

To: All holders of a gas supply licence

**DIRECTION ISSUED BY THE GAS AND ELECTRICITY MARKETS AUTHORITY
PURSUANT TO PARAGRAPH 8 OF CONDITION 12A OF THE STANDARD
CONDITIONS OF THE GAS SUPPLY LICENCE TO ALL HOLDERS OF A GAS SUPPLY
LICENCE GRANTED OR TREATED AS GRANTED UNDER SECTION 7A(1) OF THE
GAS ACT 1986**

WHEREAS

1. Each company to whom this Direction is addressed ('the licensee') holds a gas supply licence granted, or treated as granted, pursuant to section 7A(1) of the Gas Act 1986 in which Standard Condition 12A (Matters relating to Theft of Gas) ('SLC 12A') has effect ('the licence').
2. The Gas and Electricity Markets Authority ('the Authority') has the power pursuant to paragraph 8 of SLC 12A of the licence to issue a direction to the licensee to be a party to, comply with and maintain an arrangement to give effect to the objective set out in paragraph 1 of SLC 12A (the 'Theft Arrangement').
3. On 26 March 2012, the Authority consulted on the contents of the Direction and has carefully considered the responses to that consultation.

NOW THEREFORE

4. The Authority hereby directs that the licensee must comply with the requirements specified in the Schedule of this Direction.
5. This Direction shall take effect on 8 January 2013 and shall continue until:
 - (a) revoked or amended by the Authority following a period of consultation with the licensee for not less than 28 days, beginning on the date of notice of the revocation or amendment, or such other period as may be agreed in writing by the Authority and the licensee, during which representations with respect to the proposed revocation or amendment may be made; or
 - (b) 7 January 2016, on which date the Direction shall cease to have effect,whichever is the earlier.
6. The following documents constitute notice pursuant to section 38A (Reasons for decisions) of the Gas Act 1986:
 - (a) This Direction;
 - (b) Ofgem. (October 2012) "Tackling Gas Theft: New requirements for gas suppliers", Ref 317/12;
 - (c) Ofgem. (March 2012) "Tackling gas theft: the way forward", Ref 35/12;
 - (d) Ofgem. (March 2012) "Tackling gas theft – Final impact assessment", Ref 35A/12;
 - (e) Ofgem. (August 2011) "Tackling gas theft", Ref 112/11; and
 - (f) Ofgem. (August 2011) "Tackling gas theft – Draft Impact Assessment", Ref 112A/11.

These documents are available on the Ofgem website: www.ofgem.gov.uk

Dated: 07 January 2013

**Signed on behalf of the Authority by Colin Sausman
Duly authorised for that purpose by the Authority**

SCHEDULE

PART A: PURPOSE OF THIS THEFT ARRANGEMENT

1. The purpose of this Theft Arrangement (the "Purpose") is to ensure that:
 - a. the licensee and any Representative individually and/or in cooperation, where necessary with other Gas Suppliers develop, maintain and operate a service (the Theft Risk Assessment Service ("TRAS")) in accordance with this Direction to support:
 - (i) detection of Theft of Gas;
 - (ii) investigation of suspected Theft of Gas; and
 - (iii) prevention of Theft of Gas.
2. The licensee must take (and ensure that any Representative takes) all reasonable steps to:
 - a. secure the achievement of the Purpose; and
 - b. avoid doing anything which jeopardises its ability to achieve the Purpose.

PART B: THE TRAS

3. The objective of the TRAS is to develop, maintain and operate a service in a consistent manner across all Gas Suppliers, such that any Customer that undertakes Theft of Gas will have a reasonable chance of being detected, regardless of which Gas Supplier supplies them.
4. The licensee must take all reasonable steps to meet the requirements set out below.
5. The licensee must ensure that the TRAS carries on its activities in a manner that is most likely to facilitate:
 - a. the development, operation and maintenance of an efficient, economical and coordinated Theft Arrangement;
 - b. effective competition between Gas Suppliers;
 - c. protection of information and security of information and systems; and
 - d. efficient and transparent administration and implementation of the TRAS.
6. The licensee must ensure that the TRAS takes all reasonable steps to:
 - a. secure the achievement of the objective under paragraph 3; and
 - b. avoid doing anything which jeopardises its ability to achieve the objectives under paragraph 3.
7. The licensee must ensure that the TRAS:
 - a. identifies, collects, scrutinises and evaluates Relevant Information to profile the risk of Unrecorded Gas, and in particular Theft of Gas, at all individual premises where gas is conveyed through pipes by a Gas Transporter;
 - b. provides all Relevant Information in respect of a premises that the Relevant Supplier may reasonably require to:
 - i. determine which premises to investigate for suspected Theft of Gas, and
 - ii. facilitate that investigation of Theft of Gas;
 - c. on notice from the Relevant Gas Supplier that a person has, or may have, taken a supply of gas in the course of conveyance, provides all Relevant Information to the Relevant Gas Transporter that the Relevant Gas Transporter may reasonably require to facilitate the Relevant Gas Transporter

- in fulfilling its obligations under standard licence condition 7 of the Gas Transporters Licence;
- d. at the reasonable request of the Relevant Gas Transporter, provides such Relevant Information and services that the Relevant Gas Transporter may reasonably require to support the reduction of gas taken in the course of conveyance; and
 - e. at the reasonable request of the Relevant Supplier and/or Relevant Gas Transporter, provides such Relevant Information that the Relevant Supplier and/or Relevant Gas Transporter may reasonably require to support criminal prosecution.
8. The licensee must ensure that the TRAS provides the Relevant Information described in paragraph 7(b) in a manner that is most likely to facilitate the achievement of the Theft Target.

Theft Target

9. The licensee must ensure that the TRAS establishes and maintains an appropriate target amount of Theft of Gas to be detected per year (the "Theft Target").
10. The licensee must ensure that the TRAS establishes the Theft Target within one year of the commencement of provision of services set out in paragraph 7.
11. The licensee must ensure that the TRAS reviews the Theft Target at least once every two years and that when reviewing the Theft Target, the TRAS takes all reasonable steps to ensure that any revised Theft Target will achieve additional overall benefits for Customers when compared to the existing Theft Target.
12. The licensee must ensure that the TRAS develops and maintains a methodology, having regard to all the information available, to establish the Theft Target (the "Theft Target Methodology").
13. Before establishing the Theft Target Methodology, the licensee must ensure that the TRAS consults:
- a. the Authority;
 - b. the Consumer Council;
 - c. all Gas Suppliers;
 - d. all Gas Transporters; and
 - e. such other person as may be appropriate.
14. The licensee must ensure that the TRAS duly considers any representations which are made and not withdrawn.
15. The licensees must ensure that a report setting out the Theft Target Methodology is:
- a. provided by the TRAS to the Authority;
 - b. provided by the TRAS to any person who asks for it; and
 - c. published by the TRAS on a website.
16. In complying with the requirements of paragraph 15, the licensee must have due regard to the need for excluding from the report, so far as is practicable, any matter that relates to the affairs of a person if the publication of that matter would or might seriously and prejudicially affect his interests.

Governance of TRAS

17. The licensee must ensure that effective change control arrangements are in place for Gas Suppliers to seek amendment to the rules for the operation of the TRAS.

Access and use of data

18. The licensee must ensure that the TRAS:
 - a. ensures the protection of information and the security of the information and systems in the operation of the TRAS;
 - b. maintains, prepares and publishes a Compliance Statement stating how the TRAS will comply with the requirements in paragraph 18a; and
 - c. maintains, prepares and publishes a Privacy Impact Assessment for the purpose of assessing compliance with the Data Protection Act 1998. The Privacy Impact Assessment must be consistent with the best industry practice as recommended from time to time by the Information Commissioner's Office (or a successor body).
19. For the avoidance of doubt, the licensee is not required to undertake any activity required by this Direction, where within the licensee's reasonable view, it would cause the licensee to act in a manner that is not in compliance with the Data Protection Act 1998.

Specific requirements to provide information

20. The licensee must take (and ensure that any Representative takes) all reasonable steps to provide all Relevant Information to the TRAS that the TRAS may reasonably require to profile the risk of Unrecorded Gas, and in particular Theft of Gas, at all premises where gas is conveyed through pipes by a Gas Transporter.
21. The licensee must inform the TRAS within a reasonable timeframe of the outcome of any investigation that it undertakes for Theft of Gas.

Appointment and Operation of TRAS

22. The licensee must ensure that the TRAS commences the provision of the services described in paragraph 7 in accordance with this Direction by 31 March 2014, or such other date as the Authority may direct.
23. The licensee must ensure that the TRAS:
 - a. is appointed on a competitive basis that is consistent with best industry practice relating to the procurement of a service;
 - b. is appointed for a maximum term of five years;
 - c. is appointed from suitable organisations in a manner that:
 - i. secures value for money in terms of the combination of quality and cost over the lifetime of the contract;
 - ii. delivers the required goods, services or works to appropriate standards according to the needs of service users; and
 - iii. incorporates (at a cost that is not disproportionate to any associated benefit) sufficient flexibility to adapt to Gas Supplier requirements over the duration of the contract.
 - d. does not at any time hold or acquire investments by way of shares, securities, or associated rights of any kind in any Gas Supplier (or any Affiliates or Related Undertaking of such person) and/or Gas Transporter (or any Affiliates or Related Undertaking of such person).

24. The licensee must not discriminate between any person or class or classes of person when appointing the TRAS.
25. The licensee must ensure that the contractual arrangement with the TRAS enables Gas Suppliers to implement such practices and procedures in respect of contract management and contract performance as are necessary to ensure that Gas Suppliers can at all times fulfil the requirements of this Direction and the licence.
26. In particular, without limiting the general effect of paragraph 25, the contractual arrangement with the TRAS:
 - a. must provide for the licensee:
 - i. to obtain any information that it may require from the TRAS, in such format and at such time as may be specified, for the purpose of enabling the licensee to fulfil the requirements of this Direction and its licence; and
 - ii. to disclose such information to any third party where it considers that doing so is necessary to promote that purpose;
 - b. must provide for the termination of the contractual arrangement with the TRAS provider where it is inappropriate for the TRAS provider to continue to provide the services defined in paragraph 7, 8 and 9;
 - c. must set out the agreed Quality of Service Information; and
 - d. must provide for the services defined in paragraph 7, 8 and 9.

No abuse of the TRAS' position

27. The licensee must take all reasonable steps to ensure that the TRAS at all times manages and operates its services in a way that is calculated to ensure that it does not restrict, prevent, or distort competition in any of the markets for the provision of services described in paragraph 7.
28. The licensee must take all reasonable steps to ensure that the TRAS at all times carries on its activities in a manner that does not give any cross-subsidy to, or receive any cross-subsidy from, any Affiliate or Related Undertaking of the TRAS.
29. The licensee must take all reasonable steps to ensure that the TRAS does not:
 - a. unduly prefer a Gas Supplier or any Affiliate or Related Undertaking of a Gas Supplier over any person or any class or description of persons; or
 - b. unduly discriminate between any person or any class or description of persons.

Clearly document rules of operation

30. The rules for the operation of the TRAS must be clearly documented and available to Gas Suppliers.

Reporting

31. The licensee must ensure that the TRAS arranges for the preparation of:
 - a. management information reports. The management information reports must include information and evaluation in respect of improvements to the arrangements for detecting Theft of Gas such as trend data, levels and causes of Theft of Gas and other relevant information on sources of Unrecorded Gas; and
 - b. performance assurance reports.

32. The performance assurance reports referred to in paragraph 31 must:
- a. include a complete statement of how the TRAS is meeting the objective under paragraph 3 and the requirements of this Direction;
 - b. include a complete statement of the performance (both generally and in detail) of the TRAS in providing the services defined in paragraphs 7 and 8 during the year; and
 - c. set out in appropriate detail appropriate performance measures with respect to compliance of the TRAS with the Quality of Service Information.
33. The licensee must develop and maintain Quality of Service Information in such manner as will enable Gas Suppliers to monitor on a continuing basis the quality and efficiency with which the TRAS services are provided.
34. The licensee must ensure that the TRAS arranges for the production of the reports required in paragraph 31 at least once a year.
35. The reports required in paragraph 31(b), must be prepared by a person who is fully independent of the interests of the TRAS, the Gas Suppliers and the Gas Transporters.
36. A copy of the reports referred to in paragraph 31 must be provided to the Authority.

PART C: Interpretation

37. Unless a contrary intention appears, any reference to terms in this Direction is to be read to have the same meaning given in the Gas Supply Licence.
38. In this Direction:

Affiliate	means, in relation to a Gas Supplier or Gas Transporter, any Holding Company, any Subsidiary, or any Subsidiary of a Holding Company of the Gas Supplier or Gas Transporter respectively.
Compliance Statement	means a statement that sets out the practices, procedures, and systems by means of which the TRAS complies with its duties in relation to protection of information, the security of the information, and systems in the operation of TRAS.
Holding Company	means a holding company as defined in section 1159 of the Companies Act 2006.
Privacy Impact Assessment	means an assessment that sets out a process for evaluating the potential effects on privacy.
Relevant Information	means information in any form or medium, however conveyed or stored, and of any description, and includes any documents, accounts, estimates,

	returns, records, certificates, or reports, and data of any kind.
Related Undertaking	in relation to a Gas Supplier or Gas Transporter, means any undertaking in which the Gas Supplier or Gas Transporter respectively has a participating interest within the meaning of section 421A of the Financial Services and Markets Act 2000.
Subsidiary	means a subsidiary as defined in section 1159 of the Companies Act 2006.
Theft Target	means a target for the detection of Theft of Gas by all Gas Suppliers and if met each year it is likely to achieve an overall benefit to Customers.
Theft Target Methodology	means a complete and documented explanation, presented in a coherent and consistent manner, of the methods, principles, and assumptions that apply for the purpose of determining the Theft Target.
Quality of Service Information	means such specified information relating to quality and efficiency with which services are provided.
Unrecorded Gas	means gas that is not attributed directly to a Relevant Gas Shipper as a result of Customer's consumption.