quality and administrative system (including surveillance) shall be documented so as to meet the requirements of EN 45011.
3.	Scheme operator, including assessors and inspectors that it employs, to have the technical ability to assess/inspect the competence of prospective and existing members ⁴ to deliver	The scheme operator shall document how the relevant technical requirements of the Building Regulations are to be met, in relation to the types of building work undertaken. This includes where a scheme operator acquires the competence from, or sub-delegates the assessment/inspection process to, a third party.

¹ Schemes are authorised under paragraph 4A of Schedule 1 to the Building Act 1984 and are named in Schedule 3 to the Building Regulations 2010 (as amended).

² DCLG will allow existing scheme operators a two year period of grace from the date of publication of these conditions of authorisation within which to become fully compliant with them. During these two years DCLG will accept a demonstration of commitment and capability to meet the conditions, where full compliance cannot be achieved, as being sufficient for continued authorisation but a scheme will have to fully comply with all the conditions, including the achievement of UKAS accreditation, in respect of all the types of work for which it is authorised by the end of the two years if its authorisation is to continue beyond that date.

³ Referred to as a "certification body" in EN 45011.

⁴ Registered businesses, including sole traders.

	compliance with the requirements of the Building Regulations.	Assessors and inspectors must be competent at least to the equivalent level in the relevant sector Minimum Technical Competence (MTC) assessment procedure, where one is in place or is being worked towards (see condition no 9).
4.	Scheme operator to ensure that the scheme is financially viable and self-sufficient within a reasonable timescale.	<p>The scheme operator shall:</p> <p>(a) have a transparent fee structure showing income from members and how the scheme will be self-financing with a sufficient surplus for development;</p> <p>(b) ensure that the scheme is self-financing, within a period of not later than five years after authorisation;</p> <p>(c) use scheme funds received from members from registration and notification fees etc only for the benefit of members of the scheme. This can include use of funds for the general benefit of the sector in which the scheme operates.</p>
5.	Scheme operator to have an absence of, or methods for avoiding, conflicts of interest between the commercial interests of any sponsoring or parent organisations and management of the scheme.	<p>The scheme operator shall document how any conflicts of interest will be managed as required by EN 45011.</p> <p>For example: possible conflicts of interest may arise where a scheme is part of or owned by a larger commercial, trade or professional body.</p>
6.	Scheme operator to promote the development and growth of the scheme to potential members and its use to customers.	<p>The scheme operator shall advertise the scheme, explaining its purpose and benefits, to encourage potential members to join and use by customers. This includes distributing promotional literature provided by DCLG.</p> <p>The scheme operator shall document how the scheme proposes to develop and grow and from where new members covering the relevant types of work would be derived for at least the first five years following authorisation. This requirement will be met if it can be demonstrated that further membership growth is not practicable.</p> <p>The target for membership growth shall comprise competent businesses not already in a competent person scheme for the same type of work.</p>
7.	Scheme operator to provide annual accounts, independently audited, for the scheme itself.	<p>This condition will support conditions 4 and 5 as the accounts will help show that a scheme is financially viable and self-sufficient. It will also help demonstrate that there is not a financial conflict of interest.</p> <p>To be 'independently audited', accounts must have been checked by someone who is competent to check them and independent of the preparation of the accounts.</p>

		Where a scheme is authorised for more than one type of work the audited accounts may cover all the types of work for which the scheme is authorised.
	Section 2 The scheme operator and its members	
8.	Scheme operator to establish and publish scheme rules, including its application and certification processes and fee structure.	The scheme rules shall be published on the scheme's public website as a minimum.
9.	Scheme operator to assess existing members and applicants as technically competent, against National Occupational Standards (NOS) under a Minimum Technical Competence (MTC) assessment procedure where one is in place for the relevant type(s) of work. For applicants this should be before registering them with the scheme. The assessment must include an on-site inspection.	<p>Where a sector MTC is in place, it must be used. Where one is not in place a scheme operator shall determine and use an appropriate alternative means of assessing technical competence and work towards the development of an MTC with associated NOS as soon as possible, in conjunction with the relevant sector skills body (e.g. Summit Skills or Construction Skills). DCLG will provide a link to an up to date list(s) of sector MTCs on its website.</p> <p>The scheme rules shall set out details of how the technical competence of members/applicants (including those moving from one scheme to another) will be assessed. The assessment on-site shall cover all the types of work for which they are applying.</p> <p>Where scheme operators can demonstrate that existing members have been assessed as competent under the scheme's previous assessment process, there will in most cases be no need for a further assessment of competence before certification.</p> <p>Where there are gaps between the previous and current competence assessment process, any such gaps may be addressed at the next planned surveillance visit (see condition 12).</p> <p>Where scheme operators have not previously assessed the competence of existing members they will need to do so. If they are unable to assess and certify these members within the two year period of grace (see footnote 2), it may be possible for that scheme/sector to agree an appropriate further period with DCLG (in consultation with UKAS).</p>
10.	Scheme operator to ensure that its members' competencies are kept up to date, for example as a result of changes to the Building Regulations and/or BS/EN standards	This may be by means of formal generic training courses, seminars, distance learning, etc, as appropriate, which shall be equally available to all members.

	or technical approvals.	
11.	Scheme operator to provide ongoing technical and other help and advice to members as required (i.e. post registration), provided such help/ advice does not cause any conflicts of interest with certification activities of the scheme operator.	This may be accomplished by setting up telephone and e-mail helplines available to all members.
12.	Scheme operator to undertake surveillance of its members' work, including carrying out periodic random inspections of a representative sample of each member's work, during or after completion, to check compliance with the Building Regulations.	<p>A scheme operator shall, under a risk-based approach, undertake a minimum of one on-site inspection of each member's work every three years. This period shall be granted to existing members who have a clean track record, as defined and documented by the scheme operator. This will need to be based on factors such as inspection outcomes, significant complaints and major changes in personnel. Those members without such a record shall be inspected on an annual basis until they have such a record. New members will need to be inspected annually for the first two years following initial assessment to establish a clean track record.</p> <p>Scheme sector or individual scheme operators may choose to adopt more frequent inspection periods, where they consider that there is a need to go beyond the minimum requirements to ensure compliance with the Building Regulations.</p> <p>The scheme operator shall document its surveillance process and keep records of all surveillance made in line with the requirements in EN 45011.</p>
13.	Scheme operator to have effective sanctions in place for dealing with non-compliance with the Building Regulations and/or a breach of scheme rules by members of the scheme.	<p>The scheme rules shall set out the range of sanctions to be applied in particular circumstances, including referral to the local authority where appropriate and, in the last resort, termination of membership for refusal to comply.</p> <p>Provision shall also be made for an appeal against any sanctions imposed.</p>
14.	Scheme operator to use an agreed mechanism to make available to other competent person schemes and other interested parties (e.g. LABC & relevant Government Departments) the names of former members whose membership has been terminated by the scheme and the reason for termination.	<p>This applies where the reasons for termination of membership relate to non-compliance with the Building Regulations or a breach of scheme rules. The names of such former members shall remain available for a period of at least two years.</p> <p>All members must be made aware of this condition on initial registration and/or renewal of membership.</p>

	Section 3 The scheme operator and its customers	
15.	Scheme operator to keep and publish membership lists and the type(s) of work for which members have been assessed as competent.	<p>This information shall be published on the scheme's public website and the competent person schemes' website, which will allow customers to find a competent installer to carry out work or to check if an installer is a member of a scheme.</p> <p>Publication is subject to the agreement of members, as a condition of membership, which must be sought on initial registration and/or renewal of membership (e.g. via a tick box).</p>
16.	Scheme operator to have a robust and publicised complaints procedure.	<p>The complaints procedure must cover those relating to non-compliance with the Building Regulations, but may include other types of complaints from customers (and members) relating to the scheme.</p> <p>The stages of the scheme's complaints procedure shall be set out in detail, at a minimum on its public website, so that those wishing to use the procedure are aware of the stages. The procedures shall be consistent with the principles relating to complaints management of the Office of Fair Trading Consumer Codes Approval Scheme.</p>
17.	Scheme operator to arrange to provide customers with appropriate financial protection to put work to dwellings right, which is non-compliant with the Building Regulations, where the original installer cannot do so.	<p>Financial protection must be provided, not offered, for a minimum of six years for work to dwellings. But where a manufacturer's product guarantee is for a shorter period, this period will take precedence for that product.</p> <p>Type of provision may vary from scheme to scheme and sector to sector. Possible mechanisms include guarantees, insurance-backed warranties or, where appropriate, professional indemnity insurance.</p>
18.	Scheme operator to require its members to remain responsible for ensuring that all scheme work carried out under a contract with the customer is compliant with the Building Regulations.	<p>This applies in particular where some of the work is sub-contracted to a third party and shall be stated in the scheme rules.</p> <p>The scheme rules shall also state that members must ensure that sub-contractors are competent to carry out the work they are sub-contracted to do.</p>
19.	Scheme operator to take measures to ensure that it is notified by members of all completed work required under the scheme and to forward to all customers a certificate of Building Regulations compliance.	<p>The scheme operator shall have documented systems in place to ensure that members are notifying all jobs carried out under the scheme, in line with regulation 20 of the Building Regulations 2010. The scheme operator should receive notifications well within time to ensure that it meets the 30 calendar day deadline for giving compliance certificates to customers.⁵</p>

⁵ This does not apply to any pressure testing scheme authorised under regulation 43 of the Building Regulations 2010.

	Section 4 The scheme operator and DCLG / local authorities	
20.	Scheme operator to provide the information DCLG requires in order to carry out its oversight functions, both on a regular basis or <i>ad hoc</i> as required.	DCLG will specify with all scheme operators the regular information needed for its purposes, which may be published on its website. This is likely to include: <ul style="list-style-type: none"> • provision of a periodic report on: membership numbers; number of work notifications made to local authorities; and number of formal consumer complaints and their outcomes; • financial information annually from the scheme's audited accounts, as appropriate; and • information from UKAS reports on the scheme accreditation, as appropriate (DCLG may request this direct from UKAS).
21.	Scheme operator to take measures to ensure that it is notified by members of all completed work required under the scheme and to forward this information to the relevant local authority in the format agreed with LABC.	As under condition 19, scheme operators shall have documented systems in place to ensure that members are notifying all jobs carried out under the scheme, in line with regulation 20 of the Building Regulations 2010. The scheme operator should receive notifications well within time to ensure it meets the 30 calendar day deadline for transfer of information to the local authority. ⁵

Department for Communities and Local Government (DCLG)

Current authorisation criteria for operation of a competent person scheme under the building regulations

The expectation is that an applicant must demonstrate ability to comply with all the criteria but the weight attached to each would depend on the particular circumstances in the sector concerned and the requirements on that sector in the Building Regulations:

- financial and accounting probity and viability with a proven track record in the relevant field
- demonstrable understanding of what is involved in managing a scheme of this type and the administrative systems to do so
- sufficient knowledge of the Building Regulations by both scheme organisers and scheme members
- absence of, or methods for avoiding, conflicts of interest between the commercial interests of sponsoring or member organisations and management of the scheme
- a minimum standard of technical competence, independently assessed where practicable, for all prospective members of a scheme. Such standards will vary from sector to sector and maybe based on National Occupational Standards, formal qualifications, and/or experience, taking account of any British or European standards
- effective means of vetting prospective members against the minimum standard
- robust procedures in place to deal with complaints from members and disputes between members and customers
- a rigorous system of ensuring and monitoring members' compliance with the Building Regulations
- effective sanctions in place for dealing with non-compliance by members of the scheme
- system for ensuring that certificates of compliance are issued to consumers
- where information on work completed under the scheme is to be sent to local authorities, appropriate methods to ensure rapid transfer of the information
- adequate consumer protection through an insurance-backed warranty, professional indemnity insurance or bond
- commitment to publicising the scheme and its rules as widely as possible, including a list of the names of members of the scheme and the type of work for which they have been assessed as competent
- commitment to allow the Department to monitor the scheme periodically to ensure that it delivers compliance with the Building Regulations and is following the scheme rules
- commitment to comply with the proposals in the *Building Regulations Competent person self-certification schemes: Consultation paper*.

Building Regulations: Competent person self-certification schemes

Extract from Analysis of responses to consultation⁶

Introduction and overview of responses

Background

1. CLG issued a consultation paper, *Building Regulations Competent Person Self-certification Schemes*, in December 2009. Its purpose was to seek views on proposals for changes to the administrative provisions for approval, monitoring and quality assurance of schemes. The changes proposed were designed to improve the level of compliance with the Building Regulations and to increase consistency across the schemes. The consultation period ended on 19 March 2010.
2. 47 bodies or individuals responded to the consultation, falling into categories as follows:

	Number of respondents
CP scheme operator	11
Building control body	10
Professional or trade body	16
Other	10
Total	47

3. A complete list of those who responded is at Annex 1.
4. This summary of responses has been prepared by IHPC, an in-house policy consultancy based in Department for Transport and providing a service to all of CLG, Defra, DECC and DfT.

Overview of responses

5. The consultation paper posed 12 questions, each inviting a 'yes' or 'no' answer. The number of respondents answering 'yes' and 'no' to each question is recorded in the table at Annex 2, and a fuller breakdown by respondent category is in the relevant section of the main report that follows. Respondents who elected not to respond in a yes/no format are recorded as 'neither', as are those who offered no response to the particular question.

6. A clear majority of respondents supported the Department's position on all issues where the consultation paper offered a view, ranging from 9:1 in favour of scheme operators offering some financial protection to consumers (Q6) to a bare majority who considered the Impact Assessment to be fair (Q11). However, crude analysis by numbers of 'yes'/'no' votes disguises some important reservations expressed by those who supported the Department's position in general terms, and a fair amount of common ground between the 'yes' and 'no' camps on some issues.

7. In general, there was markedly less support from scheme operators than from other respondents for the Department's proposals. Even within this category, however, it was only on Q11 (Impact Assessment) that a majority opposed to the Department's proposals.

8. The proposal to require scheme operators to gain UKAS accreditation provoked the most attention and strongest views from respondents. For this reason it is dealt with first below, with other issues following the order of the consultation document.

⁶ Prepared by IHPC, 1 June 2010

UKAS accreditation

9. The consultation document notes that monitoring of CP scheme operation has hitherto been undertaken by the Department on an ad hoc basis, and that the Department would like to move to a more regular and standardised arrangement. The proposal is to require schemes to gain UKAS accreditation to standard EN 45011, and for UKAS to take on regular scheme monitoring.

10. A substantial majority of respondents supported this proposal. However, while there was wide consensus about the need to put in place effective scheme monitoring and quality assurance arrangements, views were far more mixed about whether this should be achieved through UKAS accreditation.

11. Four scheme operators strongly opposed UKAS accreditation. They argued that it would result in substantial additional costs which would take scheme membership beyond the means of smaller businesses and sole traders, and as a result lead to a major reduction in CP membership numbers. There were also fears that UKAS might impose a 'one size fits all' approach to monitoring scheme members' work in different sectors, which could result in a reduction in quality standards as well as an increase in costs in some areas.

12. Other scheme operators took a different view, arguing that UKAS accreditation was essential to remove unfair inconsistencies between operators and schemes. Some respondents argued that the Department did not have the right skills for monitoring scheme operation, and that, as the UK's national accreditation body, UKAS was the right body to take the job on. UKAS itself said that it would welcome this role.

13. Alternative propositions were that the CP scheme operators should collectively appoint and pay for a respected independent auditor, or for the auditing task to be opened up to a wider range of suitable bodies.

Core authorisation criteria

14. The consultation paper proposed changes to the criteria against which new competent person schemes are authorised, designed to bring more uniformity to the application and enforcement of criteria across schemes. It proposed a total of 22 core criteria.

15. There was no disagreement in principle that there should be an updated and common set of core criteria, and a broad measure of support for many of those proposed. Recurring general comments were that there should be adequate mechanisms in place to ensure compliance and that it was important that schemes operated to the same rules and standards.

16. Some of the criteria deal with issues covered in more detail in later sections of the consultation document. Of those not covered elsewhere, those that provoked most comments were:

- Criterion 5: membership growth. All of those who commented opposed the proposal that schemes should be required to commit to membership growth, on the grounds either that it was undeliverable, or that it would undermine a commitment to proper standards, or both.
- Criterion 2: scheme to be financially viable. There were suggestions that this rule should apply to the operator rather than the scheme, and related arguments for greater clarity about what constitutes a conflict of interest.

- Criterion 7: members of schemes to be technically competent. While there was of course no disagreement with this in principle, there were concerns – particularly from the glazing industry – about how it was to be measured.
- Criterion 10: requirement for effective sanctions. Several respondents wanted to see a common set of sanctions in place across schemes, and some looked to the Department for guidance.
- Criteria 18 and 21: certificates of compliance and notification of completed work. While BCB respondents attached particular importance to notification (criterion 21), a number of scheme operators commented that these requirements were ultimately outside their control.

Application process

17. The consultation paper proposes that a formal process should be put in place to deal with applications to operate CP schemes, and identifies an 11-step process.

18. Whilst there was general support for these proposals, respondents expressed some concern on two issues in particular. First, some respondents were concerned to ensure that a general invitation to express interest was issued when a new scheme was established. Second, a small number of respondents queried the role of CLG in the process of approving new schemes, arguing that UKAS should play a larger part.

Customer complaints procedures

19. All competent person schemes are already required to have in place a robust complaints procedure. The consultation paper queries whether the procedure should be strengthened through the introduction of a formal, standardised procedure, or whether the Department should go a step further and require full compliance with the OFT Consumer Code Approval Scheme, including independent arbitration.

20. There was almost universal agreement to the proposal to introduce a standardised complaints procedure, but a range of views on what this should cover, and whether it should include independent arbitration. Many respondents in the scheme operator category looked for greater clarity about the procedures envisaged, and suggested that a draft should be developed for discussion. Several respondents looked for compatibility with other requirements, such as ISO 10002 and Trust Mark.

Consumer financial protection

21. There is an existing requirement that all competent person schemes should include arrangements for offering consumers some form of financial protection in cases where members' work does not comply with building regulations, and where there is no redress against the member concerned because they have gone out of business. The Department would like to see the current arrangements strengthened, and the consultation document puts forward the options of (i) a more detailed specification of the minimum protection to be offered, or (ii) mandatory provision to cover customers whether or not they opt for it.

22. A small number of respondents rejected the whole idea of CP scheme consumer financial protection on the grounds either that such provision would change the role of scheme operators from certification to underwriting bodies or on the more practical grounds that the vast majority of consumers were not interested in such protection.

23. However, the large majority of respondents favoured the provision of some form of consumer financial protection. Of these, 57% thought that provision should be mandatory, applying regardless of whether or not consumers opted for it.

24. The main arguments for mandatory protection were that this was the simplest option and a potential selling point for CP operators. The main arguments of those who opposed mandatory protection were that it would drive up costs significantly and hence deter scheme membership, and that it was wrong in principle to deny consumers the opportunity to make their own judgments about whether or not to opt for this insurance.

Monitoring the performance of scheme members

25. Most competent person schemes are currently required to carry out random periodic monitoring of the work of their members, with a minimum requirement for an annual inspection of a sample of each member's completed work. The consultation document proposes (i) that this requirement should be extended as a basic requirement to all schemes and (ii) schemes should be allowed to move away from annual inspections to a risk-based approach where they have demonstrated their ability to operate such a system. This approach is expected to generate net savings of £71m at net present value over 10 years.

26. Respondents in general supported the proposal to extend the basic inspection regime to all schemes, including a requirement for annual inspections. There were, however, concerns expressed by those schemes currently operating with less frequent inspections that the requirement was excessive, and that existing schemes should be allowed to continue to operate tried and tested processes. A wider range of respondents warned against the danger of too rigid an approach, arguing that the kind of inspection regime that made sense for one type of work would not necessarily work well for others. There were also concerns expressed about the adequacy of current monitoring and about low levels of compliance, and an argument from one respondent in the professional and trade association category that all inspection work should be undertaken by UKAS.

27. While the majority of respondents favoured a move to a risk-based approach in appropriate cases, a significant minority did not. Many respondents from both camps supported a risk-based approach in principle, but wanted to see basic minimum standards adopted. Some argued that a requirement for annual inspections should be retained as a minimum, while others argued for a minimum 3-year cycle.

28. Concerns were also expressed as to how a level playing field between operators was to be maintained if some were allowed to adopt a risk-based approach while others were not.

Impact assessment

29. The consultation document anticipated that a net present value benefit of £23m over 10 years would flow from the proposals, made up of £75m savings offset by £52m costs. Views were invited on the underlying estimates as set out in the Impact Assessment.

Less than a half of all respondents supported the Department's position on this, with many respondents saying they were not in a position to offer a view. 7 out of the 11 scheme operators to respond said that they did not consider that the Impact Assessment offered a fair overview of costs and benefits. There were concerns in particular that moving to a risk-based approach to inspections would not in practice deliver the savings anticipated, and that the costs associated with UKAS accreditation would work out considerably higher.