

# Annex E

## Consultation questionnaire

<b>Question 1:</b>			
Do you consider that the criteria in Section 1 of this consultation document are appropriate for the authorisation of competent person schemes?			
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
<b>Comment:</b>			
<p><b>Whilst the criteria may be appropriate, the means of demonstrating that they are met needs significant further work. Many of the criteria would be met entirely through schemes being accredited by an accreditation body such as the National Accreditation Body, UKAS. A single accreditation provider would ensure appropriate and consistent checking both in initial application and ongoing monitoring.</b></p> <p><b>At present only criterion 20 mentions a 3<sup>rd</sup> party accreditation body in connection with external monitoring of the scheme. There are in fact a number of other criteria that could, and in our opinion should, be fulfilled through accreditation and these are set out in the Appendix to this consultation response.</b></p> <p><b>Please see our responses to Q3, Q5 and Q10 and the Appendix to this response for further elaboration of this.</b></p>			

<b>Question 2:</b>			
Is the meaning of each of the criteria clear?			
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
<b>Comment:</b>			
<p><b>Throughout the criteria the phrase "commitment to" appears. This is vague and should be tightened up. Such fundamental activities as the production of annual accounts and publication of scheme rules and fee structures should be absolute and explicit requirements from the outset. Anyone can make a commitment and then come up with an excuse for not having done it. Production of the required reports/information/evidence to an explicit timeframe must be a condition for renewal or approval of any scheme - many of these criteria would be automatically covered by the requirement for UKAS accreditation.</b></p>			

**Question 3:**

Are there any other criteria which you consider should be applied to competent person schemes?

**Yes**

**No**

**Comment:**

**There are no other criteria. However, CIBSE has developed the table of criteria with two extra columns added. The first identifies whether the criterion is most appropriately assessed by UKAS or CLG and the second contains some general comments and observations. This approach clearly illustrates the number of criteria that could come under UKAS jurisdiction, although the original CLG proposal only identified external monitoring of schemes (box 20) as 'likely' to coming under UKAS.**

<b>Question 4:</b>			
Are you content with the steps and timescale the Department is proposing for the consideration of applications to operate a competent person scheme?			
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
<b>Comment:</b>			
<p>The timetable seems appropriate for the process outlined. However, if CLG were to adopt a UKAS based model, the process and timescale may need to be reviewed. If a scheme needed to be UKAS accredited prior to application, this should significantly reduce the work and the time required for Ministerial approval. Also, nowhere in the proposal is there any mention of open and transparent assessment criteria for specific scheme applications, which we believe should be provided.</p> <p>There is, however, another issue to be considered here. There is a significant difference between applications in response to a CLG call, and self-identified opportunities for schemes which are taken to CLG. We believe it is essential that this should be addressed. For the 2006 changes to Part L, BRE was commissioned by CLG to develop SBEM.</p> <p>This was a commercial contract placed at BRE by CLG using public funds. Alongside the development of SBEM, BRE developed, and applied to run, a Competent Persons Scheme for the undertaking of SBEM calculations required under criterion 1.</p> <p>When Part L 2006 was implemented, the wider industry discovered that this a single Competent Persons Scheme already approved. This gave BRE Certification a massive commercial advantage and created a monopoly, as well as significant market confusion, which was damaging to the implementation of Part L.</p> <p>CIBSE recommends that any approach by a scheme provider with an idea for a CP scheme should first be assessed, and if considered appropriate, then an open invitation, along with relevant technical criteria should then be made available on the CLG website. In this way the intellectual consideration of appropriateness of potential schemes is separated from the process of applying to run one. The proposer of the original idea will still have first mover advantage but will be prevented from operating an unfair monopoly.</p> <p>We believe that the scenario outlined in relation to the BRE SBEM scheme would also place the Department at risk of a breach of the EU Services Directive, as it entered into an arrangement with BRE on a preferential basis, without open call or competition, contrary to the principles of the Directive.</p>			

<b>Question 5:</b>			
Do you support the Department's preference for Option 2 for schemes' complaints systems?			
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
<b>Comment:</b>			
<p><b>A standardised approach to complaints and informing customers of scheme members of their rights is essential. However, there is no need to impose another duty on the OFT if all schemes are required to gain UKAS accreditation. The UKAS requirements for complaints procedures would also encompass many of the benefits identified in Option 3 but require no further work by CLG. We believe this to be a better approach, and offers "simplification" benefits to CLG as well as Better Regulation benefits to schemes. We believe that this approach is far more in keeping with the intent of the Accreditation Regulations 2009, and the current Memorandum of Understanding between government and UKAS.</b></p>			

<b>Question 6:</b>			
Do you agree that there should be a minimum level of consumer financial protection where the scheme member cannot bring work up to the required standard? If yes, please give your preference for Options 1, 2 or 3 with reasons for your choice?			
Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
<b>Preference:</b>			
Option 1	<input type="checkbox"/>	Option 2	<input checked="" type="checkbox"/>
		Option 3	<input type="checkbox"/>
<b>Reasons:</b>			
<p><b>The offer of an insurance backed warranty should be a requirement of the scheme entry requirements.</b></p>			

<b>Question 7:</b>			
Do you have any suggestions on other types of protection that might be appropriate if Options 1, 2 or 3 were adopted?			
<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>
<b>If yes, what is your suggestion:</b>			

<b>Question 8:</b>			
Do you agree that the current system of monitoring the performance of members of schemes should be continued and extended to all authorised schemes?			
<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>
<b>Comment:</b>			
<b>It should be done by UKAS and applied across all schemes, including existing schemes.</b>			

<b>Question 9:</b>			
Do you agree that the Department should allow schemes to move to a risk-based system of monitoring the performance of their members in appropriate cases where they have demonstrated their ability to operate such a system?			
<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>
<b>Comment:</b>			
<b>It should be UKAS that makes this decision.</b>			

<b>Question 10:</b>			
Do you agree with the Department's view that UKAS accreditation should be the requirement for the monitoring of schemes' performance?			
<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>
<b>Comment:</b>			
<p><b>As already indicated, CIBSE proposes that the whole process of evaluation and monitoring of schemes be undertaken by UKAS.</b></p> <p><b>It is agreed that UKAS accreditation should be required for monitoring schemes' performance but if a scheme is going to be accredited by UKAS for this element of its standards and performance then there are many other elements that could be administered by UKAS. These are set out in the Appendix to this response already mentioned in Q1 and Q3.</b></p> <p><b>UKAS was recently established legally as the UK's National Assessment Body by Statutory Instrument, thus fulfilling the requirement of EC Regulation 765/80, and its memorandum of understanding revised to reflect its new role as the National Accreditation Body.</b></p> <p><b>Paragraph 9 of the MoU relates to the support to be offered by government, as follows:</b></p> <p><b>"9. Support from Government</b></p> <p><b>9.1 The Secretary of State will use appropriate means to support UKAS in the achievement of its objectives. In particular, the Secretary of State will encourage conformity assessment bodies to seek accreditation, including those upon whose services the Government relies, both for procurement and regulatory purposes. The Secretary of State will encourage other purchasing organisations in both the public and private sectors to support these unified arrangements."</b></p> <p><b>In the light the revised MoU, and also of the December 2009 Government announcement of a new commitment to cut the costs of regulation by a further £6.5 billion by 2015, we believe that CLG should, as a matter of policy, seek to adopt UKAS as the accreditation body for Competent Persons schemes.</b></p> <p><b>Assigning responsibility to UKAS will free up CLG from policing general scheme operation requirements and allow officers to concentrate on the areas that need to be governed by CLG, such as establishing the technical competences required and selecting appropriate NOS.</b></p> <p><b>UKAS accreditation would introduce a common standard across all schemes, and would transfer the costs of this activity to schemes, leading to savings by CLG.</b></p>			

<b>Question 11:</b>			
Do you consider that the draft Impact Assessment presents a fair representation of the costs and benefits?			
<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>
<b>Comment:</b>			
<b>Appendix D of the consultation document does not give any details of costs or benefits</b>			

<b>Question 12:</b>			
Can you supply any further information to help develop the Impact Assessment further? In particular we would welcome comment on the assumptions we have made on average per scheme or per member costs of some of the proposed changes, for example on the cost of UKAS accreditation or the cost of additional training.			
<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>
<b>Comment:</b>			
<b>CIBSE could supply data and feedback on our own experiences of UKAS Accreditation and the cost passed on to our members.</b>			