

# **MEMORANDUM OF UNDERSTANDING BETWEEN THE GAS AND ELECTRICITY MARKETS AUTHORITY AND THE HEALTH AND SAFETY EXECUTIVE**

## **INTRODUCTION**

This Memorandum of Understanding (MOU) is between the Gas and Electricity Markets Authority ("the Authority"), and the Health and Safety Executive ("HSE"). The Authority is the Office of Gas and Electricity Markets' (Ofgem) governing body, overseeing its work and providing strategic direction. The Authority and Ofgem are used interchangeably in this MOU and the signatory is the Chief Executive Officer (CEO) of Ofgem and a member of the Authority.

Ofgem is a non-ministerial government department. Its principal objective is to protect the interests of existing and future consumers of gas and electricity, wherever appropriate, by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

HSE is a non-departmental public body sponsored by the Department for Work and Pensions, which is responsible for the inspection and regulation of occupational health and safety including those involved in electricity and gas generation, transmission, distribution, supply and use.

The statutory responsibilities of Ofgem and HSE for the purposes of this Memorandum of Understanding are outlined in Annex A.

## **PRINCIPLES OF COLLABORATIVE WORKING**

This MOU outlines the principles of cooperation to be adopted between Ofgem and HSE. It seeks to promote effective co-operation, consultation and communication (eg exchange of information) whilst recognising and respecting the different regulatory and other legal frameworks within which each organisation operates. As such this MOU is a statement of intent; nothing in it shall create any legally binding or enforceable obligations on either HSE or Ofgem over and above those set out in law (see Annex A).

The principle purpose of collaborative working is to enhance the effectiveness of HSE's and Ofgem's operational and policy delivery. This will be achieved through a common understanding and effective relations in order to:

- ensure that each organisation's ability to fulfil its respective statutory functions is not adversely affected through action or inaction of the other;
- co-operate in such a way as to present a consistent and coherent position to duty holders and stakeholders engaged in the gas and electricity industries in matters of common interest between Ofgem and HSE.

## **INTENDED ACTIVITIES AND ASSOCIATED BENEFITS**

The activities to be undertaken to achieve the aims of this MOU will include:

- Ofgem and HSE consulting each other on issues (including forward work programmes, specific issues of concern and any other appropriate tasks) that either of them considers may have particular significant economic impacts or

safety implications on the gas or electricity industries and will allow the other reasonable time for adequate consideration and response;

- Ofgem and HSE advising each other of information that either of them receives (subject to any limits imposed by legislation, including the need to respect personal or commercial confidentiality) and considers may have particular significant economic impacts or safety implications on the gas or electricity industries and will allow the other reasonable time for adequate consideration and response;
- The CEO of Ofgem and the Chief Executive of HSE meeting as necessary, to review matters of common interest and the effectiveness of this MOU;
- Ofgem and HSE identifying contact points within their organisations to be responsible for the exchange of information and communication links between them;
- Ofgem and HSE officials having regular dialogue, and meeting as and when necessary to ensure that this MOU is effective.

## **DISCLOSURE OF INFORMATION**

Ofgem and HSE are open about their activities as part of their commitment to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. Information requested will be disclosed unless its release falls under an applicable statutory exemption or under any other restriction or prohibition imposed by any enactment, rule of law or by order of the court. Each organisation undertakes to make the other aware of any significant relevant disclosure where possible prior to the release of information to members of the public, including the media.

## **FUNDING AND COST RECOVERY**

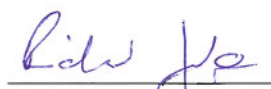
Organisations will generally bear their own costs when contributing to activities directly connected with this MOU, unless alternative arrangements for specific areas/projects are agreed on in advance. Where there are specific requests (eg for research, technical assessment or secondments), appropriate cost recovery or funding arrangements will be put in place.

## **REVIEW OF THE MOU**

This MOU will be reviewed in three years, unless by mutual written agreement, it is extended or altered or terminated sooner.

## **SIGNED BY**

 Date 5-1-2016  
Dermot Nolan, Chief Executive Officer, Ofgem

 Date 5-1-2016  
Richard Judge, Chief Executive, Health and Safety Executive



## **ANNEX A: STATUTORY RESPONSIBILITIES OF OFGEM AND HSE FOR THE PURPOSES OF THIS MEMORANDUM OF UNDERSTANDING**

### **HSE**

HSE and its statutory powers and responsibilities were established under the Health and Safety at Work etc. Act 1974 (HSWA). In facilitating the performance of its functions, HSE enters into Memoranda of Understanding with other bodies to ensure effective co-operation and understanding in areas of mutual interest. The broad scope of HSWA also allows for HSE to carry out functions within its vires under regulations not made under HSWA in accordance with Agency Agreements.

HSWA places a duty on employers to ensure, so far as is reasonably practicable, the health, safety and welfare of their employees and any members of the public who may be affected by their work. It also places duties on others to ensure they take reasonable care for their own and others' health and safety. Regulations made under HSWA provide for more specific duties, often in relation to particular industries or risk areas.

### **OFGEM**

Ofgem was established under the Utilities Act 2000. Ofgem's powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002, the Energy Acts of 2004, 2008, 2010 and 2013 as well as the European Union legislation. Sections 11 and 15 of the Utilities Act 2000 amend the duties with respect to safety contained in the Gas Act 1986 and the Electricity Act 1989.

### **Gas Safety Issues**

Ofgem is required under Section 4A of the Gas Act 1986:

"...to consult the Health and Safety Executive about all gas safety issues which may be relevant to the carrying out of any of (its) functions...";  
and

"...to take into account any advice given by the Health and Safety Executive about any gas safety issue..."

A "**gas safety issue** is anything concerning the conveyance of gas through pipes, or the use of gas conveyed through pipes which may affect the health and safety of:

members of the public; or

persons employed in connection with the conveyance of gas through pipes or the supply of gas conveyed through pipes."

### **Electricity Safety Issues**

Ofgem is required under Section 3C of the Electricity Act 1989:

"..to consult the Health and Safety Executive about all electricity safety issues which may be relevant to the carrying out of any of (its) functions"; and

"to take into account any advice given by the Health and Safety Executive about any electricity safety issue..."

- 4) An "**electricity safety issue** is anything concerning the generation, transmission, distribution or supply of electricity which may affect the health and safety of:

members of the public; or

persons employed in connection with any of those activities."