UKCES

**UK COMMISSION FOR
EMPLOYMENT AND SKILLS**

Understanding Occupational Regulation

Evidence Report 67
March 2013

Intelligence Investment Impact

Understanding Occupational Regulation

Penny Tamkin, Linda Miller and Joy Williams

Institute for Employment Studies

Paul Casey

UK Commission for Employment and Skills

March 2013

Foreword

The UK Commission for Employment and Skills is a social partnership, led by Commissioners from large and small employers, trade unions and the voluntary sector. Our ambition is to transform the UK's approach to investing in the skills of people as an intrinsic part of securing jobs and growth. Our strategic objectives are to:

- Maximise the **impact** of employment and skills policies and employer behaviour to support jobs and growth and secure an internationally competitive skills base;

- Work with businesses to develop the best market solutions which leverage greater investment in skills;

- Provide outstanding labour market intelligence which helps businesses and people make the best choices for them.

The third objective, relating to intelligence, reflects an increasing outward focus to the UK Commission's research activities, as it seeks to facilitate a better informed labour market, in which decisions about careers and skills are based on sound and accessible evidence. Relatedly, impartial research evidence is used to underpin compelling messages that promote a call to action to increase employers' investment in the skills of their people.

Intelligence is also integral to the two other strategic objectives. In seeking to lever greater investment in skills, the intelligence function serves to identify opportunities where our investments can bring the greatest leverage and economic return. The UK Commission's third strategic objective, to maximise the impact of policy and employer behaviour to achieve an internationally competitive skills base, is supported by the development of an evidence base on best practice: "what works?" in a policy context.

Our research programme provides a robust evidence base for our insights and actions, drawing on good practice and the most innovative thinking. The research programme is underpinned by a number of core principles including the importance of: ensuring 'relevance' to our most pressing strategic priorities; 'salience' and effectively translating and sharing the key insights we find; international benchmarking and drawing insights from good practice abroad; high quality analysis which is leading edge, robust and action orientated; being responsive to immediate needs as well as taking a longer term perspective. We also work closely with key partners to ensure a co-ordinated approach to research.

This report, undertaken by the Institute for Employment Studies, further deepens our understanding of occupational regulation. Occupational regulation, also known as the more employer friendly 'professional standards', is an umbrella term for the ways in which minimum prescribed skill standards can be established and applied within occupations. Such schemes can be introduced on a voluntary or mandatory basis; and they can target the individual, the employer or even both.

Occupational regulation is one of a range of policy levers, which have the potential to encourage employer investment in skills and training on a collective basis. The UK Commission has already published evidence on assorted levers, each with the capability to stimulate and raise skill levels (such as employer networks, training levies, high performance working and human capital reporting) and these are available on our website.

Not only does this research complement and add to that evidence base, it also specifically builds on previous evidence published on occupational regulation. In October 2011, the UK Commission published evidence on the nature and impact of occupational regulation (*A Review of Occupational Regulation and its Impact*, Evidence Report 40). Taking a qualitative approach, *Understanding Occupational Regulation* provides insight into the design, implementation and impact of the various forms of occupational regulation, via cases studies of ten diverse occupational regulation schemes. It explores the rationale, characteristics and impact of the lever and provides useful schematic pointers to those seeking to design forms of occupational regulation.

Sharing the findings of our research and engaging with our audience is important to further develop the evidence on which we base our work. Evidence Reports are our chief means of reporting our detailed analytical work. All of our outputs can be accessed on the UK Commission's website at www.ukces.org.uk

But these outputs are only the beginning of the process and we are engaged in other mechanisms to share our findings, debate the issues they raise and extend their reach and impact.

We hope you find this report useful and informative. If you would like to provide any feedback or comments, or have any queries please e-mail info@ukces.org.uk, quoting the report title or series number.

Lesley Giles

Deputy Director

UK Commission for Employment and Skills

Table of Contents

Table of Graphs and Charts

Executive Summary

Introduction

Occupational regulation is a policy mechanism which can raise skill levels via the introduction of minimum prescribed skills standards into an occupation or an aspect of it. Previous research published by the UK Commission for Employment and Skills suggests that occupational regulation, in certain forms, is one means by which workforce skills in the UK can be improved.[1] It can do this by providing incentives for individuals or firms to invest in human capital, specific to the occupation they operate in, thereby raising skill levels.

The effect which occupational regulation can have on skill levels, however, is not necessarily consistent. Forth et al. (2011) report it is heavily contingent on the particular occupation, the type of occupational regulation established and its subsequent design, implementation and governance. Whilst there is evidence of the positive effects of introducing occupational regulation (which increase in likelihood the stricter the form of regulation applied) there is little information on schema design or the motivations for their introduction or amendment. This report addresses some of these gaps and, consequently, the aims of the research were to:

- Identify the design, implementation and administration/governance factors associated with occupational regulation schemes.

- Use employer and stakeholder perceptions and existing evidence to explore the impact of occupational regulation.

- Use employer and stakeholder perceptions and existing evidence to explore the impact of unintended consequences.

- Examine key stakeholder views of the advantages and disadvantages of occupational regulation and critical success factors.

- Identify best practice in occupational regulation.

Approach

The research aims were explored through a series of case studies of occupational regulation which were chosen to reflect different kinds of regulation, different rationales

---

[1] J. Forth et al, *A Review of Occupational Regulation and its Impact* (2011), UKCES, Wath upon Dearne. Available: http://www.ukces.org.uk/assets/ukces/docs/publications/evidence-report-40-occupational-regulation-impact.pdf

for introduction, a varied geographical and sectoral focus, as well as different kinds of jobs and different skill levels.

Of the different kinds of occupational regulation (licensing, registration, certification and accreditation), as defined by Forth et al. (2011), our case studies focus on a particular **mandatory** form, which is the strictest form of legal regulation, and a **voluntary** form, which has no state involvement or legal backing. These are described below:

- **Licensing** (mandatory) – licensing (aka occupational licensing and licence to practice) makes it unlawful to carry out specified activities without having first obtained a licence, confirming the holder as meeting prescribed standards of competence. The licensing process involves the candidate having to achieve or demonstrate a combination of or all of the following: (i) holding a specified qualification; (ii) having prescribed relevant work experience; (iii) passing a specific examination. Licenses are managed and enforced by state sanctioned regulatory bodies, government agencies, chartered or non-chartered bodies or local authorities.

  The following occupations, subject to licensing, were case study exhibits for the research: Pharmacy Technicians; Retail Investment Advisors; Gas Engineers and Domestic Energy Assessors.

- **Accreditation** (voluntary) – this applies to situations in which a candidate may apply to be accredited as competent, usually by a recognised professional body or industry association. However, a lack of accreditation does not stop an individual/firm practising in the occupation. There are no restrictions on their right to practice. In contrast to licensing or the other forms of occupational regulation (registration and certification), there is no state involvement; governance and administration is led by industry.

  The following occupations, subject to accreditation, were case study exhibits for the research: Painters and Decorators; Chartered Dyers and Colourists; Electricians; Youth Workers; and Accredited Travel Professionals.

Each case study consisted of an exploration of the details of the scheme (both through published literature and information provided to us by the scheme regulators), a range of interviews with stakeholders (including the regulatory body, employers, training providers, and other relevant bodies (such as professional associations and Sector Skills Councils). Online surveys of relevant employers and employees were also conducted.

Rationale for introduction

In broad terms, occupational regulation schemes tend to be introduced either for predominately **endogenous** or **exogenous** reasons. Endogenous reasons refer to those issues internal to the occupation (such as labour shortages, recruitment difficulties, reacting to new or revised industry standards etc). Here regulation can provide a means to upskill an occupation, enhance status and credibility and increase levels of training. Endogenous drivers predominate in voluntary schemes.

In some cases the pressure for scheme development comes primarily from outside the occupation. Such exogenous reasons include those external issues, such as consumer safety and security, public protection, legislative changes requiring a new or higher skillset. Sometimes, both endogenous and exogenous factors together drive scheme development.

Characteristics of occupational regulation

Regulatory focus

Regulation can operate at the level of the **individual** (the self-employed and those in the employment of others), the **firm or both**, but is typically focused on the individual. In regards to firm level occupational regulation, it is possible for the organisation itself to be subject to regulation and/or the employer (such as the owner-manager, partners, board of directors) to be required to be suitably qualified in their own right. Firm level regulation may also require the employer to oversee and ensure the skills competency of those employed or contracted, even if they are not individual members of the occupational regulation scheme themselves.

Skill or qualification level

Determining the level of skills or qualifications demanded of regulated individuals tends to be derived in discussion with stakeholders and is a potentially difficult issue – set this too high and it can be a barrier to entry and cause shortages of regulated individuals or firms; set too low it may fail to raise skill levels sufficiently to make any difference. The tendency has been to raise qualification demands over time whilst also seeking to accommodate, as far as is possible, those in the occupation who have relevant skills and experience but not specific (or the most recent) qualifications. Some schemes deal with this by allowing 'grandfather rights' which allow existing members to remain in a scheme while new members are required to obtain higher level qualifications than was previously the case. Some schemes require evidence of both qualifications and experience, others impose tests or examinations, either because there is a need to prove initial or ongoing

competence or because there is no existing accepted qualification which adequately covers the skill demands of the occupation.

Membership levels

The majority of, although not all, regulatory schemes require membership as a prerequisite for becoming regulated. The level of membership to be offered is therefore another factor for such schemes to consider. While some have a single membership level most offer either **vertically** differentiated membership (which reflects hierarchically increasing skills or experience), or **horizontally** differentiated membership (which reflects different, but equal, skill sets). Schemes with a membership element also need to consider how membership should be maintained. Typically this includes a regular (normally annual) renewal fee, often a requirement for evidence of Continuous Professional Development (CPD) and in some cases the need to demonstrate ongoing competence to practice (where there are frequent changes in the skill or knowledge required in the occupation).

Codes of practice and other requirements

Schemes may also expect members to adhere to a code of practice, ethical code or professional standards. They may also be required to pass entry barriers not related to skills, such as Disclosure and Barring Service (DBS) checks. Where codes of practice, ethics or professional standards exist, a complaints procedure would typically operate alongside them.

Benefits

The ability to offer a range of benefits, particularly with voluntary schemes, can help secure new entrants, retain existing members and maximise adherence to the scheme. For firms, these tend to be **tangible** benefits of value to firms such as reduced cost insurance. For individual members, the benefits tend to be **intangible** (e.g. status, knowledge transfer or networking). But they can also include offers, such as reduced prices for continuing professional development programmes.

Impact on the occupation

From our interviews with stakeholders and our online survey with employers and employees, schemes were generally seen to have:

- **Raised skill levels** - All stakeholders believed the schemes had raised skill levels in their occupation and had increased the demand for skills. Employers from mandatory schemes were particularly likely to say this.

- **Raised standards** - Where schemes had wanted to raise standards they generally sought to persuade members of the case for change. They also sought to ensure those already in the scheme were not overly disadvantaged. Ways to do this included: either providing different grades of membership; keeping skill requirements broadly in line with levels already common in the sector; or by requiring assessment only for additional components viewed as essential.

- **Improved performance** - Around half of employers believed employee productivity had improved as a result of occupational regulation (more so in mandatory schemes). However, only a quarter believed that organisational productivity had improved.

- **Raised status** - a key driver of regulation predominately for voluntary schemes is a desire to raise the status of either the occupation or the individuals within it. Almost three quarters of employers believed their scheme had improved the image of the occupation and their organisation. Just over half believed their scheme helped customers identify a quality organisation

Design considerations

There are pros and cons to establishing mandatory and voluntary schemes respectively. For example:

- **Voluntary schemes** do not require a legal framework. Therefore, schemes are easier to establish (subject to employer buy-in) and easier to amend to changing labour market conditions, or to abolish if no longer needed. Due to the lack of legal regulation they are also much more flexible to design. They can test the water of employer/employee ambition and engagement as well as enable organic growth.

  However, voluntary schemes lack legal 'clout'; they require more effort to build and sustain themselves than mandatory schemes. As they are dependent on members of an occupation voluntarily joining, they also have to commit considerable resources to marketing in order to attract and persuade potential members. If targeting a membership which is made up of individuals, these could be difficult to reach, therefore incurring more cost. These reasons contribute to making voluntary schemes more difficult to strategically plan for as schemes have to fight for a sustainable market share of members, possibly in the face of other competing schemes.

- **Mandatory schemes**, by their nature, enjoy universal engagement and compliance. And the latter can be dealt with far more firmly than in voluntary schemes. Specifically focusing on licensing rather than registration (as registration demands no requirement to demonstrate skills competency), if the circumstances are right, such schemes are more likely to drive up skills, than any other form of occupational regulation.

But a very strong case and justification will be required to impose mandatory occupational regulation on the workforce. It could take some time to win this argument. Lead in times for the introduction of mandatory schemes can be considerable, especially if parliamentary legislation is required. And, once established, significant changes to a scheme will be more cumbersome to make, than in a voluntary scheme, due to its formal structure and universal application.

Aside from determining whether the scheme should or could be mandatory or voluntary, the research found that certain design elements form key decision points for schemes and it is worth repeating them here:

- **What is the scheme for? What is it a response to?**

  Scheme designers must be clear about the problem the occupational regulation scheme has been designed to solve so clarity on its purpose is essential.

- **Is the membership focus to be individuals or firms in the occupation? If a voluntary scheme, will membership be a 'catch all', open to all within the occupation, or designed to appeal to a subset?**

  In most of the schemes examined the focus of regulatory attention was on individuals. While this makes it easy to confirm whether the individual is the holder of the specified qualification or possesses the required competences, it can mean more work for the administrating body in terms of reaching out to members. Placing the onus for compliance on firms can make the regulator's job easier, especially with mandatory schemes. For voluntary schemes, in particular, there is an additional decision to be made, regarding whether to focus on all those in the occupation or some subset. This is often driven by a desire to either be inclusive and welcome everyone, or exclusive and set members apart in some way.

- **What is the role of competence in determining entry to the scheme? How will this be measured?**

  A key decision for schemes is to ensure that the skill level set is appropriate: if too high existing members may struggle to achieve the skills required and potential applicants to the scheme may be deterred; too low and skills progression is unlikely to take place (and this could feasibly hold skill levels down).

- **Is there a need for regular renewal of membership and/or competence? How often will this happen? How will ongoing competence be measured?**

  In the majority of cases some kind of renewal is built into the design. Criteria typically include CPD, re-examination, updating and test of competence to meet changing requirements.

- **How much will the scheme cost its members?**

  Costs vary considerably, ranging from as little as £15 per annum up to £120 for an individual; for organisations this can be from £180 to potentially much higher amounts, depending on the numbers of regulated individuals in the firm.

- **What will attract potential members to join it (especially if a voluntary scheme)?**

  Membership benefits, both 'hard' and 'soft', can be provided to encourage existing and prospective members to remain in the scheme or join it.

Reflection on these points will help organisations identify the key issues for their occupation or sector and shape a scheme that meets the needs of the regulator and the occupation.

Lessons and critical success factors

Key lessons emerging from the research include:

- A close focus on the problem the scheme is designed to resolve is needed to ensure the scheme is fit for purpose.

- Schemes need to consider the views of stakeholders to ensure that correct skill requirements are established.

- 'Grandfathering' can help ensure that those who have been practicing in the occupation for some time are not excluded but may not address issues of increasing competence or consumer safety.

- The timing of any launch and the timescale for any changes need to be carefully planned in order to allow sufficient notice to potential members whilst ensuring momentum is maintained.

- Wide ranging discussions can help ensure acceptance across the occupation but can also cause stasis.

- Conflicts of interest need to be surfaced and guarded against.

- Scheme launch require significant publicity and marketing campaigns. Where the scheme is voluntary there needs to be a clear message regarding the potential benefits to be gained.

- Consideration needs to be given as to how standards will be promoted and maintained.

- With mandatory schemes consideration needs to be given to whether allowing competition or a monopoly will aid the running of the scheme and the potential benefits and disbenefits of such arrangements.

Finally, the study identified some key issues to address when considering regulation and some **critical success factors for schemes**. There should be:

- A clear rationale for the existence of the scheme and sector support for it.

- A skill level that raises skills high enough to screen out those who lack appropriate capability whilst not raising skills to the point that barriers to entry would exclude competent people or firms.

- For voluntary schemes especially, a clear and demonstrable case to individuals and/or firms of the benefits of having membership.

- Sufficient administrative resources in the regulatory body to ensure the scheme runs smoothly and to provide marketing and promotion efforts to ensure the scheme is maintained and stakeholders are fully aware of it. Marketing and promotion will be especially important for voluntary schemes.

Schemes which meet these criteria have successfully established themselves across a wide range of occupations and sectors and made a positive contribution to the skills and employability of individuals, as well as the performance of organisations and the experiences and confidence of customers. By exploring the factors that have helped them establish and maintain themselves, this research has identified relevant considerations for future decision-making by stakeholders. This is likely to be particularly of value if professional or other bodies are considering the introduction of regulation into new areas of practice.

1 Introduction and background to occupational regulation

Summary

Occupational regulation has the potential to raise skills in the workforce by introducing minimum prescribed skill standards into an occupation or an aspect of it. There are a number of criteria which distinguish different forms of occupational regulation when considering its introduction:

- the approach taken can be mandatory or voluntary;

- it can apply to everything undertaken by an occupation (protection of title) or specific activities of an occupation (protection of function);

- responsibility for regulation and enforcement can range from a government funded organisation or a self-funded, employer led body;

- in terms of demonstrating minimum prescribed skill standards, requirements for new entrants to a scheme vary; entrance can be achieved through a combination of a range of entry barriers (examinations, tests, demonstration of previous relevant work experience and/or prescribed qualifications already attained); in some circumstances 'grandfathering' may be appropriate;

- renewal periods and modes of renewal (e.g. via continuous professional development or examination) also vary.

Forms of occupational regulation

Different forms of regulation have been established by Forth et al. (2011). In some cases these can apply to organisations as well as individuals:

- **Licensing** – practicing a specified range of activities is unlawful without a licence to practice, which confirms competence by meeting minimum prescribed skills standards.

- **Certification** – there are no restrictions on the right to practice but job holders may voluntarily apply to be certified as competent, in meeting minimum prescribed skill standards, by a state appointed regulatory body.

- **Accreditation** – there are no restrictions on the right to practice but job holders may voluntarily apply to be certified as competent, in meeting minimum prescribed skill standards, by an accrediting body not appointed by the state, such as a recognised professional body or an industry association.

- **Registration** – it is unlawful to practice without prior registration with the relevant regulatory body, although the entry barrier requirement does not include a test of skills competence.

Existing empirical and theoretical evidence

The prevalence of occupational regulation is estimated to affect at least 28 per cent of all jobs in the UK, with true figures of between one third and half of all jobs covered by some form of regulation.

The impact of occupational regulation has been much debated with positive and negative effects including higher wages, higher quality entrants to occupations, higher (or lower) quality goods/services, increased costs, reduced consumer choice, increased consumer satisfaction. A review of labour market effects in the UK suggests the weaker the form of regulation, the less likely the positive effects will be.

Evidence suggests that introducing licensing, the strictest from of occupational regulation, can increase employer investment in training, increase skill levels in the occupation, make improvements in the quality of service and provide an ongoing increase in the volume of training in an occupation.

1.1 Introduction

This report explores issues around the design, administration and implementation of occupational regulation. This is a broad term used to describe a range of measures which have the potential to positively affect skills standards within occupations. It was suggested in the UK Commission for Employment and Skills' (herein UK Commission) review of Employer Collective Measures (Stanfield et al., 2009), that occupational regulation was one means by which skills in the UK could be improved. Follow up work (Forth et al., 2011) has explored the theory of occupational regulation, reviewed existing empirical evidence, and provided for the UK both a map of regulation and estimated the impact of the different forms of regulation.

1.2 Role of Occupational regulation in employer investment in skills

There is a strong belief running through policy discourse that the current level of investment in skills in the UK is sub-optimal due to various dimensions of market failure. This can be caused by various factors, such as a lack of reliable information on the benefits of such investments, problems of securing funding for training (capital market imperfections), possible reluctance of staff to train, problems releasing staff to train, and

problems and fears over the poaching of developed staff (eg Keep 2006, Bosworth and Stanfield 2009, Hogarth et al., 2009). A range of policy levers can be brought to bear to address such failures. These might include training levies, inter-employer networks, human capital reporting or skills-based entry barriers, with this last option being exemplified by occupational regulation. And it is occupational regulation that forms the focus for the current research.

As mentioned, the development of a deeper understanding of occupational regulation, of which this report contributes towards, was initiated by the earlier Review of Employer Collective Measures study, which investigated the means of stimulating greater employer investment in skills. A series of wide-ranging reports were conducted for the study, from theoretical, empirical and policy perspectives[2], to examine and review those policy levers which could encourage employer investment on a collective basis.

The level of detail in these research reports was limited, not least because understanding of the nature of occupational regulation, particularly in the UK, was limited itself. What was known, as Forth et al. point out, tended to be restricted to occupational licensing, the strictest form of occupational regulation. The evidence base here was predominantly from studies in the United States and focused on legal barriers to entry rather than the introduction of minimum skill standards. In terms of labour market effects, there was minimal robust evidence on the effect of such schemes on skills. The Review of Employer Collective Measures Final Report (Stanfield et al., 2009) suggested there was potential for this policy lever to be successfully extended, if there was a specific need identified, and if such a lever was introduced and supported on a voluntary basis. Statutory measures, such as occupational licensing, were found generally to be effective only where there was collective employer support for their introduction (Cox et al., 2009)

However, overall there was little appetite for 'compelling' employers through the introduction of levies or licences to practice on a wide scale without a significant business case being made. The evidence suggested that the effectiveness of occupational licensing policy depended on the nature of the occupation and the way in which the scheme is implemented. It recommended that occupational licensing be reviewed on a case-by-case basis to assess where and how such schemes might add value (Stanfield

---

[2] There were five reports produced in the series: *A conceptual review*, examining the theoretical literature on optimal investment in training; *An empirical review* which explores the nature and extent of investment in skills by employers, the evidence of the magnitude of the barriers suggested by the theoretical review and motivating factors; *A policy review* which examined the available international evidence on the effectiveness of existing policy interventions; *A report on a policy prioritisation exercise* undertaken at events across the UK in summer 2008; and *A final report* which drew all the evidence together and set down conclusions and advice. See: http://www.ukces.org.uk/ourwork/employer-collective-measures

et al., 2009). This implies there should be employer and sector support for the introduction of occupational licensing which in turn means that they recognise the (potential) benefits of such regulation.

Further to the Collective Measures study, in late 2010 the UK Commission commissioned quantitative work from the National Institute of Economic and Social Research (NIESR) to assess the extent of prevalence, within the UK, of the different types of occupational regulation which set out minimum prescribed skills standards. This entailed the development of a sophisticated conceptual definition of occupational regulation encapsulating mandatory and voluntary approaches to introducing minimum skill standards. In addition to exploring the prevalence of occupational regulation in the UK, the research also examined its impact on qualification levels, training and wages (Forth et al., 2011).

The project reported here informs a programme of work to develop a greater understanding and insight into the levers available to employers to tackle skill challenges and maximise competitive advantage for the long term. This programme of work will also inform ongoing policy development for the future delivery of investment initiatives, such as the UK Commission's vision for Employer Ownership.

This vision looks to develop the conditions for employers to have greater control over the development of the skills they need, in order to compete in UK and international market places. The UK Commission argues that some employers do not currently maximise their investment in workforce development because they are faced by a system which appears 'bewilderingly complex and excessively centralised' (UKCES, 2011, p. 2). Employers should become the 'owners of the UK's vocational education system' (Mayfield, 2011), most significantly through changing the funding system to be more directly led by them, so that skills and training better meets their requirements.

It is acknowledged that for each industry or sector there will be a different bundle of policy levers which might be appropriate, depending on the specific circumstances and labour market requirements therein. These have been termed Best Market Solutions; a range of policy levers, which employers in a sector can collectively deploy to raise their skills ambitions. This approach was recognised and adopted in the government's current skills strategy, Skills for Sustainable Growth (2010).[3] Understanding Occupational Regulation,

---

[3] See pages 23-24 of *Skills for Sustainable Growth*, Strategy Document, Department of Business, Innovation & Skills (2010). Available: http://www.bis.gov.uk/assets/biscore/further-education-skills/docs/s/10-1274-skills-for-sustainable-growth-strategy.pdf [Accessed 13 March 2012].

which focuses on one such policy lever, is one of a series of projects commissioned to improve our understanding of these levers:

- Understanding Occupational Regulation;

- Understanding Training Levies;[4]

- Understanding Employer Networks.[5]

As part of its remit the UK Commission manages investment funds (The Growth and Innovation Fund,[6] the Employer Investment Fund[7] and the Employer Ownership of Skills pilot scheme), which are designed to provide support for employer led initiatives to generate greater employer investment in skills and training. Through these competitive funds employers can seek co-investment for innovative programmes covering training participation and infrastructure.

In its broader consideration of how occupational regulation schemes can be designed and implemented by employers, it is intended that the findings from this research will also assist the UK Commission in its practical understanding of investment applications related to occupational regulation.

1.3   The scope of occupational regulation

There are varying types of occupational regulation. Humphris et al. (2011[8]) discuss the interplay of several dimensions:

1   The approach can be mandatory or voluntary. If the requirement for a licence is set down in statute, professions are granted such status with an Act of Parliament. In most of these cases regulation operates at a national rather than local level.[9]

---

4   The report, *Understanding Training Levies* (2012) is available on the UK Commission's website. See: http://www.ukces.org.uk/publications/er47-understanding-training-levies.

5   The report, *Understanding Employer Networks* (2013) is available on the UK Commission's website. See: http://www.ukces.org.uk/publications/er66-understanding-employer-networks

6   See: http://www.ukces.org.uk/gif/.

7   See: http://www.ukces.org.uk/ourwork/investment/eif.

8   Amy Humphris (LSE), Morris Kleiner (University of Minnesota) and Maria Koumenta (Queen Mary, University of London) were also co-authors on the later Forth et al. (2011) report.

9   Note though that some schemes have been so widely adopted by employers (such as the JIB and SJIB Electrotechnical Certification Scheme card) that it is, to all intents and purposes, mandatory, whilst remaining in principle, voluntary.

2   The approach can vary depending on the range of products or services that are regulated. At one end an individual with a specific job title can provide **all** products and services covered by that occupation (protection of title), at the other a specific job title enables the individual to undertake **certain** activities (known as protection of function). In this case there is no restriction on entry to a profession but there is a restriction on the activities the individual is allowed to perform as part of their job. Humphris et al. give the example that anyone can practice as an electrician and carry out electrical installations but a certified electrician has to inspect installations and certify their safety.

3   The approach can vary depending on who is responsible for regulating the occupation: an occupational body (eg the Chartered Institute of Personnel and Development for personnel and training professionals); a government organisation (eg the Department of Transport for Approved Driving Instructors or the Civil Aviation Authority for Air Traffic Controllers); or a local organisation, usually a local authority (eg Taxi drivers are licensed by local authorities). Regulatory bodies in the UK are independent of any branch of government but they work closely with government departments when reviewing occupational regulation issues.

4   Requirements for regulation vary and can include (individually or in combination) passing an industry-specific exam, test or interview; the demonstration of work practices; and/or passing a medical or criminal record check.

5   Finally, licences in the UK may be awarded for life[10] may need to be renewed periodically to demonstrate continued fitness to practice (eg train drivers must undertake a Rules and Regulations update and assessment under the supervision of an accredited assessor at least biennially).

In addition, some forms of occupational regulation may not apply directly to individual employees but indirectly via requirements placed on the firms that employ those employees. An example is the Gas Safe Register which regulates businesses (for self-employed people this would be the individual engineer). The scheme requires employers

---

[10]   According to Forth et al (2011) licences for life are still granted to a wide range of occupations, including nurses, midwives, paramedics, police officers, armed forces officers, elementary security occupations, ophthalmic opticians, veterinarians, psychologists, teachers, solicitors, lawyers, judges and coroners. Previously, medical doctors did not need to renew their licence, although it is now the case that to practice medicine they are required to hold a licence to practice which requires validation every five years and also be registered with the General Medical Council.

to list suitably qualified engineers by the different categories of work activity that the engineer is qualified to undertake, e.g. cookers, boilers, gas fires.

The recent NIESR report (Forth et al., 2011) uses various criteria to identify four distinct kinds of occupational regulation. The first three kinds, licensing, certification and accreditation, promote skills development, to varying degrees, by requiring employees to demonstrate minimum prescribed skills competencies. The final category, registration, does not test skills competencies but concerns legal entry barriers. It is included as most of the existing literature focuses on 'standards based entry barriers rather than skills per se' (Forth et al., p3, 2011). Registration is also a possible 'switcher' mechanism, whereby an occupation which is subject to registration, could move to another form of occupational regulation (e.g. occupational licensing) which does require the demonstration of minimum prescribed skills. The various forms of occupational regulation, as codified by NIESR, are explained in greater detail below.

- **Licensing**: This is a mandatory approach and refers to situations in which it is unlawful to carry out a specified range of activities without first having obtained a licence which confirms that the licence holder meets prescribed standards of competence. Licences can cover either protection of title or protection of function. The award of the licence to practice is typically conditional upon the job holder: (i) being able to prove that they hold specified qualifications: (ii) possessing a prescribed amount of relevant work experience; (iii) obtaining a pass in a licensing examination; or, occasionally, all three. Employees who require such licences to practice in the UK include doctors, solicitors, veterinary nurses, private security guards, gas installers, taxi drivers and heavy goods vehicle drivers. Practicing illegally risks a criminal prosecution.[11] Licences can be managed at a national or local level and enforced by a dedicated regulatory body, government agency, a chartered or non-chartered body or local authority (Forth et al., p. 63).

- **Certification**: This is a voluntary approach and refers to situations in which there are no restrictions on the right to practice in an occupation, but job holders may voluntarily apply to be certified as competent by a state appointed regulatory body or a government agency. Again, certification may depend on possession of appropriate qualifications, possession of relevant work experience or successfully passing a certification examination. Employees in the UK who may apply for certification include fitness instructors (who may apply to be certified by the Register of Exercise

---

[11] A recent case highlights the perils of unlawful practicing in a profession protected by occupational licensing: See: http://www.bbc.co.uk/news/uk-wales-south-east-wales-17509194 [Accessed 19 September 2012].

Professionals) and hairdressers (who may apply to be certified by the Hairdressing Council). Certification is a weaker form of regulation than licensing because it does not prohibit those without a licence from carrying out the activities. There may be protection of title in some cases too.

- **Accreditation**: This is a voluntary approach. The term is used to refer to situations in which an individual may apply to be accredited as competent usually by a recognised professional body or industry association. Accreditation is analogous to certification, in that it confers a mark of competence which is recognised as such by other practitioners or consumers. In common with certification, accreditation may also bring with it a specific title or label; for example, only those personnel managers accredited by the Chartered Institute for Personnel and Development may use the letters MCIPD. However, there is no protection of either title or function. Accreditation is distinct from certification in that the accreditation process has no involvement from the state. The criteria governing accreditation and the procedures regarding enforcement are thus entirely the responsibility of the accrediting body. Sanctions against those wrongly claiming accreditation will vary according to the professional body but can result in a criminal prosecution for fraud being brought by potential employers or trading standards.[12]

- **Registration**: This is a mandatory approach and refers to situations in which it is unlawful to practice without having first registered one's name and address with the appropriate regulatory body which can be occupational, governmental or local. Other conditions are sometimes also imposed, such as the requirement to not have a criminal record or been declared bankrupt. However, registration does not involve any explicit test of competence. Registration thus provides some form of legal barrier to entry, but its impact on skill levels within an occupation can be expected to be small when compared with licensing. An example in the UK is the requirement for estate agents to register with the Office for Fair Trading under regulations designed to prevent money laundering.

It is important to note that the terms 'licence', 'registration', 'certification', and 'accreditation' are widely used in different contexts. And they are often used with less rigour than as defined above with regard to occupational regulation; for example, health

---

[12] For examples of recent cases of prosecution for fraud see the following news reports http://www.nhsbsa.nhs.uk/2990.aspx (a case in which a HR Manager received a suspended prison sentence for falsely claiming to be part way through a Chartered Institute of Personnel and Development course and to hold qualifications she did not have); and http://www.cieh.org/ehn/ehn3.aspx?id=31308, in which an electrician was fined for falsely using the logo of the National Association Of Professional Inspectors And Testers (NAPIT).

professions tend to use the term registration to refer to what Forth et al. would term licensing. To maintain consistency and avoid misinterpretation, we use the Forth et al. definitions given above throughout the report, so as to distinguish between voluntary and mandatory forms of occupational regulation. Where a scheme uses a term differently to Forth et al. we use quotation marks to distinguish this from more formal usage.

1.4 Prevalence of Occupational regulation

The prevalence of the different types of occupational regulation, as identified in the quantitative work conducted by Forth and his colleagues (2011, pp. 73-89), is difficult to ascertain with accuracy. Forth et al. estimate that between 14 and 31 per cent of all jobs are covered by Licensing, approximately three per cent of all jobs are covered by Certification, between two and six per cent by Registration and between 10 and 19 per cent by Accreditation (Forth et al., 2011 p. 76). They estimate the true percentage to be closer to the bottom limit. This leaves between 40 and 72 per cent of jobs unregulated (with the estimate that it is closer to the 72 per cent than the 40).

Exploring the preponderance of regulation by unit group level of the Standard Occupational Classification (SOC) codes (2000)[13] (see Table 1.4 below) suggests that nearly half of all unit groups contain jobs that are subject to some form of regulation.

Table 1.1   Prevalence of occupational regulation by type

Regulation status	Unit groups (#)	Unit groups (%)
Licensing	82	23
Registration	19	5
Certification	20	6
Accreditation	67	19
Unregulated	165	47
Total	353	100

Source: Forth J, et al. (2011) A Review of Occupational Regulation and its Impact, UK Commission for Employment and Skills, page 61.

At present in the UK, amongst the regulated occupations, occupational licensing, the strictest form of occupational regulation, accounts for the largest single proportion of unit groups with a regulated occupation (23 per cent of all occupational unit groups). When registration is added in, this rises to 28 per cent. Similar proportions of occupational unit

---

[13] Occupations were mapped at unit group level using desk research information using three dimensions: is there legal regulation of the activities of the occupation by the state or through a delegated administrative body? If yes, does it place any restrictions on the right to practice the occupation or component tasks, is there a requirement to demonstrate a minimum level of competence?

groups are therefore covered by mandatory approaches (licensing and registration) and voluntary approaches (certification and accreditation, amounting to a total of 25 per cent of unit groups).

The above figures are for those unit groups which have a least one regulated occupation. The study concludes that at least 28 per cent of all jobs in the UK are covered by some form of regulation, with true figures likely to be between one third and half of all jobs. Professional jobs are the most likely to be regulated (eg doctors, accountants, veterinarians); Forth et al. (2011) estimate that 76 per cent of professional occupations are subject to some form of regulation. The next most commonly regulated group is process, plant and machine operatives (including HGV drivers, taxi drivers and others requiring transportation licences) with over half of all jobs subject to some form of regulation (58 per cent). Administrative and secretarial, personal services (eg beauticians) and elementary occupations (eg shop assistants, care employees etc) are judged to be the least regulated (less than 10 per cent). This pattern reflects in part the history of occupational regulation, with professional bodies expanding in the 19th century and self regulating through professional associations. It also reflects the changing shape of the UK economy, which has shifted towards a greater dominance of service sector occupations. In doing so, problems of information asymmetries become more pronounced - it is harder for consumers to understand the quality of service they may receive. Concerns over consumer protection have helped to gradually extend regulation to cover a larger number of occupational groups.

1.5   The impact of regulation

While licences are becoming more widespread (the majority of new entrants belong to professional groups but there is also a gradually growing proportion from low skilled occupations, see Forth et al., 2011, p. 41), the available research warns the mandatory route may not be appropriate in all occupations. For instance, in low-skilled occupations, the over-development of skills is likely to result in deadweight, since employer or employee costs are increased without any significant improvement in service quality (Shapiro, 1986; Billett and Smith, 2005). Employers may be nervous of the impact on skills and costs and concerned over the impact of regulation on their business. Consequently, the Collective Measures study concluded that licensing should only be introduced on a case-by-case basis, where there is a 'sound public interest need or it [the demand for licensing] should be generated from employers themselves' (Stanfield et al., 2009, p. 61).

Where employers cannot see distinct benefits arising from more formal forms of regulation, it may be that softer forms of regulation, such as certification and accreditation, would be more likely to gain support for implementation from employers. Here, employer buy-in is critical to their effective functioning in gaining wide usage, recognition and credibility across industrial sectors. There is a long history of craft guilds in some occupations, where employers collaborate to protect quality standards of their activity and develop common training to meet their needs (eg the Fine Art Trade Guild, or indeed the Guild system more widely).

Forth et al. (2011) explore the theoretical perspectives of occupational licensing (pointing out that the dominance of literature from the USA has meant an emphasis on entry barriers and hence much of the literature has focused on licensing rather than on other forms of regulation) and note a number of relevant points:

- Gatekeepers screen entrants to ensure they meet the quality needed by the occupation and enforcers ensure that standards are maintained.

- Licensing is run for and by incumbents and seeks to create monopoly rents by limiting entry (thus raising prices) and low levels of enforcement thereby reducing quality (see Friedman,1962).

- Licensing tends to increase quality and cost and therefore reduces the options available for consumers who would prefer lower quality, lower cost goods and services (see Shapiro,1986).

- Licensing deals with information asymmetries by determining and regulating for the quality of goods/services offered. Consumers are 'loss averse' ie they value reduction in risk (of a negative outcome) and occupational licensing is welcomed as it reduces the likelihood of poor quality.

- Occupations can limit entry to the profession in order to signal quality: by introducing barriers to entry they limit entry to those committed to the occupation and a quality product or service. 'Club' effects can also include access to discussion and dissemination of information and the growth in high performance practices.

- Licensing can limit the supply of professionals to the market and enables those in the occupation to receive higher wages than might otherwise be the case.

1.6   Labour market effects of occupational regulation

Forth et al. point out that US studies of the impact of licensing on earnings tend to focus on highly paid occupations. Similarly studies from the UK that have found wage effects have also tended to explore the impact of licensing on professional roles. In contrast,

Fernie (in Forth et al., 2011) found no evidence of wage effects of occupational regulation on earnings of security guards. Modelling the impact of regulation on five occupations[14] that had either seen the introduction of regulation or a change in the kind of regulation between 2001-2010, Forth et al. (2011) found a rise in wages in one occupation (security guards) and a rise in qualification levels amongst another occupation (care employees). In the remainder no effect on wages, qualifications levels, or training was found. Forth et al. inferred that such effects were less likely the weaker the form of regulation (eg entry requirements are lower or less extensively applied).

The researchers also suggested that some forms of occupational regulation may have the potential to raise skills by providing additional incentives for individuals or organisations to invest in skill development. These incentives are potentially greatest in the case of licensing because of its universal scope within an occupation subjected to such regulation.

The limited UK, and more extensive US evidence, suggests the positive effects of introducing a licence to practice can be:

- An increase in employer investment in training, although in many cases the cost is borne partially or fully by the employee (Cox et al., 2009).

- An increase in the skill level, and therefore competence, of individuals in a particular occupation, leading to increased salaries for practitioners (Kleiner and Krueger, 2008).

- Improvements in the quality of the service being offered: the licence serves to reassure clients about the competence of staff, and the licensed organisation or individual therefore attracts more clients (Cox et al., 2009). However, occupations are likely to vary in the extent to which training improves quality.

- To ensure that individuals continue to update and develop their skills by making CPD a condition of re-licensing and therefore raising the volume of training in an occupation (Stanfield et al., 2009).

1.7   Future research

Forth et al. highlight a number of gaps in the evidence base on design, implementation and governance which, in part, this current research is intended to fill. They draw attention to the mixed evidence regarding the consequences arising from occupational

---

[14] The occupations chosen were security guards, care employees, social care managers, childcare employees and automotive technicians (Forth et al., 2011, p. 96).

regulation – there was inconsistent evidence regarding wage increases and no evidence of any negative effects on employment.[15] Should policymakers or employers wish to contemplate introducing occupational regulation, consideration of design would be crucial to understanding the likely effects of any proposed scheme (ie whether skill standards should be mandatory or voluntary, whether the scheme should be aimed at employers or individuals, whether renewal of membership should be conditional on evidence of further training etc).

This report now addresses some of those concerns. This research takes as its starting point some of the questions raised by Forth et al. These focus on the design of occupational regulation (e.g. whether a scheme should be voluntary or mandatory, at what level the skill entry barrier should be set to be accepted into a scheme, whether such regulation should be imposed on the employer or individual), issues of implementation (whether grandfathering should be allowed) and questions of governance (i.e. who regulates the scheme, how standards are monitored to ensure the scheme is fit for purpose etc).

1.8   Summary

This chapter has described the various forms of occupational regulation and their distinguishing features, the prevalence of the different forms within the UK and their labour market impact.

- A clear framework exists for describing the characteristics of the taxonomy of occupational regulation, of which the main forms fall into either **mandatory** (licensing or registration) or **voluntary** (certification or accreditation) classification.

- Best estimates suggest that some form of regulation affects between one in four and half the jobs in the UK.

- The impact of regulation has been difficult to ascertain and evidence is patchy. Empirical studies have produced mixed results with regard to the effect on skill levels, increased investment in training, qualification levels, quality of service or wages. The literature indicates that the stricter the form of regulation (in terms of higher entry requirements or more extensively applied regulation) the greater the impact is expected to be.

---

[15] There is also no evidence as far as Forth et al are aware of any impact on prices or product/service quality (p. 46).

The existing research base leaves gaps in our understanding of design, implementation and governance of schemes. This report therefore seeks in part to address this information gap. The outputs of the study are presented in the remainder of the report:

- **Chapter two** describes the research methodology and approach, including the aims and research questions, and details of the occupations which form our case studies.

- **Chapter three** explores the history and rationale for adopting some form of regulation in our case study occupations and the common issues that emerge from these experiences.

- **Chapter four** presents the design features and characteristics that differentiate the various schemes and identifies key questions that should be considered when designing new schemes

- **Chapter five** explores the implications of occupational regulation for policy makers and employers from the experience and views of those close to schemes (employers employees and other stakeholders).

- **Chapter six** brings together all the findings to discuss the implications for scheme design.

In addition to the main report, appendices 1 – 7 (in a separate document) provide the following additional information:

- Appendix 1   Case studies

- Appendix 2   Areas of questioning for different stakeholders

- Appendix 3   Example code of practice

- Appendix 4   Scheme benefits

- Appendix 5   Survey responses

- Appendix 6   Detailed summary of scheme characteristics

- Appendix 7   Discussion guides

- Appendix 8   Employer and employee surveys

2 Research methodology and approach

Chapter Summary

The aim of this project is to develop a deeper understanding and insight into the design, implementation and impact of forms of occupational regulation in the UK.

Case studies

This has been addressed through case studies of a broad variety of occupational regulation scheme types. Ten schemes covering different occupations are examined in total:

- four mandatory schemes (Pharmacy Technicians, Retail Investment Advisors, Gas Engineers, Domestic Energy Assessors); and

- six voluntary schemes (Youth Workers, Painters and Decorators, Chartered IT Professionals, Chartered Dyers and Colourists, Electricians, Travel Professionals).

Methodology and approach

In each scheme a range of qualitative and quantitative data gathering methods were used, including desk research, face-to-face and telephone interviews, reviews of documentation and surveys of individuals and employers who are engaged with such schemes.

- Stakeholders interviewed included regulators, Sector Skills Councils and other sectoral bodies, employers, providers of learning and trade union or employee representatives.

- Online surveys were developed and distributed in a number of different ways via regulators; 439 responses were received in total.

2.1 Introduction

The Forth et al. review focused on a quantitative analysis of extent and nature of occupational regulation in the UK. They found that the impact of occupational regulation on qualification levels, the take up of job related training or on the level of wages, was variable across occupations and suggested that design issues may be important for the impact of a scheme:

> If policymakers or employers believe there is a strong prima facie case for regulation of a particular occupation, the other issue is how to regulate that occupation. This raises questions about the design of the regulation (e.g. whether any skill standard should be mandatory or voluntary; at what level the skill standard should be set; whether the regulatory scheme should be aimed at employers or individuals; whether the renewal of licences should be conditional upon evidence of further training etc). (Forth et al., 2011, p151)

This study, conducted by the Institute for Employment Studies, was designed as a more qualitative follow up to the Forth et al. (2011) review. It focuses on example case studies of occupational regulation, from a range of schemes, representing different kinds of occupations and sectors. Case studies were centred on the regulatory body of the respective occupational regulation scheme and access to employers and/or individuals was sought through their assistance.

2.2   Research aims and objectives

The aim of this project is to develop a deeper understanding and insight into the design, implementation, and impact of forms of occupational regulation in the UK.

Specifically, its objectives are to:

- Identify the design, implementation and administration/governance factors associated with occupational regulation schemes and how they affect the success of a scheme.

- Use employer and stakeholder perceptions and existing evidence to explore the impact of occupational regulation on skill levels, employment levels, wages, product markets and progression.

- Use employer and stakeholder perceptions and existing evidence to explore the impact of unintended consequences within a sample of occupations which are subject to regulation and neighbouring unregulated occupations.

- Examine key stakeholder views of the advantages and disadvantages of occupational regulation and critical success factors.

- Identify best practice in occupational regulation which can be used to influence policymaking and encourage employers to adopt more effective approaches.

2.2.1   Research questions

Through a predominantly qualitative approach, based on case studies of mandatory and voluntary occupational regulation schemes, this research considers the following questions:

- What does an effective model of occupational regulation look like?

  ○ How do the components of an occupational regulation scheme, such as the design architecture, different implementation approaches, and different administration/governance procedures contribute to its effectiveness?

  ○ Does the broader regulatory framework have a role in developing an effective model?

  ○ How has the specific model varied over time?

  ○ How do the different types of occupational regulation differ in this respect?

- What impact do occupational regulation schemes have on the raising of skills?

  ○ How do the different forms of occupational regulation raise skills within an occupation? Is it an explicit objective of the regulation?

  ○ How are entry barriers set, and at what level(s), in an occupational regulation scheme? To what extent are employers consulted and can influence the process?

  ○ What systems/processes are in place to monitor whether or not skill levels are being raised within occupational regulation schemes?

  ○ Has the quality of entrants into occupational regulation schemes increased or decreased?

  ○ How do the different types of occupational regulation differ in this respect?

- What are the broader intended and unintended consequences of occupational regulation?

- What lessons can be learned in order to inform the development of better or more effective, skills-outcome focussed and employer-led approaches to occupational regulation?

  ○ How might employers, employees and/or self-employed people be 'nudged'/ encouraged to participate in voluntary occupational regulation schemes?

  ○ What are the barriers to establishing employer-led occupational regulation schemes and how can these be addressed?

  ○ How can such schemes be made cost effective to the scheme user and ultimately the consumer?

  ○ What can we learn from the differing models of occupational regulation?

2.3 Methodology

There were two key phases to the project:

- Phase 1: scoping phase and development of sample frame to identify suitable occupational regulation schemes to pursue as case studies.

- Phase 2: case-studies of occupational regulation (desk research, incorporating qualitative interviews and online surveys).

These phases are explored in further detail below.

2.3.1 Phase 1: Scoping phase and development of sample frame

The first step was to refine and finalise the research questions; this led to the development of an analytic framework, based on the research aims of the project and existing literature, to ensure the research covered the breadth and depth of the questions above. The establishment of the framework also guided the development of the various research tools and ensured that focus was maintained on the range of stakeholders affected by matters of design, implementation and impact.

The framework identifies the relevant key stakeholders that could be interviewed as part of a case study (namely, the regulatory body itself, employers and employees and learning providers). There are several ways in which these individuals interact with the regulatory arrangements. Employers can be directly regulated by the scheme in their own right and/or may employ regulated individuals; while employees may be directly regulated by the scheme or may work for a regulated organisation/firm. For each of these stakeholders there were three key areas of questioning: (1) on the design and administration of the scheme; (2) on its implementation; and (3) on its regulatory impact. For each stakeholder the specific questions would vary. So for example, the regulatory body might be asked detailed questions on its aims and objectives or the rational for the introduction of the scheme, or how non-compliance is dealt with. Employers might be asked, under questions of implementation, the reasons for their involvement and whether they experienced any barriers within their organisation to joining a regulatory scheme or indeed whether their employees did. Full detail of the questions is given in Appendix 2.

2.3.2 Selection of potential case studies

This project was intended to focus on employer-led, voluntary forms of occupational regulation, which introduce minimum prescribed skill standards. But other kinds of schemes were also considered. To assess the suitability of potential occupational

regulation schemes for study the following criteria were used to identify and select cases. See Table 2.1 below.

Table 2.1   Criteria for selection of case studies

Criteria for selection of case studies
Types of occupational regulation
Rationales for introducing occupational regulation
Geographical focus
Sectoral focus
Job types
Skill levels

Source: IES, 2013.

In selecting case studies we also sought schemes for which occupational regulation applies at a mix of levels (ie individual membership or firm level or both) and where there were different approaches to membership renewal. In addition, preference was given to relatively new schemes, or those where there had been a recent change, so that stakeholder interviewees would be able to comment on the development of the scheme vis-á-vis its intended rationale.

Taken together, these criteria meant that the final selection of case-studies included:

- Different types of occupational regulation: 'Switchers' (ie occupations which have moved from one form of occupational regulation to another) have also been included.

- Different rationales for introducing occupational regulation: There are a number of reasons why occupational regulation may be introduced, including: protection of the public[16], health and safety, occupational up-skilling, demonstration of occupational competence, acquisition of professional recognition, establishment or maintenance of industry standards etc.

- Public/private focus: schemes regulating occupations predominately in the private sector or in the public sector, as well as those schemes covering both types of sectors.

- Job types: a mix of managerial, professional and non professional occupational regulation schemes.

- Skill levels: a range of occupational regulation schemes aimed at low, mid or higher level skilled employees.

---

[16] Forth et al., 2011, (pg 65) found this to be the most common reason for introducing a scheme.

- Number of people subject to the regulation: A mix of activities within occupations or whole occupations which have differing numbers of people subject to regulation.

- Time period of introduction of regulation: schemes that have been introduced or changed, in a time period recent enough for stakeholders to be able to discuss the design and rationale for implementation, as well as for it to have been running for sufficiently long to gather data about the implementation and impacts of the schemes.

- Regulation of individuals or organisations: examples of occupational regulation affecting individuals and/or organisations have been sought to capture where the impact on individuals may be direct and where it is indirect. A scheme may regulate individuals directly or the onus may be on organisations, which can also impact on an individual's work activities. In some cases regulation may be on both the individual and the organisation.

The final selection of case studies, based on the above criteria, was guided by preliminary desk-based research to identify and scope out suitable schemes. A short-list of schemes was then developed and the regulatory bodies of these schemes were approached, following consultation with the UK Commission. These are outlined below and are broadly categorised as to whether they are mandatory or voluntary schemes.

Mandatory schemes

Pharmacy technicians are one occupation that provides a recent example of switching, as they moved from voluntary to mandatory 'registration' in 2011. Under the typology set out earlier in this report, this is a **licensing** scheme and is intended to confer professional recognition and standards of conduct; it is run by the General Pharmaceutical Council (GPhC).

Retail Investment Advisors are better known as independent financial advisors who provide advice on certain investment products for non professional clients. They are subject to **licensing** and comprise a mix of employed and self-employed individuals. To offer financial advice an individual must represent or be an appointed representative of a firm 'registered' with the regulator (the Financial Services Authority). Firms issue a Statement of Professional Standing declaring that individuals acting for them have appropriate qualifications and are 'fit and proper persons'.

Gas Engineers are **licensed** as independent traders or via their employers by the Gas Safe Register which is the official gas 'registration' body for the United Kingdom, appointed by the Health and Safety Executive (HSE). By law all gas engineers must be listed on the Gas Safe Register and they must have a recognised certificate of competence for each relevant work category.

Domestic Energy Assessor is a relatively new occupation **licensed** by a range of bodies to calculate Energy Performance Certificates (EPCs) for domestic properties. EPCs provide information on how energy efficient a building is. Since 2008 EPCs have been required for all residential properties put up for sale or rent within the United Kingdom.

Voluntary Schemes

Youth Workers are regulated by the National Youth Agency (NYA) through the **accreditation** of specific qualifications, which are professionally recognised and accepted by employers. The NYA also maintains a negotiating committee which sets pay and terms and conditions for professionally qualified Youth Workers and youth support employees.

Painters and Decorators can choose to belong to a voluntary **accreditation** scheme run by the Painters and Decorators Association (PDA) which ensures that members meet certain criteria and can demonstrate they meet certain standards.

Chartered IT Professionals are **accredited** by the British Computer Society (BCS), the Chartered Institute for IT, which assesses competence. Accredited professionals are reassessed every five years for maintained competence.

Chartered Dyers and Colourists are **accredited** members of the Society of Dyers and Colourists – a chartered institution that offers training and development programmes to the profession, which maintains a voluntary membership scheme providing a number of levels of membership. The professional membership element is competency assessed.

Electricians are **accredited** through the Joint Industries Board (JIB) in England Wales and Northern Ireland and the SJIB in Scotland. To be employed in the commercial sector electricians need an ECS (Electrotechnical Certification Scheme) card which acts as an ID and competence card for Electrotechnical operatives in the UK, and it is recognised and endorsed by the industry.

Accredited Travel Professionals were members of the **Accredited** Travel Professionals' (ATP) scheme run by ABTA. The scheme had different membership levels related to qualifications and experience and operated a point based system for continuous professional development. The scheme ceased in 2012.

All of the schemes require some kind of demonstration of minimum skills competence. In some cases this requirement can be met via the proxy of an individual's years of experience within an occupation (as with the schemes for painters and decorators and accredited travel professionals). Other minimum standards are met through specific qualifications or sitting an entrance examination set by the regulatory body.

Revisiting the definition of occupational regulation as established by Forth et al., we show below (Figure 2.1) how the case studies map against a typology of occupational regulation (Forth et al., 2011, p. 2).

Figure 2.1   Mapping case studies onto the typology of occupational regulation
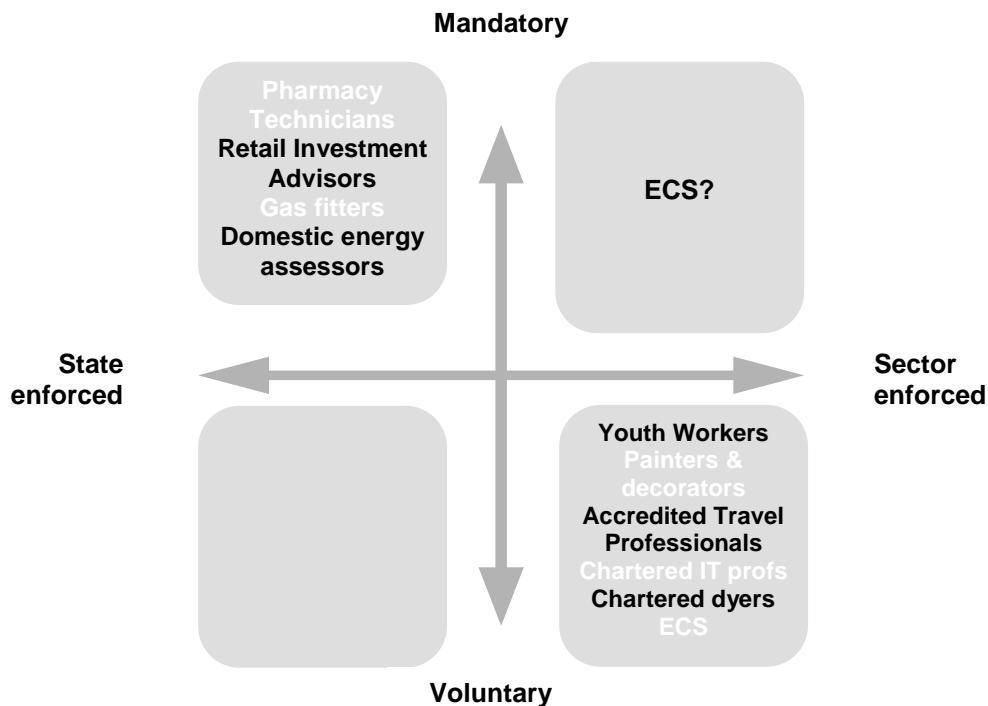
Source: IES, 2013 (based on Forth et al., 2011).

Some comment on the above mapping of our cases studies onto the typology of occupational regulation is warranted. The Electrotechnical Certification Scheme (ECS) is somewhat different to the others because, although there is no protection of title, the voluntary ECS scheme is now so well used in construction that it is effectively mandatory to be accredited in order to be accepted as an employee or a sub-contractor on construction sites. Although formally the scheme is a voluntary, sector enforced scheme and therefore should occupy the bottom right hand box, in practice due to market forces,

it acts like a de facto mandatory, sector enforced scheme. Therefore we have positioned ECS electricians in the top right hand box (signifying the corporate acceptance of the scheme) as well as in the bottom right hand box which is technically correct.

2.3.3 Phase 2: Case studies of occupational regulation

A qualitative case study approach was utilised in order to allow for an in-depth examination of how the various schemes were designed and implemented and to assess their impact. Each case study consists of desk based research, a range of qualitative interviews with stakeholders, and a review of relevant documentation. Online surveys of individuals and employers, engaged with select occupational regulation schemes, were also conducted to provide insight into their views on their respective schemes, and their impacts.

Stakeholder interviews

Using the regulator/enforcement body as the hub we conducted an initial scoping exercise with a main contact and secured their organisation's participation in the case-study.

The core of each case study was the regulator or enforcement body. Their participation and cooperation was crucial to a successful outcome, not just for their knowledge of their own schemes and labour market environment, but also for their ability to provide links and contacts to other stakeholders.[17] Interviews with regulators were designed to draw on their extensive knowledge of the design and implementation of their scheme and to gain their views of its impacts. Regulatory bodies were also asked for their assistance in identifying relevant stakeholders to interview and for supporting the delivery of online surveys to members (employer and/or individuals). Given their importance, in-depth interviews were held face-to-face wherever possible and practicable.

In addition to regulatory bodies of occupational regulation schemes, the range of stakeholders identified as appropriate for interview included: Sector bodies (eg Sector Skills Councils or National Skills Academies involved in design/updating of occupational regulation, representing employers' views or giving expert insight into skills in the sector); individual employers and employer representative bodies; providers of learning or independent bodies involved in the development and moderation of qualifications and curriculum content (particularly where there had been recent change either within a mode

---

[17] Potential stakeholder interviewees were also sourced separately from regulators, where possible.

of licensing or where switching had taken place); and trade unions, where they had contributed to the design/implementation of any form of regulation.

Given the variety of the types of occupational regulation that could be encountered, as well as the potential range of interviewees, a range of discussion guides were developed. These had modular elements that could be used with the different kinds of stakeholder in the different kinds of regulatory schemes. Each interview guide was customised to the perspective of each interviewee in each scheme and reflected our analytic framework in Table 2.1 above.

Interviewees were also asked for copies of (or links to) any supporting documentation that could be reviewed to add depth to the case study. This ranged from documents outlining the process of the design and/or implementation of the occupational regulation scheme, web content explaining the regulation process to employers and/or individuals, any information published on formal evaluation of the impacts and benefits of the particular form of occupational regulation. And, finally, coverage of the respective occupational regulation scheme in its relevant trade press/media was sought to understand any arising issues and ascertain the views of the sector about the regulation in situ.

Online surveys

For each case study bespoke online surveys were developed for both individuals and employers and distributed via the scheme regulators. Surveys took respondents approximately 15 minutes to complete and were hosted through the IES IT system. They were made accessible through various routes, depending on the distribution channels available. For instance, regulators distributed hyperlinks to surveys in e-newsletters or similar media, advertised surveys on their website, again with accessible hyperlinks, or directly emailed them to their membership lists. It is impossible to provide a base for each occupation as the range of distribution methods does not allow us to know how many people were contacted for each survey. Table 2.2 below gives responses for each occupation that had a survey distributed.

Table 2.2   Survey responses received

Occupation	Employer responses	Worker responses
Youth workers	91	162
Pharmacy technicians	7	39
Painters and decorators	37	1
Chartered IT	3	12
Retail Investment Advisors	10	3
Electricians	12	36
Dyers and Colourists	6	19
Domestic Energy Assessors	n/a	1
Total	166	273

Source: IES, 2013.

The surveys were designed to provide data, relating to process and impact, to help comparisons between types of scheme and assess the design, implementation and impact of the different types of occupational regulation. For example, we could compare whether employers' or individuals' perceptions of the impact of voluntary and mandatory approaches differed. The surveys therefore sought to provide information about:

- employer/individual attitudes to occupational regulation;

- their experience of the process of meeting occupational regulation;

- the process of (re)licensing/accrediting;

- the perceived impact of the occupational regulation on skills;

- the perceived impact of occupational regulation on pay; and

- the costs and benefits of occupational regulation.

It should be emphasised that there was no intention to compare the different individual schemes or report separately on the various schemes. Assurances were given on this point to the various participating regulatory bodies.

3 Rationale for occupational regulation

Chapter summary

In this chapter we consider the reasons for the introduction of regulatory schemes and the drivers of any changes that have taken place over time.

Drivers of occupational regulation

We identify a range of internal and external drivers for setting up occupational regulation schemes:

- **Internal drivers** include responding to a lack of skills available in the labour market and/or insufficient skills within the occupation to meet consumer demand or high employee turnover.

- **External drivers** include protection of the public and consumer safety (physical issues or threats to property, finance or other resources).

We find that the drivers for action also vary in terms of the timespan over which they act. In some cases drivers can be immediate. Schemes can be introduced as a response to a specific, typically high profile, incident which has provoked action or because of the introduction of new legislation (domestic or European). In other instances drivers act more slowly, such as a shift in public perceptions over a long period.

Most schemes reviewed for this research have experienced some form of change over time, such as 'switching' from one form of occupational regulation to another (e.g. from a voluntary to a mandatory arrangement), revision of their entry and renewal criteria and changes to branding or the administration arrangements for the scheme.

Common design factors to consider include whether to split the responsibilities for the various aspects of running the scheme, either to avoid conflict of interest, increase efficiency or to embed some element of competition. Such responsibilities therein include the administration of a regulation scheme, provision of development opportunities to those in the profession, certifying competence and providing membership benefits. Engaging stakeholders in the sector is typically a key consideration too.

3.1   Introduction

Occupational regulation needs to be understood in context if the design and implementation issues of such schemes are to be understood. Occupational regulation schemes are a response to drivers experienced in the sector at a point in time. To survive they have to continue to react and respond to the changing circumstances created by new drivers, by changing their regulatory approach.

3.2   Why schemes were introduced

In exploring why the various schemes were introduced and the drivers for doing so, two broad but quite distinct reasons for implementation emerge. For some schemes the rationale was predominately *endogenous*, ie the reasons were internal to the occupation, (such as labour issues) whilst for others, *exogenous* reasons, such as consumer confidence or safety were the prime consideration. A scheme can be driven by both internal and external considerations. We explore both below.

3.2.1   Internal drivers

In some occupations, difficulty in finding employees of sufficient calibre to meet consumer demands, high turnover rates or difficulties in recruitment have resulted in a sector exploring occupational regulation as a way in which the standing and attractiveness of an occupation can be enhanced. In one of our case study occupations we were told that difficulties in finding sufficiently trained and credible staff had arisen from a shift in consumer demand for more complex and involved support which exposed a skills gap. In this occupation, employers had also been experiencing high turnover of staff and recruitment problems in what was seen as an unattractive industry. Occupational regulation was viewed as providing a means by which to upskill the occupation, ensure the provision of more training and development to employees, allow individuals to gain recognition for experience and development undertaken, and provide enhanced status. Similarly, another occupation had been keen to make the profession more attractive by using regulation as a means to enhance training and qualification protocols and thus create greater credibility and professionalism.

In some cases the internal driver came from either employing organisations or trade unions (or both parties working together) who were keen to ensure the occupation was seen as competent, so that employers could ensure quality and employees could ensure their status and pay was maintained. These considerations in particular appear to have

driven some of the skilled trade schemes in our case studies, such as the PDA scheme for painters and decorators and the JIB card for electricians.[18]

All of these reasons focus on issues of relevance to the occupation itself; its employers and employees and unsurprisingly, therefore, these internal drivers tend to dominate in voluntary, industry-regulated schemes.

3.2.2 External drivers

Elsewhere, external drivers predominate. This is most in evidence in cases where consumer safety is the key issue. Safety can relate to physical issues or threats to property, finance or other resources; it can also relate to individuals or to organisations or indeed the country as a whole. Regarding physical threats, examples of how an occupation can potentially cause harm if not properly and competently carried out include the installation and maintenance of gas appliances by Gas Engineers[19] and the distribution of prescription medication by Pharmacy Technicians. Regarding resource safety, an example is the Retail Distribution Review launched by the FSA, in 2006, as part of its consumer protection strategy. This reviewed the role of Retail Investment Advisors and was initiated to safeguard investors from the mis-selling of financial products. The FSA has highlighted the need to rebuild consumer trust in the profession:

> Rebuilding trust between customer and adviser is absolutely vital for the future prosperity of the retail investment market. (Sheila Nicoll, the FSA's director of conduct policy)[20]

Such potential safety issues may not be enough in themselves to lead to the introduction of a regulatory scheme. Sometimes regulation is not proposed until a specific incident prompts action – for example the Ronan Point gas explosion[21] is widely cited as playing a key role in prompting the adoption of gas safety regulation (the CORGI scheme initially), while mis-selling scandals were believed to be important in setting the scene for the changes in financial services that led to the Retail Distribution Review, as previously mentioned.[22]

---

[18] It should be noted that partnership working is commonly seen in the more successful VET schemes in mainland Europe.

[19] For an example of the extreme consequences that can result from poor installation see: http://www.bbc.co.uk/news/uk-england-somerset-17739737

[20] The mis-selling of pensions prompted the FSA to review the regulation of retail investment advisers. http://www.fsa.gov.uk/library/communication/pr/2011/008.shtml

[21] In 1968 a gas explosion killed five people and partially demolished Ronan Point – a tower block in London. As a result the Confederation for the Registration of Gas Installers (CORGI) was set

It is not always a high profile catastrophic incident which brings about a shift in public consciousness. In other instances a shift in public perception over a longer period of time may bring an occupation to the fore and act as a catalyst to regulation. For example, the historic roots of the regulatory arrangements for Youth Workers emerged in the 1960s from a growing social concern over the behaviour of young people.

The rationale for occupational regulation in Youth Work

Growing social concern over the behaviour of young people led to the establishment of the Albemarle Committee to consider the issue. The Committee made a set of recommendations, amongst which were a call for:

1. *An expansion in the numbers of, and training for, professional leaders.* The report also argued for a negotiating committee for salaries and conditions of service in order to make the profession more attractive.

2. *The creation of a development programme for the Youth Service.* The report called for the establishment of a Youth Service Development Council to provide the Minister with 'the best possible advice and help' (Albermarle Report, 1960: p44). It also stated, 'The Minister should set in hand long-term training arrangements for full-time leaders' and Local Education Authorities (LEAs) to expand arrangements for the training of part-time paid, and voluntary leaders.

Smith (1997) argues that the following things happened directly as a result of the Albemarle Report:

- The number of full-time employees more than doubled in the ten years that followed publication of the Report.

---

up by the HSE in 1970 to operate a voluntary register of gas installers. See eg
http://www.open.edu/openlearn/history-the-arts/history/heritage/ronan-point

22 Between 29 April 1988 and 30 June 1994 many members of the public were advised to take out personal pension plans when they were already members of, or had access to, an occupational defined benefit pension scheme. Also, many employees who had preserved pensions with a former employer were advised to affect a transfer into a personal pension scheme. The regulator believed those advised may have lost out financially and ruled that firms must review the sale of personal pension plans during that period and compensate for any financial loss. See: http://www.pensionsadvisoryservice.org.uk/dealing-with-complaints/pension-mis-selling .The mis-selling of Payment Protection Insurance resulted in many consumers buying policies that they did not realise were optional or which they would not have been able to claim on. See eg http://www.bbc.co.uk/news/business-17125141

- About half these employees received their training at the National College for the Training of Youth Leaders, the emergency college set up as a result of the Albemarle Report.

- Central and local government expenditure on the youth service increased substantially.

- The Experimental Projects Fund was set up to encourage innovation in the voluntary sector.

- The Joint Negotiations Committee was established to set terms and conditions for Youth Workers at the national level. (in Smith and Doyle 2002)

New legislation can also act as the driver for occupational regulation. Domestic Energy Assessors (DEAs) were introduced as a consequence of the EU Energy Performance of Buildings Directive (EPBD) which aimed to improve energy efficiency and thus help members of the European Union (EU) achieve its climate change targets. The directive required energy performance certification of all private and commercial buildings when sold or leased. This legislative requirement resulted in the government creating the conditions for licensing of DEAs by an 'accreditation' body to ensure a common standard of approach for consumer confidence.

3.2.3 Schemes with more than one driver

Occupational regulation schemes can be established by both internal and external drivers acting together to push for regulation. For example, mandatory regulation for Pharmacy Technicians was driven both externally by government and internally by industry, albeit with slightly different emphases within each of these interest groups. A number of White Papers in the preceding years focussed on the need to better utilise NHS staff - notably, the Labour government White Paper about the allied health professions, Trust, Assurance and Safety: The Regulation of Health Professionals (2007). This emphasised the underutilisation of Pharmacy Technicians.

The White Paper recognised that while Pharmacy Technicians were working more closely with patients than in previous years, nonetheless they could be utilised even more efficiently. However, this would require technicians to become regulated in a similar way to other allied healthcare professions.[23] Employers too were keen to see Pharmacy

---

[23] Health care professions distinct from Dentistry, medicine, nursing and pharmacy. These include arts therapists (art therapists, dramatherapists and music therapists),

Technicians become a regulated profession; Pharmacy Technicians could then be used more flexibly, including allowing technicians to work more independently of pharmacists.

In expanding the clinical role of Pharmacy Technicians, important lessons were taken on board regarding the need to ensure that professional regulation of healthcare professions was of high quality, transparent and could adequately safeguard public safety. These requirements were seen as necessary for schemes in the health sector to have the confidence of patients and other professionals.

3.3 Evolution of occupational regulation schemes

All the schemes looked at in the research have evolved over time, irrespective of their longevity. Some have been long established; for example the Society of Dyers and Colourists was originally established in 1884 and then granted a Royal Charter in 1963. Over the years it has become internationally focused, regularly reviewing its development offer, including introducing the requirement of CPD for chartered colourists in 2012. The Youth Workers' scheme dates back to the Albemarle report of 1960 and has regularly reviewed the qualifications which are professionally recognised. In the latest review, in 2010, an honours degree became the minimum requirement for conferring professional status for Youth Work in England.

Other schemes are currently evolving or undergoing transformation. For example the scheme for Retail Investment Advisers (RIAs) was introduced in July 2011 with the requirement for all RIAs to hold a Statement of Professional Standing (SPS)[24] after January 2013. The General Pharmaceutical Council (GPhC) was established (with responsibility for pharmacists, pharmacy technicians and pharmacy premises) in September 2010 and from the 1st July 2011 it became mandatory for Pharmacy Technicians to be registered with the GPhC to practise.

The nature of these changes varies too. Some have 'switched' or changed their status from voluntary to mandatory (as with the Pharmacy Technician scheme, above); some had changed their branding and administration (eg Gas Safe Register took over from CORGI in April 2009 and the scheme for Gas Engineers was subsequently re-branded) and in many other schemes adaptations of varying extent have taken place. An example of an adaptation can be seen in the scheme launched to regulate Domestic Energy

---

chiropodists/podiatrists, dieticians, occupational therapists, orthoptists, orthotists, paramedics, physiotherapists, prosthetists, radiographers and speech and language therapists.

[24] An SPS confirms that an adviser: has adhered to a code of ethical standards; holds the required qualifications for the activities they undertake; and has completed appropriate CPD and complied with APER (Statements of Principle and Code of Practice for Approved Persons).

Assessors in 2008. Since the introduction of a new Energy Performance Certificate in April 2012 workers have been required to undertake a top-up qualification.

A shift in regulatory status takes time to organise and arrange (changes in administrative arrangements, decisions on assessment of competence or appropriate qualifications, decisions on need for ongoing re-assessment of capability etc). When a regulatory body changes a scheme from voluntary to mandatory status and does not allow grandfathering,[25] it is likely to require not only considerable discussions with members and other stakeholder bodies, but also a warning period to enable as many people as possible to be informed of the switch. This period can be problematic. If it is too short then existing members may not be aware of the change and may fail to do what is required in order to stay regulated; if it is too long then existing members may be tempted to suspend their membership until the scheme becomes mandatory. Changes may also give rise to unintended consequences such as negative spillover into other occupations of those who either cannot or choose not to meet the new entry barriers (for example Pharmacy Technicians who did not become 'registered' might instead become Pharmacy Assistants).

Such changes also provide the opportunity to update other aspects of occupational regulation schemes. Organisations may therefore use the opportunity to drive up standards, both in terms of increasing the knowledge base, and including reference to ethical or behavioural standards. There were several examples amongst the case study schemes where the level of qualification required for accreditation or licensing had increased. In some cases this has been from Level 3 to 4, in others from Level 4 to Level 5/degree level. Such increases are driven by a variety of reasons; eg more sophisticated product/market strategies, an intention to increase professional standing or comparison with other professions felt to be similar. Examples were also found where the regulatory body had sought to introduce a variety of qualifications to enable an individual to be recognised at, and progress between, different levels. For example, the National Youth Association (NYA) introduced a pre-professional level qualification at Level 2/3, in 2002/3, for youth support work roles. This provides a two tiered structure of recognition to help better meet the needs of individuals and employers.

Voluntary schemes have to monitor their respective occupational labour forces, as well as their membership levels, as declining numbers in the former can threaten the long-term sustainability of their schemes. This can result in changes being made to the schemes in order to halt loss of members. In some cases this can involve mergers with other similar

---

[25] Grandfathering refers to a situation where those already regulated are exempt from any changes to qualifying criteria.

organisations. For example, the Painters and Decorators Association was formed in 2002 from the merger of the British Decorators Association (BDA) and the Painting and Decorating Federation. Alternatively changes can increase the focus on promotion of the scheme to existing or potential members or a diversification strategy leading to expansion into developing markets. The Society of Dyers and Colourists (SDC), for example, responded to a decline in the UK textiles industry by engaging with developing markets in India, Pakistan, China and Hong Kong.

3.4 Design issues

When creating such schemes it is clear that considerable effort has to be expended on making the schemes work within the context of the various stakeholders within the occupation and the wider economic, political and legal environment. We explore below roles and responsibilities in regulation and the way in which the schemes have gone about engaging with employers.

3.4.1 Roles and responsibilities in regulation

A key decision point is the number of players to be involved in the responsibilities of regulation (eg administering the scheme, setting entry barriers, detailing qualification criteria, ensuring compliance, collecting any fees, communicating with members etc). The decision is likely to be influenced by factors such as running costs, efficiency considerations and whether there is a desire to embed an element of competition or to prevent conflicts of interest arising.

In some cases just a single body is involved in the operation of the scheme – examples include the Joint Industries Board (JIB), the Society of Dyers and Colourists, the Association of British Travel Agents (ABTA) etc. But it is also common for more than one body to have some degree of regulatory responsibility. An example of this is the gas registration scheme, now known as the Gas Safe Register, which was originally associated with CORGI (established in 1970 as the Confederation for the Registration of Gas Installers). The Gas Safe Register is ultimately owned by the Health and Safety Executive (HSE) but administration of the register now sits with Capita as a result of a competitive tendering exercise. EU Skills, a Sector Skills Council, also plays a role in setting standards through the 'standards consultation forum' (SCF) which is broadly representative of the industry. Where a scheme is run by a commercial organisation it needs to have its own 'brand', separate from the organisation running it. In the case of the Gas Safe Register the decision to separate out the different areas of responsibility arose from the need to ensure that responsibility for standards setting was kept separate from responsibility for administration of the register.

The Gas Safe example points to the potential problem in cases where a single commercial body holds a monopoly in terms of running a scheme and becomes associated with it so strongly it becomes indivisible from the brand. In other occupations, concerns regarding potential conflict of interest have led to the responsibility for regulation changing and being taken up by two or more bodies. In some occupations it has been the stakeholders or the regulatory body itself which have felt there to be a conflict between combining the leadership role for the profession/occupation with a regulatory role. In other sectors the desire to separate out the role of assessing qualifications from that of administering the membership register has driven the change. In such cases careful consideration needs to be given to the elements that make up the totality of the scheme and consider where these components might best sit.

The Domestic Energy Assessors' scheme is delivered through several bodies authorised to 'accredit' DEAs, the common point of the scheme being: a) the standards for 'accreditation' are set by the Department for Communities and Local Government (DCLG); and b) the logging of completed energy assessments is managed by a separate organisation, Landmark Information Group. Landmark acts as a repository for all records and sets strict criteria for the design of the software used to produce the records. A number of suppliers are currently able to assess and licence DEAs (termed 'accreditation' by the scheme) and to develop and produce software to Landmark's criteria for DEAs to use in producing records. The number of 'accrediting' bodies in this case introduces a degree of competition into the market to provide such services to DEAs.

The Electrotechnical Certification Scheme card is managed by the JIB (SJIB in Scotland) which is an organisation run jointly by the Electrical Contractors Association (ECA) and Unite the union. The JIB sets standards, regulates relations between employers and employees, and acts to improve the industry both in terms of status but also performance.

In the health sector responsibility is now split between the regulatory bodies and the Professional Standards Authority (formerly the Council for Healthcare Regulatory Excellence, CHRE[26]), a meta regulator which scrutinises and oversees the work of the nine regulatory bodies[27] that in turn set standards for training and conduct of health and

---

[26] On the 1st December 2012, the Council for Healthcare Regulatory Excellence (CHRE) became the Professional Standards Authority for Health and Social Care (PSA). It continues to oversee the UK's nine health and care professional regulatory bodies. It also 'accredits' registers of individuals practicing in health and social care occupations, providing an independent quality mark. See: http://www.chre.org.uk/ [Accessed 13 March 2013].

[27] The nine regulatory bodies overseen by the PSA are: General Chiropractic Council (GCC), General Dental Council (GDC), General Medical Council (GMC), General Optical Council

care professionals. In January 2011 the Health and Social Care Bill proposed that the (then) CHRE assume additional powers of scrutiny and to audit the stages of fitness to practise procedures. The same Bill proposed that it became more independent of government and self-funding through a levy on its member organisations (that is, the healthcare regulators).[28]

Even where one body holds responsibility for a scheme it may internally split operations to keep functions separate and maximise sector involvement. The Youth Workers scheme is the responsibility of the NYA but operates through two committees: The Education and Training Standards Committee (ETS), which makes recommendations on the validation of recognised courses to the Joint Negotiating Committee (JNC) for Youth and Community Employees. The JNC for Youth and Community Employees is the body that sets the national framework used to grade and pay youth work jobs and approves youth and community employees' qualifications, and youth support employee qualifications.

The JNC is served by organisations which represent employers and those which represent employees. For example, the National Council for Voluntary Youth Services (NCVYS) is a committee member on the employers' side and the Community and Youth Workers Union (CYWU) is a committee member on the staff side. Both sides negotiate pay and employment issues, which are then set within the 'JNC for Youth and Community Employees handbook' (what is known as the 'pink book'). The handbook also contains terms and conditions, lists of those courses which have been professionally validated and the JNC pay scales and allowances. Similarly, the ETS is made up of representatives from across the sector.

3.4.2 Engaging with employers

Other case study examples demonstrate the importance of working with employers in the design stages to ensure the scheme meets their needs. This is vital with voluntary schemes but appears to be common across mandatory schemes too.

For example, the voluntary ABTA scheme made considerable efforts in engaging employers in the initial scheme design. It worked with them to agree and award points for

---

(GOC), General Osteopathic Council (GOsC), General Pharmaceutical Council (GPhC), Health and Care Professions Council (HCPC), Nursing and Midwifery Council (NMC), Pharmaceutical Society of Northern Ireland (PSNI).

[28] The Bill also suggested that the CHRE be renamed the Professional Standards Authority for Health and Social Care, and its remit be extended to social employees and social care practitioners.

in-house courses so that there was a common standard across all employers. The Retail Investment Advisors scheme is mandatory but also involved several industry advisory and consultative groups to arrive at a potential scheme. The FSA has published a number of discussion and consultation papers and has received numerous formal responses and submissions from a wide range of industry stakeholders.[29] Industry consultation has been written into its operating framework as it has committed to regularly consulting with a range of stakeholders.[30]

In one case designers of a potential scheme (which has not been formally launched) had spent considerable time and resource liaising with employers and employees (through surveys and discussions with key organisations) in their sector to gauge support and ensure there would be sufficient demand for membership to create a core on which to build.

3.5   Conclusion

The rationale for requiring an occupational regulation scheme is derived from either internal or external drivers or a combination of these. The key internal and external drivers that affect the design and setting up of occupational regulation schemes were explored in the ten cases studies, the findings of which identified the following:

- **voluntary** schemes tend to focus on *endogenous drivers* (ie issues internal to the occupation, such as skills shortages or recruitment difficulties); and

- the emphasis on consumer safety and consumer protection sees *exogenous drivers* typically predominate in **mandatory** schemes.

Irrespective of whether their source is internal or external, drivers can exert acute pressure to change; this pressure can either be exerted rapidly, for example, in response to a significant incident, or can build gradually over time, for example, in response to

---

[29] For example the Professional Standards Advisory Group comprises the Association of British Insurers, Association of Investment Companies, Association of Independent Financial Advisers, Association of Private Client Investment Managers and Stockbrokers, British Bankers' Association, Building Societies Association, CFA Society (UK), Chartered Institute of Bankers in Scotland, Chartered Insurance Institute, Chartered Institute for Securities and Investment, Financial Services Consumer Panel, Financial Services Practitioner Panel, Financial Services Skills Council, FSA Smaller Businesses Practitioner Panel, the Treasury, Institute of Financial Planning, *ifs* School of Finance, and the Investment Management Association.

[30] The Financial Services Authority, (2000), *A New Regulator for a New Millennium*, Page 15, http://www.fsa.gov.uk/pubs/policy/p29.pdf

growing skill shortages. As a result, many of the ten schemes had changed over time in response to ongoing pressures. Change can even involve 'switching' from one form of occupational regulation to another (e.g. from a voluntary to a mandatory scheme).

Any major shift in the structure of a scheme, or to its regulatory status ('switching'), requires significant administrative consideration, planning and effort. Otherwise membership levels could be destabilised. In extremis, unintended consequences could also be unleashed, such as negative spillover into other occupations.

In some cases responsibilities for the different functions (such as setting standards, assessing against those standards and compliance) have been divided amongst two or more organisations or have been made subject to meta-regulation, in order to avoid any conflict of interest.

Schemes will typically evolve over time as drivers change; those that cannot are unlikely to survive. Continued engagement with the occupation and sector is crucial, particularly for voluntary occupational regulation schemes, to ensure their rationale for existence remains. Scheme architects and administrators must ensure industry needs are met from the drawing board to operation. For voluntary schemes, non-membership will not preclude their member constituency from working in the occupation (or within a function of it), so the scheme has to present a persuasive case to potential members to join. Once established, membership levels and the constituent labour market have to be monitored to ensure a viable membership can maintained now and in the future.

4 Characteristics of occupational regulation

Summary

Looking across our ten case studies, whose overall features are illustrated in this chapter, we identify the design features and characteristics which differentiate a heterogeneous range of occupational regulation schemes in establishing minimum prescribed skills standards.

Features and characteristics

Generic features and characteristics:

- **Focus** – Schemes can focus primarily on the individual worker, a firm or both.

- **Complexity** – Different levels of membership can be established to reflect different occupational levels, roles or specialisms. Membership can be applied vertically (tiered to reflect levels of skills competency) or horizontally (where different types of skills or specialisms, in allied occupations, are catered for within the same membership scheme).

Features and characteristics of schemes, which raise skill standards, can include one or a combination of the following:

- **Qualifications** – A fundamental point to address is at what level skills competency, through qualifications, is set in order to determine membership entry levels.

- **Work experience** – Previous relevant work experience can be a criterion for membership, either as a proxy for qualifications or in addition.

- **Examinations** – Tests and examinations can be introduced to test skills competence.

Features and characteristics of schemes, to maintain skill standards, include:

- **Renewal** – A policy of regular membership renewal can maintain or raise skill standards, if coupled with a requirement to re-test or demonstrate continuing professional development. Processes and codes of practice can also be established to deal with any infringement of membership or quality assurance issues to end users/consumers.

- **Benefits** – Membership benefits, both 'hard' and 'soft', can be provided to encourage existing and prospective members to remain in the scheme or join it.

4.1   Introduction

This section explores the characteristics of scheme design. We begin by briefly describing the individual features of each of the ten schemes examined, and then go on to compare the key features across the various schemes, highlight their similarities and differences across a range of factors such as entry requirements, the levels of membership and the criteria for maintaining membership, the ways in which the schemes deal with infringements and the benefits schemes explicitly offer.

4.2   Overview of schemes

We begin our exploration of schemes by setting out in table 4.1 below the key criteria for all of the case study schemes examined in this research (a more detailed version of this table is given in Appendix 6).

We then go on to consider the ways in which the various criteria were arrived at by the regulatory bodies and their partners.

Table 4.1   Overview of schemes

Scheme	Year established	Vol/ Mand-atory	Protec-tion of title	Licensing Accreditation Certification	Grand-fathering	Competence-based?	Other criteria	Geographic scope	CPD	Revalidation	Cost
Youth Workers through the quality assurance of qualifications professionally recognised by the National Youth Association	The JNC was set up in 1960. developed into current form in 1987.	V	No	Accreditation	Diploma was recognised	**Qualifications**: a) Professional Qualified Youth Worker Level 6 b) Youth Support Employee level 2/3	CRB for all youth work Ethical Code of Conduct published	England	N/A	Professional development programmes validated every five years	No membership, no renewal N/A
Accredited Travel Professionals through the Association of British Travel Agents	2006	V	No	Accreditation	Yes	**Membership**: L2/3 NVQ/apprenticeship plus 2-7 years experience	N/A	UK	Points based, 20 points per year	Annual	£25 p a ind £15-£20 per ind for corp members
Dyers and Colourists through membership of the Society for Dyers and Colourists	1884	V	Yes for Chartered Colourist No for other titles	Accreditation	N/A	**Membership** *Voting member:* Professional member *Non voting members:* Student, Individual, College, Corporate **Qualifications** *Licentiate*, *Associate*, *Chartered Colourist*,	N/A	International	Chartered Colourists are required to undertake 30 hours of appropriate CPD per year	Annual for chartered colourists	Corporate £400.00 College £400.00 Professional £52.50 Individual £20.00 Student £5.00

Scheme	Year established	Vol/ Mand- atory	Protec- tion of title	Licensing Accreditation Certification	Grand- fathering	Competence-based?	Other criteria	Geographic scope	CPD	Revalidation	Cost
Chartered IT Professional via the British Computing Society	Initially introduced in 2004 Amended 2009	V	No, but allows use of letters (CITP) after name	Accreditation	N/A	*Requirements for chartered status*: 8-10 years of IT work experience, 3 of the past 5 in roles of responsibility, specialist competence; interview with 2 assessors; Breadth of Knowledge test.	Code of conduct published	UK plus international branches	Renew every five years Criteria being developed	Every 5 years	£120 application for chartered status, annual membership fee £150.00
Painters and Decorators through membership of the Painters and Decorators Association	The Painters and Decorators Association was established in July 2002, following merger of the British Decorators' Association and the Painting & Decorating Federation.	V	No	Accreditation	N/A	**Membership**: A Proprietor or Principal must: (i) Have apprenticeship (L3) and City & Guilds Craft Certificate (L2) and passed the CITB Skills Test, OR (ii) evidence employed as Painter and Decorator five years+.	Informal check of the business by asking current members	UK	N/A	Annual	From £180 sole trader to £1900 for multinationals
Electrical Fitters through the Electro-technical Certification Scheme	The Major Contractors Group' specified all trades should participate in skills' certification schemes by end of 2002.	V	No	Accreditation	Prior to Feb 2006 those without apprentice ship etc but with, experienc e could get card.	a) Approved Apprenticeship (L3)– or – b) City and Guilds 2360 2351 or 2330 (L2) – plus – c) ECITB NVQ Level 3 or historic technical / practical qualifications.	ECS H&S test valid for 3 years Voluntary CRB check	JIB for England, Wales and Northern Ireland, SJIB for Scotland	No unless regulations change	3 years E, W and NI 5 years Scotland	Initial ECS card and registration - £36.00 Renewal £24.00 Reduced rates for JIB member company

Scheme	Year established	Vol/ Mand- atory	Protec- tion of title	Licensing Accreditation Certification	Grand- fathering	Competence-based?	Other criteria	Geographic scope	CPD	Revalidation	Cost
						knowledge of current IEE Wiring Regulations,					employees
Gas Fitting Operatives through the Gas Safe Register	1998 initially managed by CORGI, Gas Safe Register replaced CORGI 1 April 2009 (1 April 2010 NI and Guernsey).	M	Yes	Licensing	No	• National Accredited Certification Scheme for individual Gas Fitting Operatives (ACS) (L2) • ACS aligned National/Scottish Vocational Qualifications (NVQ/SVQ).	Probationary period and inspections Risk based inspections	UK	Individuals have to resit qualifica- tion tested through EU skills and UKAS	Annual renewal of companies For individuals 5 year renewal of competency	Application fee: £190.00 Registration fee (includes one engineer): £175.00 (£155 online) + £53.p engineer
Domestic Energy Assessors 'accredited' through a range of accreditation providers	The EU Energy Performance of Buildings Directive (EPBD) introduced in England and Wales January 2006 - January 2009.	M	Yes	Licensing	No	*Accreditation through Qualification* a diploma in Domestic Energy Assessment (DEA) and/or the Diploma in Home Inspection (HI) (L3) *Accreditation of Prior Experiential Learning* for experienced practitioners within similar industries.	Valid CRB Auditing of submitted EPCs	England and Wales	Eg 10 hours per year varies by scheme;	Annual	Varies by scheme eg Gold £199 pm, unlimited lodgements plus free CPD Silver £59 pm inc 20 lodgements (£3.00 thereafter) Bronze £4 pm, lodgements £3.50
Pharmacy Technicians 'registered' by the General Pharmaceutical Council	Voluntary registration January 2005, Mandatory 1 July 2011,	M	Yes	Licensing	Yes	Competency based qualification (NVQ Level 3) and knowledge based qualification (Level 3 Diploma) and work experience (minimum of two years under supervision).	Subject to GPhC Code of Practice, Standards of Conduct, Ethics and Performance	GB	Minimum of nine CPD entries per year	Annual	new entrants application fee £102 plus initial entry fee £120. Annual renewal £120.

Scheme	Year established	Vol/ Mand- atory	Protec- tion of title	Licensing Accreditation Certification	Grand- fathering	Competence-based?	Other criteria	Geographic scope	CPD	Revalidation	Cost
Retail Investment Advisors approved by the Financial Services Authority	New regulations come in from January 2013	M	Yes	Licensing	No	Firms authorised by FSA Individuals approved by FSA to carry out activity - look at competence, probity and fitness Appropriate Qualification now minimum of level 4.	Adhere to code of conduct Firms are required to provide data to the FSA;	UK	Competence has to be maintained with 35 hours of CPD per year (new under RDR).	Annual	£1,500 one off set up fee as a retail adviser Ongoing costs vary by size of firm, income, products offered etc

Organisational schemes are shown shaded in grey.

Source: IES, 2013.

4.3 Scheme criteria and coverage

In this first section we explore considerations around who is regulated, the ways in which they define, assess and accredit competence and how appropriate skill or qualification levels are agreed.

4.3.1 Regulation level: individual, firm or both?

Regulation can operate at the level of the individual, the firm or both, but is typically focused on the individual. By individuals we include those who are self-employed and those in the employment of others. In regards to firm level occupational regulation, it is possible for the organisation itself to be subject to regulation and/or the employer (such as the owner-manager, partners, board of directors) to be required to be suitably qualified in their own right. Firm level regulation may also require the employer to oversee and ensure the skills competency of those employed or contracted, even if they are not individual members of the occupational regulation scheme themselves. We explore firm level regulation in the remainder of this section.

Three of the case study schemes (those operated by the Painters and Decorators Association, the Gas Safe Register and the Financial Services Authority) were designed for the regulation of firms and in the latter two examples both firms and individuals are regulated. The remaining seven schemes in our case studies regulate only at the individual level.

Those schemes which act to regulate the firm can take two quite distinct approaches: (1) regulation primarily by assessment of firm competence; or (2) regulation through assessment of the competence of individuals who manage or work for the firm. These broad approaches clearly make a difference to the entry criteria that are used and are illustrated below.

In all our examples of firm-level regulation some assessment of individual skills or competence was also included. In the case of the Painters and Decorators Association this was through an assessment of the competence of the proprietor, who had to hold a relevant vocational qualification (or be able to show a minimum period of trading activity in the sector); and in the other two cases, operated by the Gas Safe Register and the Financial Services Authority, skills-based individual-level regulation applied alongside firm-level regulation. Therefore firms had to demonstrate their 'fitness' to operate as well as the competence and probity of those they employed. Individual-level criteria are very varied and we present below some of the key differences in approach.

Firm-relevant criteria tend to include general entry level barriers, which are not concerned with minimum prescribed skills. Such criteria can include evidence such as having traded for a specified minimum period, agreement to abide by a code of practice or conduct, assessment of fitness/references, and possession of commercial insurance.

4.3.2 Complexity of definitions of competence

Schemes that regulate occupations, which are technically complex, deal with the technical details in two different ways:

Firstly, there are those schemes which involve many kinds of occupations and which may require slightly different qualifications for each one. Typical of this group are the skilled trade occupations, such as Gas Engineers and electrical contractors, whose relevant schemes specify the qualification and/or skills/competence criteria for the different trades. The Gas Safe Register, for example, details 120 different categories of competence broken into appliance types. The Electrotechnical Certification Scheme card scheme for electricians covers a number of core contracting disciplines eg 'installation electrician', 'electrical fitter', 'maintenance electrician' (16 in total) plus others (datacomms, emergency and security systems, fire detection & alarm systems, and additional occupations, apprentices and trainees).

Secondly, there are those schemes which regulate technical occupations. Where a qualification or test is the basis for that regulation it can be difficult to ensure that the knowledge assessed remains current, especially in rapidly-developing areas. As an example of how some schemes have overcome this problem, the Chartered IT Professional (CITP)[31] scheme has circumvented the challenge of trying to define in detail a rapidly changing technical environment by specifying that applicants should be specialist in an area and then examining that specialism through an interview with two members, at least one of which will also be specialist in the same area. The scheme also recognises experience and seniority of role performed in specialist environments.

4.3.3 Establishing qualifications levels

In some of the schemes studied there has been debate, amongst industry stakeholders, as to the appropriate level of qualification for the occupation. While many of these debates have tended to focus on the standing of the occupation and the skills demanded of practitioners (where often the agreed levels are derived in consultation with

---

[31] http://www.bcs.org/category/10972

stakeholders) in some occupations complaints have been voiced that the skill or qualification levels are set too high and there is a place for less-well-qualified individuals.

The 'right' level of qualification is therefore open to interpretation and there are inevitably differing views. Where a qualification level was being reviewed, we heard from some stakeholders who believed there was an opportunity to raise standards even higher, while others felt that the current level was correct. Some questioned if the recession necessitated having alternative, lower levels of entry, which would provide more entry points with opportunities for progression. These differing viewpoints reflect some of the drivers for setting appropriate qualification levels either initially or for reviewing them over time:

- The qualification level may be benchmarked to other similar professions and therefore be seen as a mark of professional standing. If it is seen as being 'out of kilter' stakeholders may pressure for the level to change.

- It may reflect the changing complexity of the occupation or changing legislation which requires higher standards of knowledge or skill.

- Qualification levels may also reflect the likely labour market for the occupation – set too high and the occupation may experience a skills shortage, set too low and applicants may be of insufficient quality.

As potential members become more qualified and as the population generally achieves higher qualification levels, schemes tend to reflect this upgrading. For many schemes upskilling or professionalising the occupation - for either status or consumer safety reasons – may lead to pressure to raise qualification levels.

As an example of this, Retail Investment Advisors initially were required to achieve approved qualifications at Level 3 but this has now been increased to Level 4 to reflect a general belief that the complexity of the job needed to be reflected in a higher skills base and as part of the response to mis-selling. In this case the FSA set up a Professionalism Working Group to help develop thinking on professional standards. The working group reported:

> There is general agreement that the minimum qualification level for a PFA [Professional Financial Advisor] to provide advice needs to be raised. We recommend that, as soon as practicable, the minimum level of qualification for all existing professionals and new entrants should be raised from Level 3 (in England & Wales) to Level 4 (Scottish equivalent SCQF Level 8).[32]

---

[32] FSA Feedback Statement 08/6 http://www.fsa.gov.uk/pubs/discussion/fs08_06.pdf

Youth Workers moved in 2010 from a HE diploma level qualification (Level 5) to a full honours degree (Level 6). This decision was made by the NYAs Education and Training Standards Committee, in part, to ensure that qualifications were on a par with teaching and social work (associated professions which were seen as natural benchmarks). The higher qualification also gave more flexibility to cover other aspects of the work in the curriculum and also meant that the qualification could better prepare qualified Youth Workers for recruitment into a managerial role via such a qualification.

4.3.4 The role of experience

The desire to upskill and professionalise has to be balanced with the desire not to exclude those who, while they may have been in the occupation some time may not have attained the relevant qualifications. Some mandatory schemes resolve this by shifting their entry criteria whilst allowing grandfather rights[33] for those already in the occupation; in other words they allow existing members to stay in the scheme while requiring new members to attain higher qualifications in order to meet entry requirements. There are examples of this amongst both mandatory and voluntary schemes. Examples of schemes in which a grandfathering policy has been implemented include Pharmacy Technicians, electricians who are JIB and SJIB Electrotechnical Certification Scheme card holders, professionally qualified Youth Workers, and the Painters and Decorators Association. The Youth Workers scheme maintains a list of 'historic' qualifications which are acceptable for members who gained those qualifications at the time the qualification was current.

Others ensure that their scheme does not exclude too many existing or potential job holders by having alternative routes for those who have relevant experience. The Painters and Decorators Association, for example, stipulates that the owner or senior managers of a firm should have completed an apprenticeship or have five years experience as a painter and decorator. The Accredited Travel Professional scheme, operated by ABTA, offers alternative entry routes based on qualifications or levels of relevant industry experience.

In other schemes both qualifications and experience are required. For example, Retail Investment Advisors must have an approved qualification and be certified competent by

---

[33] The term *grandfather clause* or *rights,* with regard to occupational regulation, refers to a provision that permits exemption from changed criteria on membership for current scheme members. For example, their scheme may increase the level of qualification required for membership or it may introduce, or raise the level of, an entry exam. With grandfathering existing members are not obliged to have to meet these new conditions in order to continue to practice.

an employer, while Pharmacy Technicians need to have a relevant Level 3 qualification, which has both knowledge and competence elements. Furthermore, a Pharmacy Technician has to have worked under the supervision of a qualified pharmacist for two years before qualifying.

For Chartered Dyers and Colourists there is the requirement to already be a member of the Society of Dyers and Colourists at what is termed 'associate; or 'licentiate' level.[34] Alternatively, entry into the scheme can be accessed by having an honours degree, in a relevant subject, plus two or four years' experience (depending on the level of membership applied for and/or the syllabus of the degree subject taken).

4.3.5 Testing and examination

For the Chartered IT Professionals scheme qualifications and experience are part of the entry criteria but there is an additionally assessment of competence through an interview and a test. Under the Gas Safe Register Gas Engineers have to re-take their qualification as part of the renewal process every five years. Other schemes have a requirement to demonstrate competence when regulations change: for example, Electrotechnical Certification Scheme card holders have to demonstrate current knowledge of wiring regulations when applying for renewal if these have changed.

These case study examples suggest there are two distinct circumstances in which a test or exam is considered appropriate: (1) being able to prove initial and/or ongoing competence for consumer safety reasons; and (2) where there is no existing widely accepted qualification covering the skills requirements of the occupational regulation.

4.4 Levels of membership

Some schemes offer multiple levels of membership to encompass the various different roles within the occupational areas or different levels of experience or qualification. For some this diversity is vertical and the membership offer reflects a changing skill or experience profile. This provides the opportunity to set membership tiers based on levels of skills competency. For example, the now extinct Accredited Travel Professional scheme offered bronze, silver and gold levels, which equated to different levels of experience in the sector (from 1-2 years up to 7 years). The Youth Workers scheme encompasses both professionally qualified Youth Workers (degree level ie level 6) and

---

[34] 'Licentiate' is a qualification level set by the Society of Dyers and Colourists and is not associated with licensing as defined by Forth et al.

Youth Support Employees (levels 2/3)[35] while the Society of Dyers and Colourists offers several levels of membership reflecting different levels of qualification and experience in the profession. These approaches are very different from each other and yet they are predominately voluntary individual schemes. In each case the option of a varied membership offer can be seen to reflect the diversity in the occupation, the potential for career progression and the opportunity available to either widen membership or be seen to meet the needs of a broader range of potential stakeholders.

In other cases schemes reflect a horizontal diversity where several different types of skills or specialisms are catered for. This is more common in skilled trade schemes (such as the Electricians card scheme and the Gas Safe Register which both regulate a range of specific skill sets at the same level) and enables the scheme to flexibly cover the relevant occupational groups.

4.5   Maintaining membership

There are three separate elements to maintaining membership across the schemes covered in our case studies. Each of these applies in different combinations across the schemes:

- paying a membership fee;

- maintaining continuous learning and development;

- demonstrating competence to practice.

Most of our case study schemes require membership to be renewed on an annual basis. An exception is the Electrotechnical Certification Scheme card scheme which has to be renewed every three years and the Youth Worker scheme, which operates through assessment and approval (validation) of a qualification rather than of the individuals who complete it (see Appendix 1). Annual renewal enables scheme managers to perform any necessary checks on current competence and ensure the membership database is correct and up-to-date. In addition it provides a regular income stream to help pay for the administration of the scheme.

Continuing professional development (CPD) is a requirement to maintain membership in many of the schemes we have explored (Chartered Dyers, Accredited Travel

---

[35]   It should be noted that while there is no 'membership' requirement as part of the Youth Worker scheme – it operates through quality assurance of the qualifications alone – there is a very strong sense of profession which appears to inspire loyalty to the scheme.

Professionals, Chartered IT professionals, Domestic Energy Assessors, Pharmacy Technicians and Retail Investment Advisors). How CPD is measured varies from:

- a points-based system (for example, Accredited Travel Professionals can log points which have been assessed for a wide range of available courses);

- number of hours undertaken (Retail Investment Advisors have to record 35 hours per year, Dyers and Colourists 30 hours per year and Domestic Energy Assessors typically have to record 10 hours in one of the several schemes regulating Energy Performance Certificates we looked at); or

- number of separate events or engagements attended/participated in (Pharmacy Technicians are required to record at least nine separate entries per year against an online or hard copy format approved by the GPhC). Where CPD is required it is assessed when membership is renewed.

Certain schemes require additional training or qualifications to update membership if new legislation is introduced. For example, since April 2012 Domestic Energy Assessors have had to show they are competent in the national occupational standards introduced in January 2012, due to changes in EPCs demanded by the government's 'Green Deal' programme. Competence is assessed via a mandatory examination which has to be passed if Domestic Energy Assessors are to maintain their licence.[36]

Demonstrating ongoing competence to practice is thus associated in our case studies with a significant change in skill or knowledge required to execute activities within an occupational role. In turn, this may be required due to significant changes in the safety issues associated with the occupation.

4.5.1 Codes of practice

Several schemes expect members to adopt or adhere to a code of conduct or practice: eg the Painters and Decorators Association scheme and the schemes for Domestic Energy Assessors and Retail Investment Advisors. As an example of a scheme that includes a code of conduct, Domestic Energy Assessor scheme members must be able to demonstrate that they are 'fit and proper' persons to undertake energy assessments and that they operate within a code of conduct. This is actively enforced by the scheme to remain compliant with government department (DCLG) requirements. The Pharmacy Technician's scheme includes a code of practice, with the scheme requirements stating that pharmacy technicians must adhere to the GPhC Code of Practice and Standards of Conduct, Ethics and Performance (see Appendix 3 for further details).

---

[36] http://www.communities.gov.uk/documents/planningandbuilding/pdf/2040232.pdf

Disclosure and Barring Service (DBS)[37] checks are a mandatory part of some schemes. For example, DBS checks are applied to gas fitters, via the Gas Safe Register, and to Domestic Energy Assessors. There is also the facility for this to be recorded on the Electrotechnical Certification Scheme card, although this is voluntary.

Exploring these codes of practice suggests that certain key elements arise frequently. While all schemes require their members to act with honesty and integrity the extent to which a code of conduct or practice is specified varies. All require members to keep their skills updated and use those skills fully and with care (i.e. to the best of their efforts). Several schemes also have clauses that broadly refer to acting with the best outcomes for the client in mind.

4.6 Infringements/complaints

Those schemes that have codes of conduct or practice operate complaints procedures through which members of the public or clients can complain about the work or conduct of a member. Members found to have failed to uphold the code can be disciplined or struck off from a scheme. For example:

- The Painters and Decorators Association (PDA) has an arbitration service which can be used if members are in dispute with a client. The arbitrator will look at the work and try to resolve the issue. If the complaint is upheld the PDA can cancel the membership; a decision undertaken at the level of its National Council. An ejected member cannot reapply for membership for three years.

- The FSA has a number of systems to ensure that Retail Investment Advisors are fit and proper. Firms are required to provide data to the FSA which includes a list of their Retail Investment Advisors, their 'appropriate qualifications' and 'competence', all of which is checked. Retail Investment Advisors have 30 months, from the point at which they begin advising, to become qualified and if this date passes without the individual meeting the requirements it triggers an alert on the FSA monitoring system. Firms also have an obligation to alert the FSA if an individual is not meeting the ethical requirements. The FSA receives complaints data from firms (the number and nature of the complaints) and, from 2013, this information will be broken down by individual advisor.

---

[37] Formerly Criminal Records Bureau (CRB) checks; see: https://www.gov.uk/crb-criminal-records-bureau-check/overview

The FSA can take action if Retail Investment Advisors and their firms do not meet the requirements of the scheme. An individual's status as an approved person can be withdrawn, which would mean they would no longer be allowed to legally operate in the controlled functions.

In addition, some schemes audit performance; for example providers of Domestic Energy Assessor (DEA) assessments and the Gas Safe Register both audit a sample of work of those registered. DEA assessment providers can suspend individual DEAs (and ultimately remove them from the register if they feel work is of insufficient quality). Similarly, providers can suspend or strike off assessors if home owners complain about the quality of the assessment. There is agreement between all the providers to honour any 'strike off' so that a DEA cannot join another provider.

The decision of a scheme to provide clarity over expected behaviour through codes of practice, and to create sanctions if individuals do not abide by them, tends to reflect a strong client/consumer focus. In many cases this will be associated with safety or consumer confidence concerns. Those schemes which focus on accrediting key qualifications are less likely to have codes or sanctions, because the qualification itself is the key to regulation, often without any additional requirement for membership. There are few sanctions available in the absence of a threat to disbar from membership (unless the behaviour can be classified as criminal) and it is not possible to remove a person's qualification once awarded.[38]

4.7 Benefits

Schemes promote themselves to members by offering a range of benefits and typically this requires a considerable marketing effort. Promotion of benefits is most clearly visible amongst voluntary schemes, as these are dependent on individuals or firms operating within an occupation, joining to make it viable and sustainable. In addition there are differences between individual and organisationally focused schemes. Those focused on firms tend to offer a range of tangible benefits such as insurance. Individually focused schemes tend towards softer, less tangible benefits such as knowledge transfer, networking, information advice and guidance, or association with a known and respected brand. However, even where schemes are mandatory very often they provide explicit information on the benefits of membership. Examples are shown in Appendix 4.

---

[38] The exception to this being where any fraud is shown in attaining the award. for example, another person sitting the test or exam in place of the named person,

Looking first at voluntary schemes, those which are aimed at employers tend to offer a wide range of benefits designed to support (predominately small) businesses The regulatory bodies frequently negotiate benefits on members' behalf (e.g. financial benefits such as reduced costs of insurance, pension schemes etc).

Voluntary schemes aimed at individuals tend to emphasise the career benefits of membership when individuals apply to a new employer and when seeking career advancement within an organisation.

Mandatory schemes are also often keen to promote a positive brand image by stressing the benefits of the scheme to stakeholders. For some this is likely to be due to an awareness that the regulator ideally operates with the good will of the sector. It is important, therefore, to make the positive aspects of the scheme explicit to those who are regulated by it. For others, competition introduced into the scheme through the provision of multiple (and competing) providers can give an additional incentive to scheme providers to market the benefits of their particular offer to existing or potential members.

4.8   Conclusions

Occupational regulation can be targeted at the **individual**, the **firm** or both. But it is typically focused on the individual, whether they are self-employed or an employee, rather than the firm. Membership levels in schemes can be **vertical** or **horizontal**. Vertical membership provides the opportunity to set membership tiers based on levels of skills competency. Schemes can also reflect a horizontal diversity where several different types of skills or specialisms are catered for.

For regulation which targets the firm, the organisation itself might be regulated and/or the lens of regulation can be directed at the individuals which manage the organisation and/or those which it employs. Regulation criteria for the firm itself include general entry level barriers, which are not concerned with minimum prescribed skills. For example, there might be a requirement to have been trading for a specified minimum period, references of the senior management may be required, a code of conduct or practice may have to be signed and adhered to. Nonetheless, in our case studies, where firm level regulation was in situ, there was also some assessment of individual skills competency.

Irrespective of the focus on the individual or the firm, the fundamental issue of setting the 'right' skill level for membership can be open to interpretation. The 'right', or appropriate level, is generally set through the requirement to hold a relevant qualification. If not set appropriately there could be negative consequences for the end user/consumer and/or the occupation:

- If set *too high*, it can dissuade potential applicants from applying to join the scheme. This could reduce membership levels which, in turn, could have negative implications for the end user/consumer as they have less choice of whom to perform a service or deliver a product. In this scenario prices could also rise.

- If set *too low*, there is a risk that skill levels in the occupation will not be sufficiently raised. It could also have negative implications for the end user/consumer regarding the quality of the product or service delivered.

Therefore, the setting of skill levels needs to be handled with sensitive calculation. In doing this, whether at design or at a review stage, some of the drivers given in the case studies were:

- to be able benchmark to other similar professions as a mark of professional standing;

- to reflect the changing complexity of the occupation or to adapt to external policy developments, such as legislative change; and

- to reflect the likely labour market for the occupation.

A desire to upskill and professionalise also has to consider those already in the occupational regulation scheme (if it already exists) and those in the occupation (if not a mandatory scheme). Some schemes may judge it appropriate to amend their entry criteria, allowing prior relevant experience and/or introduce testing or examination for those which do not have the requisite qualification(s). For a mandatory scheme seeking to raise its skill levels, a policy of grandfathering may be introduced. This is whereby incumbent scheme members are excused the requirement to meet a new or revised qualification standard, and are allowed to continue to practice, on the basis of their prior relevant experience.

In preserving or raising skill levels for scheme incumbents, CPD is a requirement for maintenance of membership in many, but not all, of the schemes explored. In some schemes compliance with CPD requirements is monitored, but in others it is not.

Occupational regulation schemes promote themselves to members by offering a range of benefits. These are most visible amongst voluntary schemes as they are dependent on individuals, or firms voluntarily joining. Therefore, such benefits contribute to attracting membership in order to make the scheme viable and sustainable.

5 Impact of occupational regulation

Summary

This chapter explores perceptions of the impact of occupational regulation schemes via qualitative interviews with stakeholders and surveys of employers and employees.

Scheme recognition

A key ingredient of impact is **scheme recognition** by stakeholders. Scheme recognition is especially important to voluntary schemes which require significant marketing efforts to be embedded and sustained. Such schemes need to appeal to two constituencies: they need to attract potential members and ensure public/consumer recognition.

The majority of employer and employee survey respondents, of both mandatory and voluntary occupational regulation schemes, felt there were low levels of **public awareness** of their respective schemes. Public recognition is important, not least as they can assist in issues of compliance. But respondents - although a far greater proportion of employers than employees - were more positive about their **customers' awareness**.

For both public and customer recognition, it was employers from voluntary schemes, not mandatory, who felt their schemes were *more* recognised. This may be because mandatory schemes, by their nature, do not necessarily have to market as proactively as voluntary schemes for their survival. Scheme recognition from other employers in the market was similarly perceived by to employer and employee respondents. Over half in each response group felt there was **awareness from other employers** of their schemes. Although lower than expected, employers in mandatory schemes were more likely to perceive recognition by other employers, than their voluntary schematic counterparts; thereby emphasising the universal coverage of such mandatory schemes.

Impact of occupational regulation

Interviewees and survey respondents were generally positive about the impact of both voluntary and mandatory schemes on their occupations and sectors in a variety of ways. Occupational regulation schemes have the potential to:

- raise skill levels;

- increase demand for skills;

- raise productivity of regulated employees;

- improve the quality of service or product for consumers;

- raise the status of the occupation or of regulated organisations or individuals;

- make it easier to find qualified staff;

- raise consumer confidence and safety.

Support to meet initial and ongoing demands of occupational regulation

The majority of employees who responded to our survey experienced little or no difficulty in meeting skill demands of regulation or paying membership fees, whereas they were split almost equally on the difficulty of meeting ongoing CPD requirements.

A range of support is provided to employees to meet initial and ongoing requirements of regulation including providing time off of work, on-the-job development, mentoring and coaching and paying fees. But employers are more likely to say they provide support than employees are to say they receive it.

5.1   Introduction

In this chapter we explore interviewees' and survey respondents' perceptions of impact - on the occupation, on employers and employees[39] and on customers and clients.

When reporting survey respondents' views we have also analysed any differences provided by those in voluntary and those in mandatory occupational regulation schemes. Where possible we use this basic dichotomy to highlight such differences along schemata type.

In interpreting the data it must be remembered that these findings are based on the results of an email survey of a sample of those involved in the scheme. Respondents are inevitably self selecting and the sample is unlikely to be representative of those in the occupation.

5.2   Scheme recognition

Issues to do with scheme recognition - the recognition of schemes within their sectors by employers, employees and in the marketplace by customers and the general public - were occasionally raised in the interviews. With voluntary schemes, significant marketing efforts were sometimes required to ensure the scheme was sufficiently recognised to be sustainable. In one example, membership of the scheme had steadily declined until it had

---

[39]   We use the term employee to cover both those formally employed by an organisation and the self employed in a sector.

fallen to below a sustainable level, and there was a general acceptance that at some point in the future the scheme would need to be closed in its current form and thought given to what might replace it, if anything. In this case a range of factors were identified that had contributed to decline: the recession had reduced the willingness, by both firms and individuals, to pay for membership; the loss of key stakeholders through mergers and buy outs had reduced the potential membership base and organisational support; and a general increase in skill levels in the occupation had meant that the benefits of the scheme were less evident.

In another case an employer reflected on the need for schemes to reach a 'tipping point' in terms of membership numbers. The interviewee felt that, because this scheme was focused on individual membership, an increase in the degree of employer acceptance could make a big difference to both membership numbers and how the scheme was perceived and used. The interviewee felt that demand might rise in the future if the number of appropriately qualified people in the workforce grew, indicating the circular nature of the prompts to growth and, conversely, the challenges for providers of individually-focussed schemes: once there are sufficient members in the workforce recognition amongst employers grows, driving further demand for membership; but until individuals can see that employers recognise and look for membership in prospective employees then there is little to encourage them to sign up.

Therefore employers need to be convinced the scheme contributes to or recognises better qualified and more able individuals and this is more likely when there are sufficient individuals regulated by the scheme to make a labour market impact. Because this interviewee recognised this fact, his organisation was supporting their staff in achieving accreditation which, in turn, was helping to increase both recognition of the scheme and the number of accredited individuals within the working population.

It is not just in voluntary schemes that this is an important. Interviewees across a range of schemes, including mandatory ones, mentioned the importance of public recognition. The public were seen as potentially important drivers of compliance with regulation (eg gas safe engineers). This support can be manifested in a number of ways. The public can preferentially purchase services from those regulated (eg demanding a regulated professional or by being willing to pay more for the services of one). The public can also drive compliance in occupational regulation by acting as a 'fire alarm', by raising concerns by reporting those scheme members who flaunt codes of practice/regulations, either through schemes' own consumer protection mechanisms or by publicising their complaints in other fora e.g. internet reviews, local trading standards teams etc. They can also report 'rogue' traders (ie those offering services without membership of the schemes

or falsely claiming membership). This, of course, relies on their being able to recognise and appreciate the impact of regulation and act as informed consumers of a service (and therefore by implication as drivers of demand).

Three examples are relevant here. In one case an existing mandatory scheme had been tightened to deal with a perceived problem of poor quality service, and those who were regulated now had to be more highly skilled and were required to operate to a different regulatory framework than that initially adopted (with mandatory upskilling for those who were not qualified at the new level and who wanted to remain in membership). Some stakeholders feared this new framework and the higher skill level required were likely to reduce the number of practitioners. This, in itself, might be detrimental to customers (eg raising costs and decreasing access) even though it might also serve to raise service quality. It was important here that customers be kept informed of the change and also persuaded of its value. In two other case study examples, it was felt that the case for regulation was not understood by members of the public and potential customers. The consequent dangers are that if such issues are not understood then consumers will not appreciate the value of the service. If there is no appreciation of value then consumers may not purchase appropriately – in other words they may be happy to engage non-qualified individuals.

Employers in another occupational regulation scheme expressed concern that, although the scheme was well known amongst corporate clients, and worked well to set standards and ensure compliance with key aspects of safety and quality, it was invisible to domestic customers and was 'a well kept industry secret.' As a consequence this essentially voluntary scheme was having relatively little impact on the purchasing behaviour of its domestic customers, even though the scheme had been partly introduced because there were problems in the unregulated domestic market of trust, quality and safety.

Survey respondents[40] from regulatory schemes were asked the extent to which they believed their scheme was recognised by customers, by the general public and by employers. Their responses are described in the following sections.

---

[40] Both organisations and individuals were surveyed in each of the case study occupations. Organisations may be employer members of schemes in their own right, or they may be members of a scheme and employ employees, who are also individual members of the same scheme or they may be employers that do not belong to a scheme, yet employ those who do. As for individuals, respondents may be employees (termed 'employed' or 'self-employed' in this report) who are directly members of a scheme or who are employees of organisations where the latter is regulated.

5.2.1 Views on recognition by the public and customers

Both employers (N = 256) and employees (N = 166) felt that there were generally low levels of awareness of the schemes amongst the general public, with only 26 per cent of employers overall believing that the general public[41] was aware of the scheme to some or a great extent. A further 32 per cent felt that the public recognised the scheme only to a small extent, whilst 38 per cent believed that their scheme was not recognised by the general public at all (see Figure 5.1). Those in mandatory schemes were much less likely to believe that the scheme was recognised by the public.

Figure 5.1   Employer respondents' views on public recognition (n=166)
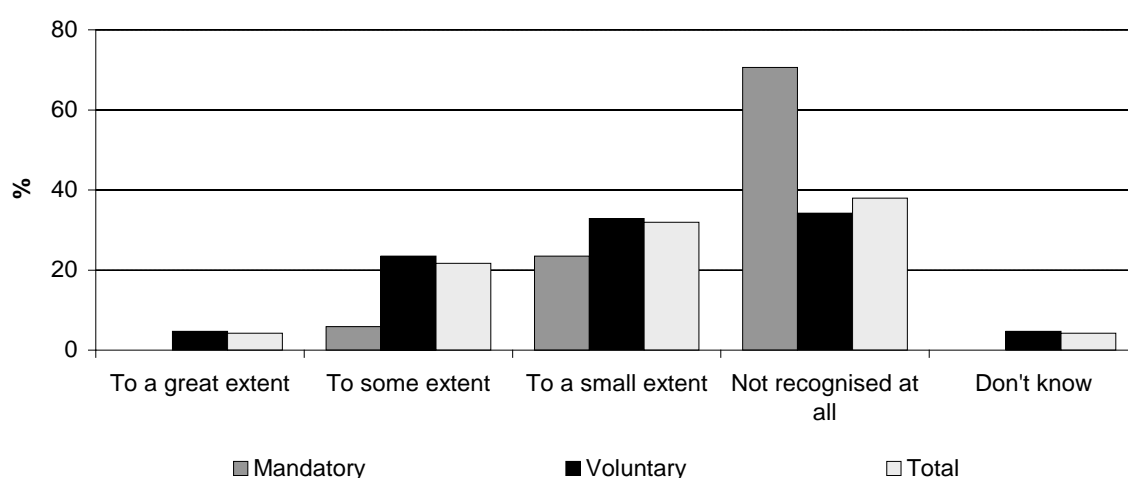
Source: IES, 2013.

Employees were more negative, with 56 per cent believing the scheme was not recognised at all and the remainder saying it was recognised to some degree.

Turning to customer recognition,[42] more employers overall (over half, 59 per cent) felt their scheme was recognised by their customers (compared to recognition by the general public) to some or to a great extent, with just 11 per cent believing that customers did not recognise it at all. When the responses from employers in voluntary and mandatory occupational regulation schemes are analysed separately this reveals that more of the employers in sectors with voluntary schemes felt that their scheme was recognised to some or a great extent (63 per cent) compared to those employers in sectors with mandatory schemes (24 per cent) see Figure 5.2. These views, taken together with perceptions of public recognition reported above, may indicate that mandatory schemes are less visible to the general public and customers as their mandatory nature means there is less need to raise public/customer awareness. Voluntary schemes may make

---

[41]   The general public excludes those customers or stakeholders associated with the scheme, as self perceived by respondents.

[42]   Again, respondents answered on the basis of self-perception about who their customers were.

greater efforts to market themselves as the success of their scheme will depend on consumer choice.

Figure 5.2   Employer respondents' views on customer recognition (n=166)
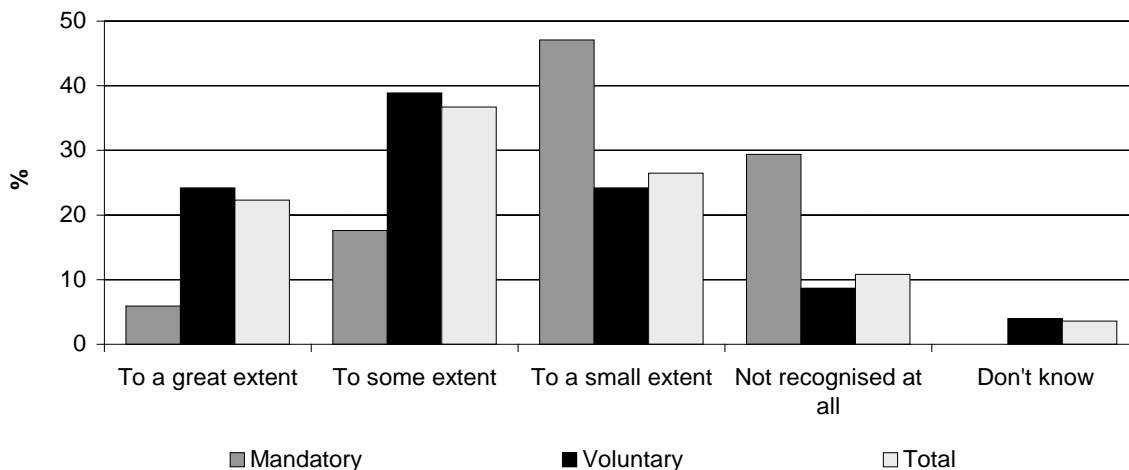
Source: IES, 2013.

As with the findings on recognition by the public, employees overall were less positive than employers about recognition by customers, with 56 per cent believing that customers did not recognise the scheme at all and just six per cent believing it was well-recognised by customers. A further 36 per cent felt the scheme was recognised to some extent. However when split by voluntary and mandatory schemes, it emerged that, as for employers, employees in voluntary schemes were more positive about recognition than were those in mandatory schemes. Whereas just 14 per cent of employees in mandatory schemes felt that their scheme was recognised 'to some extent' (and none believed it was recognised 'to a great extent') some 40 per cent of those in voluntary schemes believed that their scheme was recognised 'to some extent' and seven per cent 'to a great extent'.

5.2.2 Views on recognition by other employers

Figure 5.3 shows results for employers' views on recognition of the scheme by other employers. Just over half (54 per cent) of employer respondents felt that the scheme was recognised by other employers operating within the same industry. When the breakdown was examined separately according to whether employers were associated with a mandatory or voluntary scheme, the pattern of responses was found to be opposite to that reported for customer recognition. More of the employers in mandatory schemes (77 per cent) believed that other employers recognised the scheme than did employers in voluntary schemes (51 per cent). This pattern would be expected as employers would need to be aware of any mandatory regulation operating in their sector. However the level

of perceived employer recognition of mandatory schemes at 77 per cent is perhaps lower than might be expected.

Figure 5.3 **Employer respondents' views on recognition from other employers (n=166)**
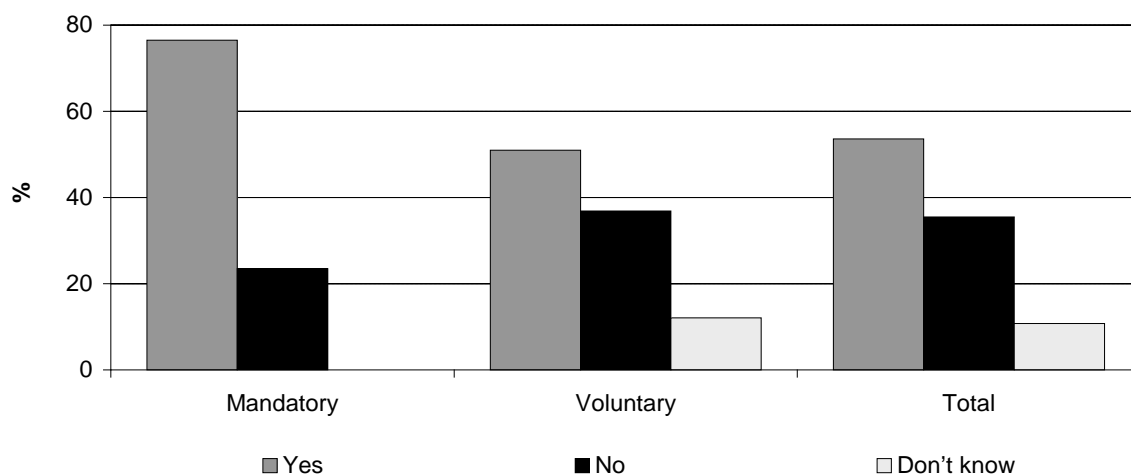
Source: IES, 2013.

The views from employees were similar to those from employers, with just over half believing the scheme was recognised by other employers and just over a third believing it was not (51 per cent and 37 per cent). There was only a slight difference in the proportions of employees from mandatory and voluntary schemes who believed the scheme **was** recognised by other employers (45 versus 52 per cent respectively). Again, the level of recognition for mandatory schemes appears unexpectedly low.

These results suggest that recognition of the voluntary and mandatory schemes which were the subjects of the case studies for this research, could be better, given the relatively low rates of recognition indicated by both employers and employees across the board. Voluntary schemes appear to achieve higher rates of recognition from customers, whereas mandatory schemes are better recognised by employers. This pattern is likely to reflect the fact that several voluntary schemes seek to differentiate their members from competitors either across the occupation or for a specific activity, by promoting better quality or higher levels of competence. Therefore they quite deliberately market themselves directly to consumers. We might expect, on the other hand, that other employers would be aware of mandatory schemes and although results are in the expected direction, the levels of recognition attributed to other employers seem lower than expected.

5.3 Impact on the occupation

On the whole, stakeholder interviewees and survey respondents were positive about the impact of occupational regulation schemes on the occupation or sector. Perceptions are that such schemes have made a positive difference in a variety of ways. However, there was little hard evidence of discernible effect from discussions across the case studies. Partly that is because, even where schemes have been brought in to protect customers or the public (as with the then CORGI and now Gas Safe Register scheme) the dangers that the schemes serve to protect against are extremely rare. It may also partly be due to the perceived impacts being intangible and difficult to quantify. For example, a scheme may help create a cultural shift towards a greater emphasis on learning, or a greater sense of professionalism, both of which may be difficult to measure.

Three kinds of impact were discernible from interviews and survey responses: impact on skills, on performance and on organisational status. We explore these next.

5.3.1 Skill levels

Survey responses

For many schemes the most obvious impact has been a perceived upskilling in the respective occupation. A majority of employer survey respondents felt their scheme had, since its introduction, raised skill levels from those previously required in the occupation (some 66 per cent said skills had increased while just 23 per cent said that the scheme had made no difference). Of those employers who thought that skill levels had increased, about half felt they had increased to some extent (49 per cent) and about half thought they had increased to a great extent (48 per cent). A greater proportion of employee survey respondents felt their scheme had increased skill levels to a great extent (70 per cent) rather than to some extent (24 per cent).

The majority of employees (79 per cent) and employers (66 per cent) believed the skill level set by these schemes was about right. More employers (22 per cent) than employees (eight per cent) felt that the skill levels required by these schemes were too low. Very few respondents felt the skill level requirements expected were too high (just 4 per cent of both employers and employees).

When asked whether, in the absence of their scheme, people would possess the skills necessary to perform at the expected level, a majority (57 per cent) of both employers and employees said they would not, but it is worth noting that a significant minority of both employers (37 per cent) and employees (34 per cent) believed that they would.

It is also worth noting that there were significant differences in the views expressed, according to whether they were associated with a voluntary or a mandatory scheme. Far fewer of the employers and employees in sectors with voluntary schemes believed that, in the absence of the scheme, employees would have possessed the necessary skills (see Figure 5.4). In fact the majority of employers and employees from mandatory schemes, felt that skill levels would be adequate without the scheme. This is unexpected as we had anticipated that mandatory schemes would have a greater impact on skills. This may be because some of the mandatory schemes examined in the research are relatively new (that established for Pharmacy Technicians, for example), compared to occupations where there was an existing voluntary scheme with an established development and qualification route for entry into the occupation. The relatively new mandatory scheme may not yet have had time to have significant impact.

Alternately – or additionally – this difference may reflect the success of the marketing of voluntary schemes by the regulating body. The likely argument in this case is that the voluntary scheme is successfully raising skill levels in the occupation.

Figure 5.4 **Respondents views that employees would possess the necessary skills in the absence of the scheme (n=234 employees, n=147 employers)**
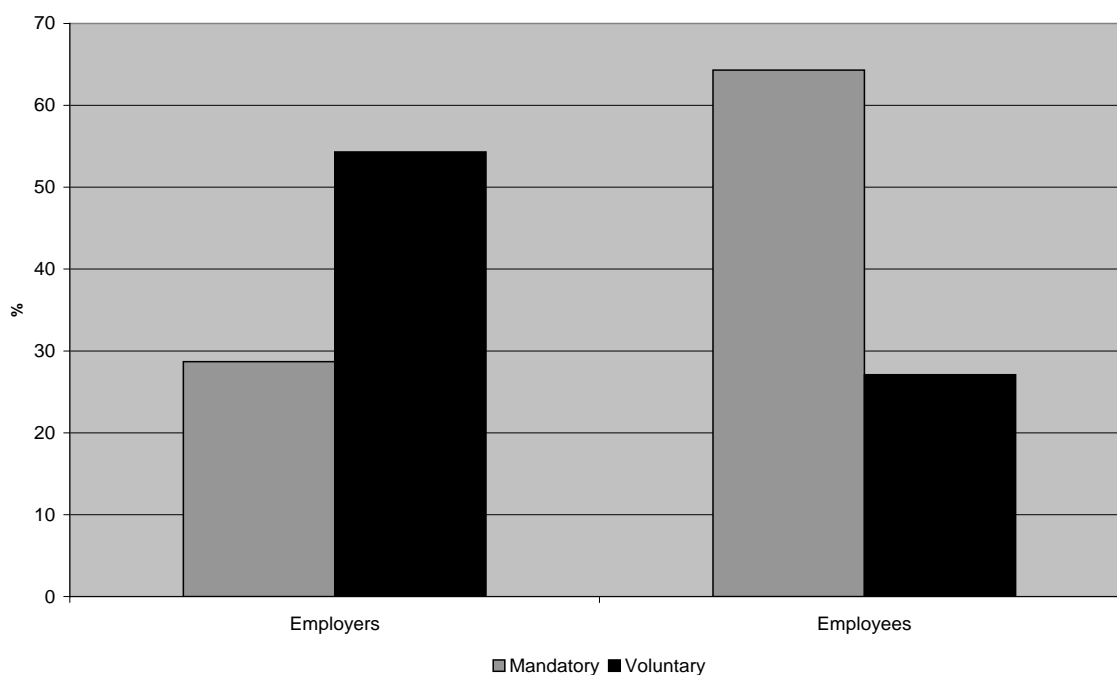
Source: IES, 2013.

This suggests that despite a general belief that schemes have raised skills to an appropriate level, a significant minority also believe that possessing the skills needed to do the job would have happened in its absence. If these perceptions are accurate, this suggests that some of the occupational regulation schemes examined for this research have had relatively little impact (as of yet) on the skills people need in order to be deemed competent.

Survey respondents were also asked whether their respective schemes had increased the demand for skills. Here, a higher proportion of employers than employees believed that it had. Some 60 per cent of employers said that it had increased demand for skills compared to 41 per cent of employees. Around a quarter of both groups said it had not (26 per cent or employers and 28 per cent of employees) with the remainder unsure; however, it is worth noting that almost a third (31 per cent) of employees were unsure of its impact. A larger proportion of the employers from mandatory schemes said it had raised demand for higher level skills than did those with voluntary schemes (90 per cent compared to 58 per cent). This would be expected as the mandatory nature of the scheme means that its demands with regard to skill levels have to be adhered do but needs to be treated with some caution, as only a small number of employers in mandatory schemes answered this question. There was little difference in the proportions of employees from either mandatory or voluntary schemes who said their particular scheme had raised demand for skills (36 versus 42 per cent, respectively).

Overall the surveys suggest that occupational regulation can play a role in raising skill levels. These findings are not unexpected as upskilling of the occupation was a prime driver for some of the schemes. However the way in which the various schemes seek to raise skills is an important factor in understanding their impact and sustainability and to explore this we draw on evidence from the interviews with stakeholders. As the case study schemes are so different in nature we have split them into clusters which bear certain similarities:

- **skilled trade schemes** (Painters and Decorators Association, Electrotechnical Certification Scheme, Gas Safe Register);

- **voluntary professional schemes** (Chartered Dyers and Colourists, Chartered IT Professional and the Youth Workers Scheme).

Skilled trade schemes

The two skilled trade schemes which regulated individuals (the Electrotechnical Certification Scheme for Electricians and the Gas Safe Register for Gas Engineers) set minimum skill standards, insisting that those regulated are able to demonstrate both

knowledge and practical application. Such schemes did not always require employees with existing qualifications (ie those which pre-dated the current requirements) to take a new or higher level vocational qualification (a form of grandfathering), but they did require the additional formal authentification either of health and safety knowledge or assessment of knowledge of recent changes within the industry (such as wiring regulations for electricians). This approach was generally viewed as appropriate to the level of risk and therefore not unreasonable or burdensome. Consequently, it tends to have the support of the sector. The emphasis here is on finding ways to enable access for those with practical experience or who qualified under earlier schemes whilst avoiding any perceived 'shortcuts'.

That said, in some schemes there were those who wished to reduce barriers to entry in the occupation – predominately to certain potential entrants and training providers. The former concerned those who had not followed the traditional qualification route but did have a background in a related skilled trade occupation. The latter would be welcome in some instances because training providers would welcome the opportunity to develop and market courses which would facilitate access to a wider population. However, this is not without some resistance. Several commentators were keen to ensure standards were safeguarded from such pressures to streamline access. Schemes which allowed the recognition of experience, supplemented by some form of 'top-up' assessment to ensure currency or safety, were viewed as successfully balancing these considerations.

Professional schemes

The more professional voluntary schemes, such as those which offer chartership[43] or which set criteria for the validation of degree level qualifications, are largely driven by a desire to instil and uphold a certain standard. This is either to hold a line or to set a high level, aspirational, standard that would in some way represent a pinnacle of achievement. In each case status plays a role, in that the scheme aims to distinguish its members or those that possess a specific recognised qualification from others in the occupation. Generally such schemes have succeeded through a voluntary approach which 'pulls' individuals in through the ability of such qualifications to indicate 'excellence'.

---

[43] A **Chartered** professional is someone who has achieved a certain level of skill/competence in an occupation and awarded a formal credential in recognition by a professional body, such as Chartered Psychologist, accredited by the British Psychological Society.

One scheme provided a qualification that was said by employers to 'set the gold standard' for the occupation, requiring very extensive knowledge and deep subject understanding at its highest level. The scheme was widely recognised by employers in the sector as identifying those at the very top of the profession. Employers had mixed views, however, as to whether they needed this level of skill in their own organisation and the regulatory body had been under some pressure to respond. They had strongly resisted any attempt or suggestion to 'dumb down' the qualification but were actively working with employers to develop alternative programmes of study which would provide sufficient background knowledge but not to the same high level. Even here there were differences of opinion with some employers valuing the more academic inputs and others wanting something highly pragmatic.

Another voluntary scheme providing a high level qualification was experiencing similar issues. In this case the employer interviewees were generally positive but they were all employers who were involved in the scheme. They felt that the scheme set a standard which was externally validated and had other useful benefits, such as a code of conduct. Employers felt they could place greater faith in someone who was accredited under this scheme. Set against this, another stakeholder interviewee felt the occupational regulation scheme had little value as there was no formal educational or learning input to becoming accredited. Therefore it did not actually raise skill levels. Instead the scheme accredited those who could demonstrate they were operating at a senior level. However, it is possible that the scheme acts to drive up skills indirectly as individuals aspire and work towards accredited status and undertake greater development and CPD to acquire and maintain it.

Raising standards

Some mandatory schemes have sought to upskill their members through the compulsory raising of skill standards across the occupation. Explicitly raising skill standards is unlikely to be popular amongst existing employees where they are required to 'upgrade' their existing qualifications and further invest in their human capital, especially where they do not see the case for change. Equally, those who are less convinced of the merits of upskilling and who are concerned over the implications of a shift from a voluntary to a mandatory scheme are likely to prove difficult to persuade of any benefits. For these reasons both the Retail Investment Advisor and Pharmacy Technician schemes sought to engage with an existing population of members and persuade them of the case for change ahead of their introduction.

The research suggests there are several options available to mandatory occupational regulation schemes to facilitate compromise in such circumstances:

1   provide different grades (levels) of membership[44] with new entrants restricted to those membership bands demanding higher skill levels (although this would provide only partial upgrading for those already in the occupation);

2   keep skill/qualification requirements broadly comparable with skill levels already common in the sector, to enable entry to the majority of the workforce, and raise skills thereafter through compulsory CPD requirements (which may be a relatively slow process and, as we have seen, the skills level required through CPD tends not to be strictly specified); and

3   require assessment only for those additional components viewed as essential (health and safety or to cover recent changes in the sector, such as legislative requirements) so as to minimise the re-training and assessment burden on existing employees (again, this is unlikely to contribute to significant skills upgrading).

Schemes may also have to contend with widely differing views from different stakeholders. In one scheme, which had recently raised its standards, some employers felt the new skill level was still too low and that credibility of the occupation would be enhanced if the required level of qualification was raised significantly. Other employers felt that skill levels were now too high and that many of those in the occupation would struggle to achieve that level; these employers were not convinced of the value of the higher qualifications demanded of employees in the occupation. The challenge for regulators is to find a workable solution between such opposing views.

5.3.2 Improving performance

While improving performance had been one of the drivers for some of the schemes, the survey revealed that about half of employers overall, believed that productivity of *regulated employees* had increased as a result. Breaking results down by those in voluntary and mandatory schemes we found that employers in sectors with mandatory schemes were less likely to say that the scheme has had an impact on employee productivity (35 per cent compared to 50 per cent of employers in voluntary schemes). In contrast when asked if *organisational* productivity had increased over a quarter of employers (28 per cent) believed it had. Once again, those in mandatory schemes were less likely to believe so (6 per cent versus 31 per cent of those in voluntary schemes). One possibility is that an increased focus on quality or safety serves to slow performance and therefore productivity, but we did not ask about this in either the surveys or interviews, so we cannot be sure if this is an appropriate interpretation of these data.

---

[44]   That is, a vertical membership scheme.

A key driver in many occupations where voluntary or mandatory schemes operate has been the desire to raise service quality or to ensure a minimum standard of quality applies. Those schemes which have a strong safety element are typical here (eg gas engineers and electrical contractors, where the criteria for entry and associated qualification and experience requirements are designed to ensure that work is to a standard to maximise safety). Safety is not the only important outcome from improved performance. Some schemes seek to improve customer (or wider) security. This security can be financial (eg clients will not suffer financial loss). Or it might be about handling data or sensitive information (e.g. such as with the Chartership scheme for IT Professionals and the Retail Investment Advisor scheme). There are also other schemes less related to safety or security but clearly standard driven (eg the Painters and Decorators Association). In each case interviewees felt the scheme had played, or was playing, an important part in ensuring or raising standards of work in the sector.

Interviewees also spoke of some of the drivers that could act to reduce standards and to which schemes could potentially be vulnerable:

- Pressure (eg from employers but potentially also others)[45] to allow alternative routes of entry that are easier.

- Training providers seeking to increase their market share via the lowering of standards to provide shorter, cheaper training to greater numbers of prospective candidates.

- Legislation that undermines the operation of the scheme through imposing a lower standard than that which is the (voluntary) norm in the sector.

- A lack of penalties for those who are not members and/or not regulated.

- Problems of diverse communities of interest which are difficult to reconcile with a common scheme or through common standards.

- A scheme that is oversupplied with labour can result in prices and skill standards being driven down.

- A lack of recognition by customers of the 'kitemark' or other standard can mean they opt for cheaper, non-regulated competitors.

---

[45] We heard of other trades wanting to be able to widen their portfolio to include the activities of a regulated occupation and thereby lobbying for easier access arguing that they already possessed much of the relevant skill set.

It would seem that the role of schemes in improving those aspects of performance, that are concerned with the quality of work or the safety of consumers, is generally supported by a wide range of interviewees.

5.3.3 Raise status

For some the drive to regulation is related to a desire to raise the status of the occupation or individuals within it. With voluntary occupational regulation schemes, becoming qualified or a member sends a message to colleagues and clients that the individual, occupation or organisation is seeking to differentiate themselves on excellence. This might be important for marketing purposes (eg it might help individuals find new or better jobs and/or help organisations attract clients). In one of our case study examples, an employer was very clear that engagement with the scheme had been driven by an organisational desire to demonstrate to clients that their work was of a good enough quality to gain membership. This differentiated them from other suppliers. Occupational regulation may also arise from a desire to raise the general standing of the occupation, to attract those who are interested in a career with progression opportunities and status. Several regulators mentioned status as an important outcome for their scheme.

Our employer survey lends some support here with just over half of employers feeling that their scheme helps customers identify a quality organisation and over 70 per cent believing it improves the image of the occupation and the organisation itself (see table 5.1 below).

Table 5.1   Employer survey respondents views of status benefits (n=166)

Item	% Mandatory	% Voluntary	% Total
Easier for customers to identify a quality company	41.2	53.7	52.4
Improves the image of the job	64.7	71.8	71.1
Improves the image of the organisation	70.6	74.5	74.1

Source: IES, 2013.

5.4   Impact on Employees

In this section we explore what difference schemes make to employees, in terms of their experience of initial entry to the regulatory arrangements maintenance (where relevant) of their regulation or membership, the support they were given by their employer, the impact on those who have left the occupation, the impact on ease of access to work and, finally, the wage effect of schemes.

5.4.1 Experience of becoming regulated

Employee survey respondents were asked how much difficulty they experienced in becoming regulated, and/or in maintaining scheme membership and whether the fees or any other costs associated with regulation caused them any difficulties.

Becoming regulated

Employees' views of the difficulties they experienced in becoming regulated are shown in Table 5.2 below.

Table 5.2   Employee survey respondents' views of difficulties experienced in becoming regulated (%) (n=255)

Level of difficulty	Gaining skills to become regulated	Paying fees	Affording costs
High	9	7	16
Medium	24	18	21
Low	18	27	19
None	39	39	26

Note: Columns do not add up to 100; remaining percentages due to 'don't know' or not answered.

Source: IES, 2013 (remainder don't knows or not answered).

The majority of employees (57 per cent) said that meeting the skills required to become licensed/accredited/certificated or registered, had caused little or no difficulty which suggests that the required skill levels are not too high.

While the majority of employees (66 per cent) felt that paying membership fees constituted little or no personal difficulty just over half (55 per cent) also said that other costs associated with joining a scheme were a barrier to entry to the scheme.[46] This suggests that while most of the respondents felt that fee levels are set at a level that was acceptable to them, the costs could cause problems for other people wishing to join the scheme. More employees from mandatory schemes (60 per cent) said that the cost of joining constituted a barrier to entry than did employees in voluntary schemes (28 per cent). This might reflect the greater degree of sensitivity demonstrated when setting cost levels for voluntary schemes to ensure individuals and/or employees support them whereas mandatory schemes may be able to charge more. It is unlikely to reflect levels of employer support, in terms of picking up the cost of fees, as a greater proportion of those from voluntary schemes said they received support with costs (46 per cent compared to

---

[46] Costs could include such things as membership fees, training costs, registration fees, exam fees and unpaid time off of work.

33 per cent of those from mandatory schemes). Again this may be because employers in mandatory schemes are relying on individuals wishing to work in that occupation being more willing to achieve and maintain the relevant level of skill.

Over a third of employees across all schemes felt that other costs, associated with the scheme, constituted a medium or high level of difficulty in becoming licensed/accredited/certificated or registered (37 per cent). This too was much higher amongst employees from mandatory schemes (see Figure 5.5).

Figure 5.5   Employees' level of difficulty in meeting costs to become licensed/ accredited/certificated or registered (n=255)
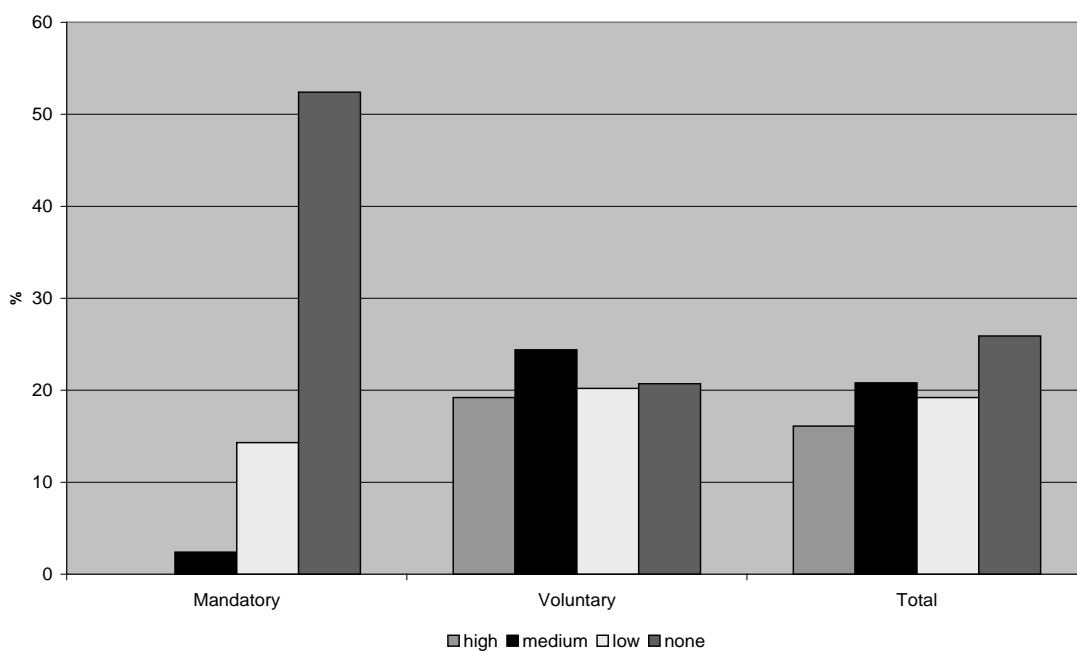
Source; IES, 2013.

Maintaining regulation

Table 5.3, below, shows employees' views of any difficulties encountered in maintaining their membership of the scheme (of those for whom these aspects apply). Compared to Table 5.2 which shows the level of difficulty in initially becoming regulated this suggests there is greater difficulty in paying ongoing fees and less difficulty in meeting other costs (in part this might be because these latter costs diminish as exam and regulation fees tend to be front end loaded).

Table 5.3   Employee survey respondents' views on difficulties in maintaining membership (%) (n=90)

Level of difficulty	Meeting CPD skill requirements	Paying fees	Affording other costs
High	18	11	12
Medium	27	26	18
Low	21	29	23
None	23	23	31

Note: Columns do not add up to 100; remaining percentages due to 'don't know' or not answered.

Source: IES, 2013.

Regarding the maintenance of scheme membership, of those in schemes with a CPD requirement, virtually the same proportions of employees (45 per cent) said that meeting the CPD skill requirements was moderately or very difficult (i.e. those who answered 'medium' or 'high'), as said it caused no or low levels of difficulty (44 per cent). There were few differences between respondents from voluntary and mandatory schemes except those from mandatory schemes were more likely to experience medium difficulty in meeting CPD requirements (see Table 5.4).

Table 5.4   Employee respondent' views on difficulties in meeting CPD requirements (%) (n=90)

Level of difficulty	Mandatory	Voluntary	Total
High	18	18	18
Medium	38	18	27
Low	21	22	21
None	23	23	23

Note: Columns do not add up to 100; remaining percentages due to 'don't know' or not answered.

Source: IES, 2013.

A slight majority of employees (52 per cent) said that the fees constituted no or little difficulty for them in maintaining their membership. However, those who experienced a high or medium level of difficulty were more likely to be employees in mandatory schemes than in voluntary schemes (46 per cent of mandatory scheme respondents versus 29 per cent voluntary).

A similar proportion (54 per cent) said that other associated costs caused no or little difficulty in maintaining membership. It is worth noting that no member of a mandatory scheme said that the associated costs had caused a high level of difficulty for them in maintaining their membership which suggests that those in mandatory scheme have less difficulty in meeting non fee based costs. It is not immediately obvious what might explain

this pattern of results unless those in mandatory schemes are less likely to incur ongoing costs or to do so at a lower level compared to voluntary schemes.

Overall, the survey results suggest some employees experience moderate levels of difficulty in maintaining membership. The main issues appear to be the requirements for CPD and the costs of membership fees.

5.4.2 Forms of support

The range of support provided to employees to meet the initial requirements of regulation, were reported by both employers and employees; these are shown in Table 5.5 below. The most common form of support is paid time off, followed by on-the-job development, mentoring/coaching and the covering of all fees. These were all more common than partial support models (eg covering some fees or giving unpaid time off) which suggests that employers are relatively generous in their support.

For most forms of support, employers are more likely to say they provide support than employees say they receive it[47]. This applies to paid and unpaid time off, on-the-job development, and mentoring and coaching. The one exception is that employees were more likely to say their employer paid all their fees.

Table 5.5   Forms of support provided to employees in meeting the initial requirements of regulation

Form of support	% employers say they provide N=31	% employees say they receive N=113
Paid time off	70	47
On the job development	55	37
Mentoring/coaching	53	25
Covering all fees	46	60
Covering some fees	40	18
Unpaid time off	23	14

Note: multiple response item; responses do not sum to 100 per cent

Source: IES, 2013.

These differences of view between employers and employees are even more stark when we consider the support offered to maintain membership or other regulatory requirements (see Table 5.6). Almost three quarters of employees stated they themselves covered the

---

[47] Whether this is the case because employees are not fully aware of what support their employer offers cannot be substantiated as this issue could not be probed in the survey.

costs of meeting ongoing requirements of regulation, whilst only 19 per cent of employers felt that to be the case. In contrast the majority of employers (over two thirds) said that they covered the costs of meeting ongoing regulatory requirements while just 14 per cent of employees said that their employer bore the costs. As for similar differences in view on support, in meeting the initial requirements, it is difficult to say with any certainty why this might be the case but there are several potential explanations. It may be that employees are not fully aware of the support that is on offer and therefore do not take advantage of it, employers may be more aware of costs they bear than are their employees and vice versa. Each may be bearing and reporting costs they are paying but these are invisible to the other. It may also be the case that employers refer to a 'best case' scenario (ie they think of those for whom they provide greatest support whereas employees call on their personal experience in their responses).

Table 5.6   Who covers the costs of maintaining membership/regulation?

	Employee respondents (%) N=113	Employer respondents (%) N=22
Individual pays costs	74	19
Employer pays cost	14	68
Other arrangement	12	10

Note: Columns do not add up to 100; remaining percentages due to 'don't know' or not answered.
Source: IES, 2013.

5.4.3 Scheme-related employee turnover

Respondents were also asked if any staff had left the organisation because they could not acquire the skills required by occupational regulation. Around a fifth of employers (19 per cent) thought they had. When asked why they could not acquire the necessary skills, a majority of those employers (55 per cent) said it was because the individual had not wanted to make the effort needed to reach the standard, while 52 per cent said it was because they had not been able to reach the required standard.[48] Around a third of employers (34 per cent) said it was because the individual did not have time to train and around one in five (21 per cent) because the individual could not cover the costs of regulation. Given that the majority of employers attributed staff departure to a lack of ability or willingness to raise their skill levels it is perhaps not surprising that most felt that the departure of these people from the occupation had been a positive thing (76 per cent).

---

[48] Multiple response options for this item means percentages do not sum to 100 per cent.

Some 39 per cent of employees in mandatory schemes said they believed that colleagues had left because they could not meet the skill requirements. No respondents within voluntary schemes said that this had happened which is as expected as employees do not need to meet skill requirements to continue to practice. Of those employee respondents in mandatory occupational regulation schemes, who believed that colleagues had left because of the introduction of the scheme, the majority (85 per cent) felt that their departure had been a positive thing.

5.4.4 Access to jobs

The pattern of responses from interviewees on this point was quite mixed. One of our employer interviewees spoke of the 'weight' carried by the qualification, associated with a scheme, and agreed that acquiring it carried a cachet. Another employer from the same scheme, who held the qualification, said that it had been the passport for him to an international career.

Employers, who supported a particular accreditation scheme, said that whilst the recognised qualification did not give any advantage on recruitment, over and above those candidates who did not hold the qualification, it did provide advantages when it came to career progression. In contrast, another accreditation scheme had such high levels of acceptance amongst some employers that the associated qualification was considered essential for either recruitment to, or progression into, relevant jobs. However, this same scheme had much less support from another group of employers (from a specific sub-sector), who were far less likely to value the qualification. Therefore it did not affect either their recruitment or promotion outcomes. So even within the same regulated occupation there generally can be polarised views amongst different sub-groups of employers.

While employee survey respondents believed such schemes made employers more likely to recruit qualified staff, few employer survey respondents said that it had impacted upon their recruitment behaviour. Employees generally felt, where such schemes were in place, that employers were more likely to recruit qualified staff (82 per cent) and around half of the employee respondents also believed that being licensed/accredited/certificated or registered helped employees to gain work (52 per cent). However, 45 per cent of employers said it made no difference to their recruitment behaviour, with only a quarter (24 per cent) saying that they would only recruit those licensed/accredited/certificated or registered. Some 26 per cent said they would consider recruiting those who were not yet qualified but who had the skills to become so.

It might be expected that this would be one issue for which there would be a marked difference between those in mandatory and voluntary schemes. While more of the

employers in sectors with mandatory schemes said they preferred to recruit qualified individuals (26 per cent) compared to those with voluntary schemes (14 per cent), contrary to expectations a larger proportion of the employers in sectors with mandatory schemes also said they had no recruitment preference (46 per cent) than did those in voluntary schemes (38 per cent) This pattern of response proportions (ie, more of the respondents from mandatory schemes giving both positive and negative responses) is explained by the fact that a quarter of employers in voluntary schemes said that they preferred to recruit people if they have the necessary experience to become qualified compared to just 2 per cent of employers in mandatory schemes giving this response.

Much higher proportions of employees believed the schemes affected employer recruitment behaviour. Nonetheless, the distribution of responses from employees in mandatory and voluntary schemes is similar to those seen with employers. More employees in sectors with mandatory schemes (86 per cent), than those in voluntary schemes (74 per cent), believed that employers preferred to recruit individuals who were already members of relevant regulatory schemes or qualified staff, which is as we would expect. In line with this, while 19 per cent of respondents from voluntary schemes thought it had no impact on employer recruitment, just 12 per cent of those from mandatory schemes said this.

It may be that the difference in view between employers and employees is because our employee sample was made of individuals already qualified or licensed/accredited/certificated and who rely heavily on their own personal experience in being recruited.

5.4.5 Impact on wages

Evidence of an impact on wages was mixed. Just over half of employer respondents felt that wage costs in the occupation had increased (51 per cent), whilst 37 per cent felt they had not (those from mandatory schemes were more likely to say so (Figure 5.6). Employee respondents were evenly split as to whether the scheme had increased wages in the occupation, with 43 per cent of respondents saying it had and 43 per cent that it had not.

However, when employees were asked more directly if their own wages had increased after they became licensed/ accredited/certificated slightly more (51 per cent) said that they had, compared to 44 per cent who said they had not. Employers were similarly split when asked specifically if they had different arrangements for paying staff, whilst they were working towards their membership of an occupational regulation scheme. Just under half (49 per cent) said that their employees were paid less whilst obtaining

membership or at least until they met regulatory requirements. However, 43 per cent said their staff were not paid any less during this preparatory period.

Figure 5.6   Employers - did the introduction of the scheme/qualifications increase wage costs for your organisation? (n=166)
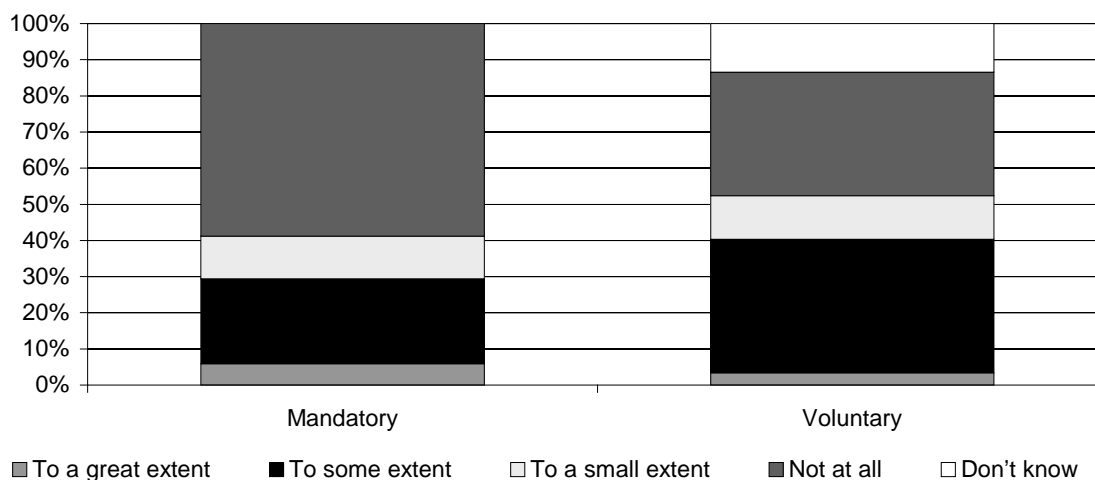
Source: IES, 2013.

5.5   Employers' perceptions of scheme benefits

In Chapter 4 we reported how it was important for many schemes to be seen to be providing something of value to employers. While benefits may be associated with membership they may be tangential to the scheme itself. For example, some schemes offer their members insurance or pension schemes, discounts on products or training, membership discounts or benefits with other affiliated organisations, legal helplines or other forms of support etc. Several act as a source of marketing to potential customers by naming members on websites and other materials (and in doing so provide assurance that members have met certain standards of quality)[49] thereby allowing members to brand themselves as belonging to the scheme and providing contact details for potential customers.

Benefits can also include access to highly tailored training and development that is not widely available elsewhere and sometimes at reduced cost due to economies of scale in purchasing training. Scheme organisers can be well-placed to provide workforce development opportunities or create qualifications that are tailored to requirements; however, some schemes may consider this to be a conflict of interest.

---

[49]   For example see the Society of Dyers and Colourists' list of Chartered Colourists at http://www.sdc.org.uk/filemanager/root/site_assets/documents/general_documents/chartered_colourists/professionally_active_chartered_colourists_october_2012.pdf

It is also important that accrediting bodies are able to safeguard their schemes and their members from bogus traders. For example, Gas Safe Register will prosecute those whom it discovers to be trading unlawfully (ie, claiming to be Gas Safe registered when they are not).

These will be of little utility if they are not recognised and valued by employers. The extent to which employers and employees recognise these benefits is explored further in the following sections.

5.5.1 Benefits of the schemes

Our employer interviewees were generally supportive of the occupational regulation schemes they were associated with and believed that they brought benefits. One organisation, which had joined a voluntary skilled trade scheme, had found it conferred increased credibility for his company amongst clients and potential employees. Membership also provided a useful source of information and advice. This same employer made less use of some of the tangible benefits, such as discounts, training and networking opportunities but believed that they would do so more in the future. Another employer in the same scheme believed it bought major benefits of assisting with training in the sector and facilitating access to work.

In another scheme a longstanding qualification was well understood in the sector and was viewed by many employers as bringing the benefits of widespread recognition and trust in the quality of the standard. Some employer interviewees were positive about this as they felt it made recruitment decisions easier. However, other employers in the same scheme felt the qualification needed to be amended to reflect changes in the occupation. This lack of consensus made such change problematic.

Employers, who supported another longstanding scheme, spoke of how recent work to widen access to training and qualifications by the regulatory body, had enabled them to engage and train much younger employees than they had previously employed. It also assisted in developing succession plans for key roles in that there were now a wider selection of potential replacements. Some of these employers had also been able, with the support of the regulator, to expand their business into new technical areas and start working with employers to create appropriate training programmes.

One of the drivers for mandatory schemes was consumer safety and the evidence from our case studies is that it meets that aim, through upskilling, raising the status of the occupation and removing rogue traders.

Employers and employees were asked about a range of other potential benefits of such schemes and their responses are shown in Table 5.7. Fewer employees were positive about the impact of such schemes on the image of their organisation than were employers. Conversely more employees were favourable about the positive impact on the ability to recruit qualified staff.

Table 5.7   Employer and employee views on benefits of schemes

Perceived benefits of the scheme	Employers % respondents agreement (n=166)	Employees % respondents agreement (n=256)
Improves the image of the organisation	74	52
Improves the image of the job	71	52
Improves quality of goods and services	67	68
Makes it easier to recruit appropriately qualified staff	48	71
Increases efficiency	39	39
Increases employee engagement	37	50
Raises productivity	28	33

Note: multiple responses means that numbers do not sum to 100 per cent

Source: IES, 2013.

Employer survey respondents were evenly split as to whether the scheme had made it easier to find competent people with the necessary skills to do the job – 48 per cent believed it had and 42 per cent believed that it had not. This can be considered alongside survey responses on recruitment behaviour where 45 per cent of employers felt their recruitment behaviour had not changed (section 5.4.4). This suggests that many employers, whilst not insisting on qualified applicants, do find it easier to find good people. A greater proportion of employees (71 per cent) than employers believed such schemes had made it easier to recruit qualified people.

Employers in mandatory schemes were more positive about a range of benefits. They were more likely to believe their scheme:

• improved customer safety (75 per cent versus 47 per cent of employers associated with voluntary occupational regulation schemes);

• raised the skill levels required to do the job (83 per cent versus 33 per cent); and

• helped employers to find appropriately qualified staff (58 per cent versus 19 per cent).

Employers in mandatory schemes were also more likely to say the scheme had improved:

• the image of the job (81 per cent versus 53 per cent of employers associated with voluntary occupational regulation schemes);

• the quality of goods or services (79 per cent versus 47 per cent);

• efficiency (52 per cent versus 16 per cent);

• productivity (38 per cent versus 10 per cent); and

• employee engagement (44 per cent versus 22 per cent).

In figures 5.7 and 5.8 below we summarise employers' and employees' views on the benefits of the schemes.

Figure 5.7   Employers' views of benefits of regulation (n=166)
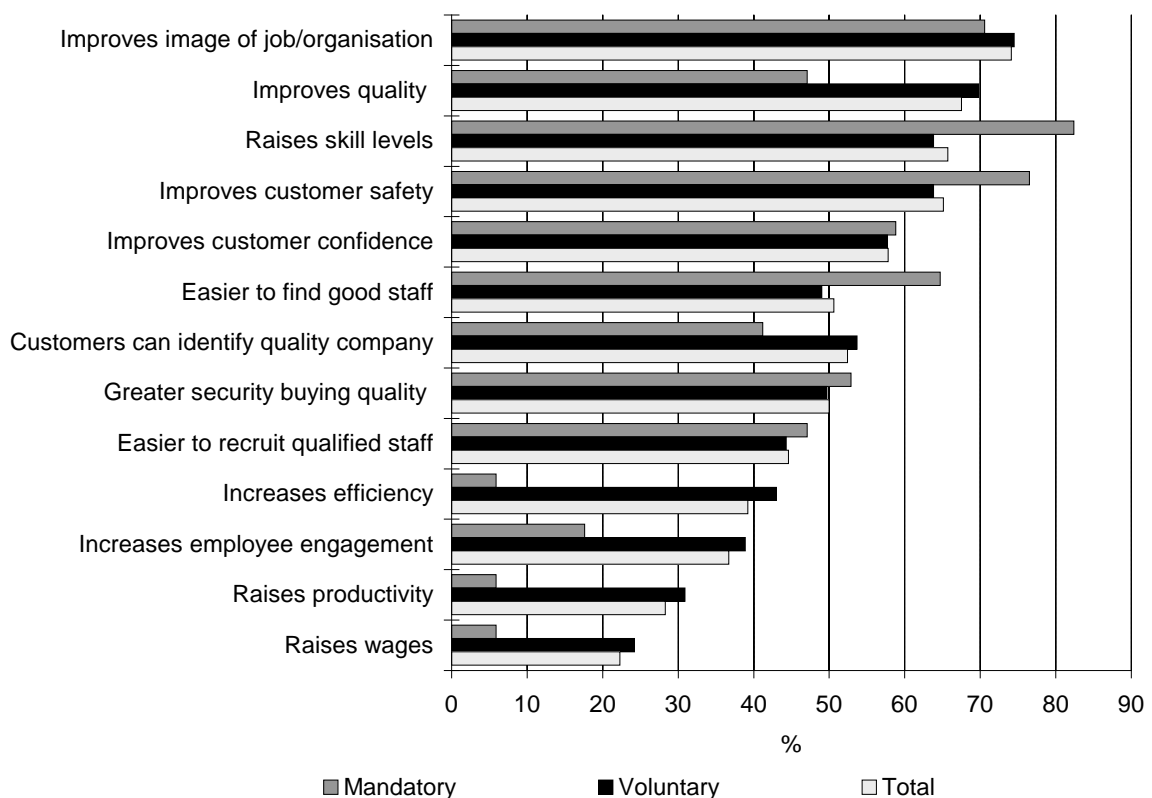
Note: multiple responses means that numbers do not sum to 100 per cent
Source: IES, 2013

Figure 5.8 **Employees' views of benefits of regulation (n=256)**
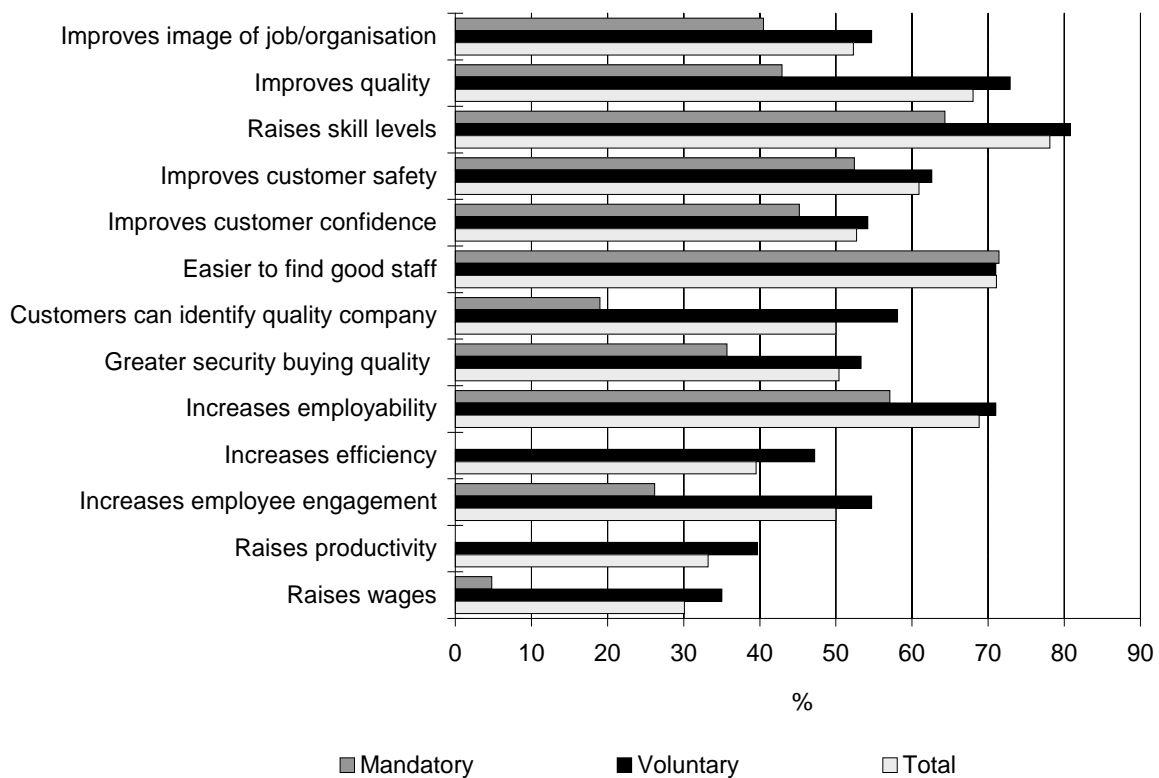
Note: multiple responses means that numbers do not sum to 100 per cent

Source: IES, 2013.

5.5.2 Concerns

Cost

Sometimes the impact on employers has not been universally positive. We were told of employers withdrawing from schemes where they felt that the costs (predominately financial) outweighed the benefits or the scheme did not meet their particular needs. If the scheme is mandatory such withdrawal may mean withdrawal of that service from their portfolio of work.

Scheme influence

Voluntary schemes can face challenges in securing sufficient commitment from potential members to begin to achieve critical mass and make a difference. One employer spoke about how the voluntary nature of their scheme meant that it had less impact than they would like to see on issues such as consumer confidence and safety. Ideally they would like the scheme to be based on occupational licensing, the strictest form of occupational regulation, as this would have an important role in eradicating those unqualified practitioners who were endangering customers with poor work. This interviewee felt the lack of a mandatory scheme also meant there was demand for short courses, driven by a

desire to conduct the least training possible, even though these courses were not sufficiently in depth to raise standards. This highlights some of the undesirable effects of not regulating more formally. In this case organisations tended to under-train as they did not want to incur training costs to reach a standard above that common in the industry. Poaching of qualified employees was also a problem exacerbated by these low levels of training and also by an ageing workforce, where departing staff were not being replaced because of a lack of investment in new employees.

External support

Employers from two very different voluntary schemes both felt that some key actions could make a significant difference in the adoption of their schemes. These comments were made in the context of their concerns over the (low) level of adoption by employers in the industry. This can affect the success of schemes indirectly as well as directly, as a critical mass of members needs to be maintained if the behaviour of employers, employees and customers is to be influenced. In both cases employers highlighted the potential pressure that government could bring to bear when offering procurement contracts for goods or services in their occupation. Both felt that procurement exercises could explicitly ask about how the organisation secured professional standards: for example, one of these employers, who was also a supplier to the public sector, would like procurers to explicitly ask about apprenticeships and their level of engagement with them. They felt this would quickly influence employer behaviour.

Demand for development

Another issue raised during the interviews was the possibility of demand for skills development falling below a commercial level. Organisations from two quite different occupations touched on this issue. In one occupation the sector had declined to the point that there were no commercial training programmes available. Two solutions had been attempted.

One attempt at resolving the problem had been development, by the relevant SSC, of a broad-based apprenticeship which might meet the needs of a cluster of loosely affiliated organisations and deliver elements under a broader framework. The possible downside to this approach was that employers may feel provision is too generic and insufficiently tailored. In the second of these potential solutions, the regulating body was exploring the provision of low cost training programmes more specifically tailored to employers' needs than an apprenticeship. However, this approach encountered difficulties in persuading different employers what a common course or programme would look like. Interestingly, in this case, the difficulties of finding appropriate development for new potential entrants to the industry was now acting as a constraint on the nascent re-growth of the industry.

We heard from several employers in the UK textiles sector (a skilled trade scheme) which had reinvented itself and had moved towards a niche market, an example of which was the production of more expensive fabrics such as tweeds. However, employers were struggling to find well-trained and qualified employees. In another sector a decline in demand for the services of a regulated occupation has meant a reduction in the demand for training to develop people to the appropriate level. Although not yet at the point of being commercially unviable, providers did mention the fact that the impact on their training numbers which might ultimately lead them to review their offer.

Uncertainty of outlook

Insufficient demand for an occupation affects more than just training providers and can result in considerable concern for employers, especially where individuals or employers have expended particular effort and/or cost in seeking to achieve the demands of regulation. One occupation, which was regulated by a mandatory scheme, had seen quite a steep decline in demand, associated in part with the recession. But the problems this caused had also been exacerbated by the initial marketing of the scheme as an opportunity to make money. This led to high levels of interest and labour over-supply.

Another mandatory scheme had recently been revised for consumer protection purposes with the result that many current service providers need to upskill. But this sat alongside other regulatory changes which had brought uncertainty regarding the future level of demand for services in that sector. Although shifts in mandatory schemes are sometimes supported by employers, in terms of the beneficial impacts on the occupation or the client, they can also bring higher costs to employers and the scheme operator, including (potentially) training and development, the employment of agency and temporary staff to cover any staffing shortfall, potentially additional costs for new IT systems to support membership and any costs associated with changing the business model.

Setting the right skill level

Identifying the correct skill level can be another challenge for regulatory bodies. For a number of professional occupation schemes their regulatory bodies emphasised relatively high levels of training requiring a qualification. Regulatory bodies can come under pressure from stakeholders either to increase or indeed, decrease the level of qualification. In some of the occupations, our regulatory body interviewees spoke of pressures to increase the level of qualifications; either for greater credibility or to enhance service to customers. Status considerations tend to push towards higher qualifications. For example, in one occupation employer pressure had led to the phasing out of a diploma level qualification in favour of a degree level one. In contrast, other occupations that demand quite high level qualifications could experience pressure to provide an alternative, lower level qualification to support other entry streams or to engage with different kinds of employees. Several schemes had engaged in major consultative exercises to try to better align the scheme to current employer needs or to act as a platform for change.

Survey responses

Employer survey respondents were asked if they had any concerns regarding the implementation of the scheme in their occupation and, if so, what these were. They were also asked if any of these concerns remained. Responses are shown in Table 5.8 below.

Table 5.8   Employer concerns over schemes

Nature of concern(s)	Initial concerns % respondents (n=154)	Respondents for whom these concerns remain % respondents (of those who had initial concerns) (n=111)
Costs to business	31	31
Increased costs of training	21	2
Bureaucracy	20	17
Problems getting staff qualified in time	19.5	n/a
Skills shortages	18	21
Concerns over inspections/compliance regimes	12.3	12.6
none	37	n/a

Note: multiple responses means that numbers do not sum to 100 per cent. Source: IES, 2013.

The issue that caused the most initial concern for the largest group of employers was the overall cost to their business, with nearly a third of responses raising concerns about costs before they engaged with an occupational regulation scheme and then afterwards, in their ongoing engagement. Employers from mandatory schemes were generally more concerned initially over costs (47 per cent versus 29 per cent of voluntary occupational regulation scheme respondents) and bureaucracy (29 versus 19 per cent) than were those with voluntary schemes.

Around a fifth of employers were also concerned about the cost of training, the bureaucracy of the scheme, problems in getting staff qualified in time and skill shortages. When asked what concerns remained, concerns over costs, bureaucracy and skills shortages were raised, as were concerns over inspection regimes for a minority of respondents. However concerns over increased cost of training have subsided as schemes bed in.

5.6 Impact on customers/clients

All schemes would argue that they are good for customers as they raise standards, increase confidence and safety and create a more skilled and professional cadre of operatives. The purpose of this research was not to use quantitative techniques, to rigorously test the veracity of such claims or to conduct an economic analysis of the costs of regulation, and the degree to which they raise costs or reduce choice for customers or clients. But these issues were explored, to a degree, through the qualitative research undertaken for this project. They are examined through the views of our interviewees and survey respondents below.

5.6.1 Trust, safety and confidence

For those occupational regulation schemes, which were designed to improve consumer/customer trust, safety or confidence, the scheme providers were strongly of the view that their respective occupational regulation scheme acted to provide safety and security to customers. Depending on the focus of such schemes, each is designed, to varying degrees, to ensure an occupation is conducted in an ethical and/or competent manner. For several of the schemes we examined this was an essential part of the rationale behind the introduction of the scheme. As a consequence, proponents argue that consumers/customers are safer; they can be reassured that they are purchasing quality services/products which are appropriate to their needs. Furthermore, interviewees managing occupational regulation schemes argued that consumers would potentially be more willing to engage with the occupation over the longer term.

Both employer and employee survey respondents also felt that their respective regulation scheme brought a range of benefits to customers in terms of increased safety or being better able to identify quality suppliers (see Table 5.9 below).

Table 5.9   Employer and employee views on benefits of schemes for customers

Benefits for customers	% employer respondents (n=166)	% employee respondents (n=256)
Improves customer safety	65	61
Improves customer confidence	58	53
Provides security buying a quality good/service	50	50
Easier to identify a quality company/organisation	52	50
Eliminates rogue traders	Not asked	45

Note: multiple responses means that numbers do not sum to 100 per cent.

Source: IES, 2013.

A larger proportion of employers in mandatory schemes felt that the scheme had improved customer safety (76 per cent versus 64 per cent of those in voluntary schemes) and a slightly greater proportion felt the scheme provided customers with greater security regarding quality of the goods or service they are they are buying/using (53 per cent versus 50 per cent). A larger proportion of employers in voluntary schemes, compared to those in mandatory schemes, believed the introduction of the scheme had made it easier for customers to identify a quality company (54 per cent versus 41 per cent).

We were also interested in whether the regulation scheme had changed the experience of the service/goods in the eyes of customers, which might be proxied by complaint levels. While the majority of employer respondents (61 per cent) felt that the scheme had not affected the number of complaints, some 16 per cent did feel that complaints had decreased. A fifth of employers in sectors with mandatory schemes said that complaints had decreased, compared to seven per cent in voluntary schemes. Employee respondents were less clear on this point: almost half (46 per cent) did not know, 30 per cent felt there had been no change and 21 per cent said there had been a decrease.

Overall then, the findings suggest that mandatory schemes are delivering customer protection as might be expected but also creating clarity around skill levels, whilst voluntary schemes are impacting on quality (both of employee and outcome) and customer confidence. That is not to say that all stakeholders thought their schemes were necessarily perfect and we heard several comments to the effect that things were good but could be improved. Suggestions for improvement included more rigorous application of standards, or pursuit of illegal or rogue traders, better drafted regulation etc. Nonetheless the majority of interviewees believed their scheme to be at least a good starting point for further progress.

5.6.2 Disbenefits

One of the effects of higher skill standards imposed on an occupation by a mandatory scheme is that it may sift out those who are unable to meet the qualification. We have seen that survey respondents generally thought that the loss of those who had not achieved the relevant standard for regulation was a good thing for the occupation. But there were mixed views from interviewees as to whether this was a good thing or not from a customer perspective. Obviously losing those who are incompetent will not be a loss to customers. But the loss of those who are unqualified is not the same thing and can have knock-on disbenefits to customers such as:

- inability to access the service because of fewer providers;

- rising costs because of fewer providers; and

- rising costs acting to reduce consumer demand, which may have other negative knock- on effects.

These views were generally prompted by schemes raising their skills/qualification standards and potentially disenfranchising a proportion of those previously qualified.

Employer survey respondents were asked if they believed that joining the scheme increased the cost of services/goods to customers; just under half (47 per cent) felt that it did not, whereas 43 per cent thought that it did to varying degrees (4 per cent to a great extent, 39 per cent to some extent). Table 5.9 below shows how this varies between mandatory and voluntary schemes. The key differences are that slightly more respondents from mandatory schemes believed costs had increased to some extent as a result of regulation whereas voluntary scheme respondents were more likely not to know. These differences are what we would expect from universal versus voluntary application.

Table 5.10   The extent to which joining the scheme increased costs for customers (n=166)

	Mandatory (%)	Voluntary (%)	Total (%)
To a great extent	6	4	4
To some extent	47	37	39
Not at all	47	46	46
Don't know		12	11

Source: IES, 2013.

Employee respondents were asked the same question: 51 per cent felt that the scheme had not increased the costs to customers compared to 31 per cent who felt that it had (3.5 per cent to a great extent and 28 per cent to some extent). Table 5.10 below shows how this varies between mandatory and voluntary schemes.

Table 5.11   The extent to which scheme introduction increased costs for customers? (n=256)

	Mandatory (%)	Voluntary (%)	Total (%)
To a great extent	2	4	3
To some extent	2	33	28
Not at all	76	46	51
Don't know	19	18	18

Source: IES, 2013.

In contrast to employers, employees from mandatory schemes were less likely to believe that costs had increased to some extent as a result of regulation.

A lack of customer awareness of the scheme was mentioned by employer stakeholders of several schemes as potentially causing difficulties. If consumers are unaware of a scheme they will not ask whether service providers are qualified and/or licensed/accredited/ certificated and therefore will not exert any purchasing preferences when buying services. Indeed, for voluntary schemes, where accredited or certificated provision is more expensive they may even prefer unaccredited/uncertificated rivals. Due to issues regarding information failure they are also unlikely to be aware of who is a 'rogue trader'.[50] Customer apathy can also be a problem in some areas, where customers

---

[50]   This may change as social media provides greater access to customer views on quality eg Angie's List in the US (see: http://www.angieslist.com/) provides reviews by other consumers of a range of trades (e.g. plumbing) and professionals (e.g. Dentists, lawyers).

insufficiently appreciate or value the benefits of a scheme and so do not drive quality or compliance, or deliberately seek cheaper options.

5.7   Conclusion

This chapter has explored the impact of occupational regulation on the employers and employees working within those regulated occupations.

All schemes are concerned with their reputation and brand image. For mandatory schemes this may be to ensure that clients and, to varying degrees, the general public are aware of the scheme and, therefore, only wish to employ those who are appropriately regulated. For voluntary schemes there is the imperative to actively market to potential members and customers, especially the former, to develop sufficient market share to make the scheme a viable concern.

Our online survey findings indicate the overall majority of employers and employees felt there were low levels of awareness of their respective schemes by the general public. Public recognition is important, not least as they can assist in issues of compliance; and in some cases they can become a potential market for providers of services and products to tap into. Employer and, to a lesser extent, employee survey respondents were more positive about their customers' awareness of their respective occupational regulation schemes.

Regarding both **public and customer recognition**, it was employers from voluntary schemes, not mandatory, who felt their schemes were more recognised. This may be because mandatory schemes, by their nature, do not necessarily have to market as aggressively as voluntary schemes for market share. They have the luxury of having universal coverage, where to practice in the occupation, without being regulated, is unlawful.

Scheme **recognition from other fellow employers** in the market was similarly perceived by employer and employee respondents. Over half in each response group felt there was awareness from other employers towards their schemes. Although lower than expected, just over three quarters of employers in mandatory schemes were likely to perceive recognition by other employers; more than their voluntary counterparts, where half felt the same. Due to their universal nature, it would be expected that more employers in mandatory schemes would perceive that their fellow employers would be aware of the scheme in question.

Moving on to the **impact of occupational regulation** itself, interviewees and survey respondents were generally positive about the effects on their occupation or sector. They felt that skills were set at the right level for entry into the scheme. What is more, they felt

that skill levels had increased and so had the demand for skills. However, a particular caveat to be borne in mind is that the survey did not reflect the views of those who had failed to meet the demands of regulation or who had found such demands a barrier to entry.

There was only limited evidence of the impact of schemes on productivity. Around half of employers believed that **employee productivity** had increased as a result. Employers from voluntary schemes were more likely to agree, with nearly half doing so, compared to over a third of respondents in mandatory schemes. Regarding **organisational productivity**, over a quarter of all employers believed this had been raised by the scheme. Again, those employers in voluntary schemes were more likely to support this, with nearly a third stating so. In contrast, those in mandatory schemes doing likewise amounted to single figures.

All stakeholders believed that regulation had a range of impacts on organisations, employees and customers in the sector. In the majority of cases these impacts are positive. Employers most frequently mentioned:

- improving image of the organisation and job;

- improving quality, skill levels and raising skills;

- improving customer safety and confidence.

6 Considerations for occupational regulation design

Summary

In designing occupational regulation schemes there are some key schematic questions to consider. These will have considerable impact on its performance and success. They are:

- Should the scheme be voluntary or mandatory?

- Should the scheme's focus be on the individual, the organisation or both?

- What role should an assessment of competence play? What should be the requisite skill level(s) for entry and how should it be defined and set?

- Is there a need for membership renewal (and how often)? How this should be enacted and enforced?

- How much should the scheme charge for membership?

- What benefits will the scheme offer?

Key learning points for designing occupational regulation schema

Some of the key learning points identified from the case study findings include: the importance of designing schemes to meet a clearly defined purpose; ensuring careful consideration in setting the right skill level for entry; preparing carefully for any scheme changes, such as 'switching' from a voluntary to mandatory basis; balancing stakeholder viewpoints with the need to reach a conclusion on issues of disagreement regarding design issues; avoiding any potential conflicts of interest at the design stage (e.g. between standard setting and assessment); and ensuing consideration about how to generate industry interest (especially in voluntary schemes).

Common approaches and decision trees to assist consideration

Exploring the forms of the case study schemes identifies a broad typology of common approaches for both voluntary and mandatory schemes. We also establish decision trees which identify the key decision points for potential regulators, from the initial rationale for introducing the schemes, to process considerations, such as renewal mechanisms and considerations of competition, avoiding conflicts of responsibilities.

6.1 Introduction

In this chapter we explore across the various schemes the lessons and learning points that may have wider resonance for others contemplating the introduction of occupational regulation. We particularly focus on issues of design, implementation and governance to highlight options and their implications for others.

6.2 Design and implementation

When schemes are being planned or amended there are some key decisions that are made which will have considerable impact on the scheme. These are:

- whether the scheme should be voluntary or mandatory;

- focus of the scheme (ie on the individual, organisation or both);

- the role that any assessment of competence should play, the requisite skill level(s) and how these should be defined;

- whether there is a need for renewal and how this should be enacted and enforced;

- what the scheme will cost those who are members or who are regulated by it;

- what benefits the scheme will offer.

6.2.1 Voluntary/mandatory schemes

The decision on whether to demand mandatory regulation of a scheme is driven by a wide range of arguments that an unrestricted market would not act to the benefit of consumers (see eg Cox and Foster, 1990). In these circumstances it is judged that there is likely to be some form of market failure (eg where consumers cannot adequately judge the quality of a good or service before consuming it). Market failures arise for a number of reasons:

- Asymmetric information; a situation where it is more difficult for consumers than for sellers to determine the quality of a service offered.

- Externalities; where issues of quality are not just of concern to the immediate consumer but also to the wider population (eg gas safety).

- Dual role of professional as diagnostician and treatment specialist; in such circumstances a professional may both assess need for services and deliver them (eg a dentist), which would enable an unscrupulous practitioner to inflate need.

As a consequence, for one or a combination of factors, consumers may demand the regulation of an occupation, policy makers may decide to regulate to protect consumers or occupations may seek regulation to limit the activities of unscrupulous traders.

However, mandatory regulation is not always wholly in the consumer interest. Regulation tends to drive up skills and therefore can serve to limit the supply of professional services and drive up prices. Therefore, the creation of new mandatory schemes needs careful consideration. In the present political and economic climate government will be especially wary of imposing initiatives that might be construed as adding a bureaucratic burden to organisations. Consequently, there may be less willingness to consider the introduction of mandatory schemes unless there is good reason for doing so (such as evidence of safety risks in the absence of regulation).

Proponents of schemes will also have a view on the kind of regulation which would best meet their needs and, although they may not always have a choice as to whether to make a scheme mandatory or not, may wish to consider the implications of mandatory and voluntary types before deciding what they would prefer. We summarise the 'pros' and 'cons' below (Table 6.1).

Table 6.1   The benefits and disbenefits of schemes

	Pros	Cons
Voluntary	• Voluntary schemes do not require a legal framework therefore it is easier to establish (subject to employer buy-in) and easier to amend to changing labour market conditions or to abolish if no longer needed • Because schemes are less likely to cover the entire workforce and therefore non-compliance is less of an issue, less effort is needed generally on penalties for non-compliance, audit processes etc. • Scheme design can be very flexible • They can test the water of employer/employee engagement and enable organic growth • Voluntary schemes do not have to emphasise public protection/health and safety as strongly as do mandatory schemes. They can prioritise increasing skills to make people more productive and focus on meeting employers' and employees' needs	• Schemes lack legal 'clout' meaning they need more effort to build and sustain • Schemes need considerable focus on marketing, especially to potential members, who may be difficult to reach • Any lack of compliance with the scheme will limit uptake and influence and any lack of penalties will similarly reduce adherence to the scheme • Costs are harder to determine and it is harder to persuade members to pay • It is more difficult to plan strategically as schemes have to fight for a sustainable market share of members, possibly in the face of other competing schemes • Designers will need to consider, promote and possibly create scheme benefits to ensure engagement with sector • Designers will need to ensure the scheme engages with and meets the needs of the widest ranging constituency maximise and ensure

		its viability. This can be difficult in a heterogeneous sector where jobs and roles vary with size, sub sector, the contract of employment, the skills and education of those recruited etc.
Mandatory	• Being mandatory is a major driver of engagement and compliance • Mandatory licensing schemes are more likely to drive up skills and deliver other desired impacts • Non-compliance can be dealt with more firmly	• Designers need to make the case for the mandatory nature of the scheme • Lead in times for implementation are likely to be substantially greater if parliamentary legislation is required • The scheme may lose those from the occupation who cannot meet criteria, which may have positive or negative resultant impacts on the quality supply and cost of labour, client satisfaction etc. • The design of the scheme needs careful consideration to ensure it is appropriately scoped to bring about the intended effect. • Significant changes will be more difficult and cumbersome to make due to its universal application and formal structure.

Source: IES, 2013.

6.2.2 Scheme focus

The majority of the schemes tend to focus on individuals as the holder of qualifications or competencies. Therefore the potential extent of engagement with the scheme is much higher than for firm-based schemes because individuals directly invest their human capital into such schemes. But set against this is the issue that it may take more work to engage with individuals, especially where a scheme is voluntary and individuals are not convinced of the benefits. Assessing whether individuals meet the criteria for engagement may be more straightforward than trying to develop a scheme which is adaptable enough for a differentiated employer base.

However, placing the onus on employers may be particularly helpful with some mandatory schemes as it lays responsibility for compliance with the firm and makes policing the scheme more straightforward. Employers are expected to ensure that their employees meet the demands of the scheme.

For some voluntary schemes it may also be preferable to engage at a firm level and this is likely to depend on the make up of the sector. If the sector has many sole traders, or independent operators then a scheme focused on individuals is more likely to reach

them. If the sector is structured predominantly around larger trading firms then the benefits of a firm-based scheme may be more visible, especially when it is seen as being associated with the entity of the firm in terms of status, reputation and benefits.

Several schemes engage with both the individual and the firm through different membership options. For example, the Society of Dyers and Colourists has individual membership and individually-held qualifications, whilst also offering corporate membership and membership for universities and colleges. A scheme that was being proposed at the time of the case study work was considering offering individual membership or business-sponsored membership for individuals, whereby major employers in the sector would be able to buy multiple memberships on behalf of their staff.

When considering the focus of the scheme, another question for consideration is whether to target all those in the occupation or some subset. This is generally an issue only for voluntary schemes, as mandatory schemes will be very explicit because of their universal application to the occupation or the competence required.

One option is to target activity at those operating at a certain level or having reached a certain standard of competence. This decision is often one driven by the desire to make the scheme aspirational or to raise the status of the occupation and the scheme. Chartership schemes would be typical here where the rationale is explicitly one of **exclusivity**, to attract those who aspire to the top of their profession. Others, however, are driven by a different philosophy where the desire is for **inclusivity**, to make the scheme as attractive as possible to as wide a range of people/firms as possible. In these cases membership may be tiered with different levels of experience and qualification accommodated by different levels of membership. A tiered scheme is unlikely by itself to have an impact on skill levels in an occupation unless it creates the desire amongst its members to progress in membership terms or contains other elements such as CPD.

6.2.3 The role of competence

Perhaps the key dimension that will shape the character of the scheme and its impact is the decision on the requirements that determine if an individual or firm can be considered as a member, and/or can achieve the standard necessary to be regulated. By setting explicit skill levels, schemes have the potential to force up the level of skills in the occupation. However, the key issue here is to ensure that the skill level set is appropriate: if too high existing job incumbents may struggle to achieve the skills required and potential applicants to the scheme may be deterred; too low and skills progression is unlikely to take place (and this could feasibly hold skill levels down). The consideration of skill level is an important point for all schemes, whether voluntary or mandatory. Some of the dimensions to be considered in reaching this decision are:

- Will the scheme set a specific qualification level?

- Will competence be assessed by the passing of an industry-specific exam or test, and if so, who will set the test?

- Will candidates need to demonstrate suitable on-the-job experience?

- Will ongoing checks form part of the scheme through an audit of practice?

- Should the scheme take into account the views of others eg through peer assessment via references, interview etc?

- Will the scheme allow grandfathering of those already working in the occupation and not qualified to the desired level?

Where schemes allow entry at different levels these questions will need to be considered for each level.

Some roles may place additional entry barrier criteria such as possessing suitable insurance, holding a driving licence, passing a CRB check, abiding by a code of practice or having a complaints procedure etc. These are broader judgements of competence than skill assessments.

The rationale for the scheme will also influence decisions about skill and/or qualification level. If a scheme's remit includes an attempt at upskilling in order to protect consumers, this needs to be built into the target level of competence for the scheme and will be key to its operation. If the desire is to upskill for professionalism, ambition or status then graded schemes that provide aspiration and allow gradual progression may be preferable. If schemes seek to set members apart from the bulk of the industry and therefore provide a quality 'brand', setting standards that are above, and remain above, the industry norm will be important.

6.2.4 The need for renewal

In the majority of cases, compliance with the requirements for renewal needs to be considered. All bar one of the schemes we explored required some form of renewal. The one exception was a scheme that accredited a qualification rather than individuals and therefore achievement of the qualification did not need to be reassessed, even though the qualification and the course underpinning it would be periodically revisited.

Criteria for renewal included CPD; re-assessment through examination; specific updating to meet new legislation; audit of work; and a check on H&S competence. Across the schemes CPD is fairly loosely defined, and typically based on inputs (eg a fixed number of hours, attendance at a fixed number of events or the achievement of a number of points) but some schemes have much stricter renewal criteria. In one scheme, members have to re-sit their entrance exams every five years to ensure their skills are up to date and others may have to prove they are competent in terms of changes to scheme requirements by also passing a competence test.

In addition to ensuring the maintenance of standards, an important consideration for regulatory bodies is the fact that membership renewal brings income to the regulating authority and provides an opportunity to ensure that changes can be built in when necessary.

6.2.5 Cost considerations

Costs incurred by those wishing to be members of a scheme or wishing to practice an occupation which is subject to regulation vary considerably. For the individual membership schemes surveyed in this report the costs have varied from as little as £15 per annum (in this case for renewal - initial membership is higher) up to £120 pa. The Domestic Energy Assessor scheme is something of an outlier as costs are incurred per transaction rather than a flat rate.

Organisational schemes vary from £180 pa up to unlimited amounts, depending on the numbers of regulated employees submitted for enrolment, at £50+ per person (see Figure 6.1 for a representation of the spread of costs). On the whole, and as would be expected, individual schemes are less expensive than organisational schemes.

Figure 6.1   The cost distribution of schemes (this figure provides a broad map of the costs of schemes in the case studies)

SDC £5.00 -   £400

CITP £150

ATP £15 - £25pp

ECS £0 - £36

PT £120

PDA £180 -   £1,900

GSR £155   £40K

RIAs £1,000+   £2,388

DEAs £48 -

£15   £120   Costs per scheme   £1,500   £2,400

SDC = Society of Dyers and Colourists

PDA = Painters and Decorators Association

ATP = Association of Travel Professionals

PT   =   Pharmacy Technicians

CITP = Chartered IT Professional

GSR = Gas Safe Register

ECS = Electrical Contractors Scheme

DEAs = Domestic Energy Assessors

RIAs   =   Retail   Investment   Advisors

■ = *costs to individuals*   ■ = *costs to firms*

Source: IES, 2013.

In designing schemes, some of the cost considerations are:

- whether to have application fees in addition to membership fees for new entrants; in some schemes an application fee is levied on new members but not for renewal;

- whether initial membership and renewal fees should be the same, or renewal should be cheaper;

- whether to offer discounts to members of affiliated organisations. Some offer discounts to organisations purchasing membership on behalf of employees;

- whether the schemes should be single tariff, or have multiple tariffs for different kinds of members eg student or corporate.

Most of the schemes considered were based on a single payment regardless of activity, however some operate on the basis of a sliding scale. One of the case study schemes regulating individuals involved payment per related activity and therefore fees are dependent on the quantity of work undertaken. One of the case study organisational schemes charged additionally per regulated individual employed and, therefore, fees are on a sliding scale depending on employer organisation size. Another case study organisational scheme charged according to annual financial turnover bands and so fees were on a sliding scale depending on organisational income.

6.2.6 Benefits

Schemes tend to offer explicit or implicit benefits to members. For some these benefits are extensive and financially worthwhile to at least some members eg insurance cover included in membership. Other schemes trade on softer benefits such as status. Most provide some form of regular update or support through newsletters, websites or telephone helplines.

6.3 Lessons and learning

Whilst on the whole schemes seemed to work relatively smoothly we did hear a number of suggestions for change. It is also common for different stakeholders around a scheme to hold quite different views of its fitness and this plurality of viewpoint needs to be recognised.

- Understanding its purpose will help drive a well designed and sustainable scheme. Several interviewees commented on the importance of being clear about the problem the occupational regulation scheme has been designed to solve, thereby ensuring that all considerations of design flow from that.

- Deciding on the appropriate skill level for the scheme can be difficult. Raising skills levels leads to concerns that individuals will leave the occupation or not seek to join it in the first place. This will have knock-on effects on customers as they have diminishing access to providers of the service. Setting skill levels too low can cause problems and means potential users of the scheme will not value it. Case study occupations that had been in this situation used a mix of expert opinion, setting up working groups, consulting with the sector etc. Trying to uphold a professional standard that is being eroded is also difficult. In one scheme some stakeholders said they did not need the skill level currently required by the scheme (which was too high in their view), and felt their wishes were being ignored. Sometimes this is an issue of philosophy as much as one of qualification level; questions may be asked as to what

is the professional practice that is supported. This is of especial importance where practice is shifting over time.

- Grandfathering (ie where a pre-existing member is allowed to continue to practice, possibly without being required to meet new standards) can be problematic because, although it is generally felt to be desirable by those working in the sector, it does not address the issues of increasing competence levels or consumer safety. The decision as to whether to allow grandfathering is dependent on the balance between consumer benefits, the needs of regulated individuals or organisations and the capacity of the labour market.

- Timing of development, launch and changes to schemes need to be carefully considered. If changes take too long people can be left frustrated at slow progress. Existing members may not react until the last minute which causes administrative problems. The experience of our case studies suggests that some incumbent employees and firms will always miss the deadline. Therefore, while attempting to inform and prepare people for change is important, it should perhaps be recognised that some people will 'miss the boat', no matter what efforts are expended.

- Wide ranging discussion with stakeholders is generally welcomed but can result in the problem of trying to reconcile very differing viewpoints. We heard two examples of this. In one a period of wide ranging consultation - during which very different viewpoints were expressed - resulted in quite firm action by the regulating body. Whilst this met the wishes of some it also upset other stakeholders. In a second example the regulating body was unable to resolve differing viewpoints and had not been able to act decisively. We also heard from stakeholders from occupations where the shape of the sector is changing and regulatory arrangements which had been appropriate previously were in the process of becoming less so. This had not yet led to change but was likely to increase the pressure to do so and thus the need for market testing to re-establish the scheme's proposition in the market.

- Conflicts of interest need to be carefully guarded against. In some cases this has meant separating the standard setting role from the administration of the scheme's regulatory criteria and processes. In others it has meant that membership of a professional representative body is kept separate from membership of the regulatory body (see example of pharmacy in the box below).

Example from the Health Professions: Pharmacy

In the health professions separation of different roles have resulted in a range of bodies with different remits. The Professional Standards Authority (formerly the Council for Healthcare Regulatory Excellence, CHRE) oversees several organisations that regulate health and social care professionals, including the General Pharmaceutical Council. The General Pharmaceutical Council acts to:

- approve qualifications for pharmacists and pharmacy technicians and accredited education and training providers;

- maintain a register of pharmacists, pharmacy technicians and pharmacy premises;

- set standards for conduct, ethics, proficiency, education and training, and continuing professional development (CPD);

- establish and promote standards for the safe and effective practice of pharmacy at registered pharmacies;

- establish fitness to practise requirements, monitor pharmacy professionals' fitness to practise and deal fairly and proportionately with complaints and concerns.

The Royal Pharmaceutical Society is a membership body for pharmacists which:

- promotes pharmacy to ensure pharmacists are recognised within the NHS and wider society, as the experts in medicine.

- make sure the voice of the pharmacy profession is heard in the development of healthcare policy.

- promotes the advancement of science, practice and education in pharmacy.

- provides members with support and development.

- Not all conflicts had been resolved. In one case we heard that companies, forming part of the regulation of an occupation, could also co-ordinate purchases of services from the occupation. This meant that the involved organisations may place downward pressure on rates which was felt to be unacceptable by those in the occupation.

- Consumer or industry apathy is a major problem in getting voluntary schemes off the ground and gaining sufficient support to make them sustainable. The case studies suggested that this had been due to: insufficient resources allocated to marketing; an inability to get all stakeholders on board; or changing market conditions, which had meant that a scheme became less relevant than it had been previously. The recession had hit some schemes harder than others, although some had mentioned that difficult economic conditions can be a catalyst for membership growth, eg if the

scheme is perceived as providing a 'safe haven' and an opportunity to network. Achieving sufficient buy-in to make potential members willing to spend money can be a barrier too. This might mean reducing costs to the lowest possible level, or growing and emphasising the benefits: for example, in one scheme we were told of a product which was legally required but neither well understood nor valued by consumers, who consequently were therefore relatively unsophisticated purchasers. In this circumstance there had been a strong downward pressure on price as the product was perceived as having no value.

- It is vital to uphold scheme standards if they are not to slip and for the scheme to therefore be seen as no longer having an effect. Several stakeholders commented that their particular scheme needed to be stricter on illegal traders or problems of compliance. One interviewee suggested that the body charged with auditing compliance did not know enough about the work (which was complex) to be able to do so effectively. In some cases stakeholders felt that training standards had slipped. Their fear was that unscrupulous providers provided training that was as brief and as low cost as possible.

- Regulators have a range of stakeholders and there may be different views as to who their key stakeholder(s) are. For mandatory schemes this may be government and the consumer or the public, but for voluntary schemes it could be firms and individuals as well as consumer and/or industry representative bodies. Some schemes have had to engage in change programmes when they have allowed the focus to be placed too much on the profession/occupation rather than the consumer and consequently find they need to 'beef up' the scheme in response to customer complaints.

- Competition within regulation may be felt to be desirable but how it is structured is critical. Having several possible regulators within a single scheme - the scheme for Domestic Energy Assessors is an example from the case studies, with DEAs able to choose from a range of possible schemes) - may be expected to introduce more competition and thereby increase efficiency. However, it may also result in inconsistencies and different support systems and advice offered to different parts of the regulated occupation. Having a single regulator, who might have been appointed via a tendering process, can also mean that the brand awareness of the scheme can become associated with that particular regulator. If the regulator changes again due to open tender, this can cause brand confusion if the transfer to another regulator is not dealt with properly. The transference of responsibility for regulating Gas Engineers is a strong case in point. The previous regulator, CORGI, developed

extremely strong brand awareness during its tenure as regulator and is still strongly associated with the scheme despite a new regulatory body taking over in April 2009.[51]
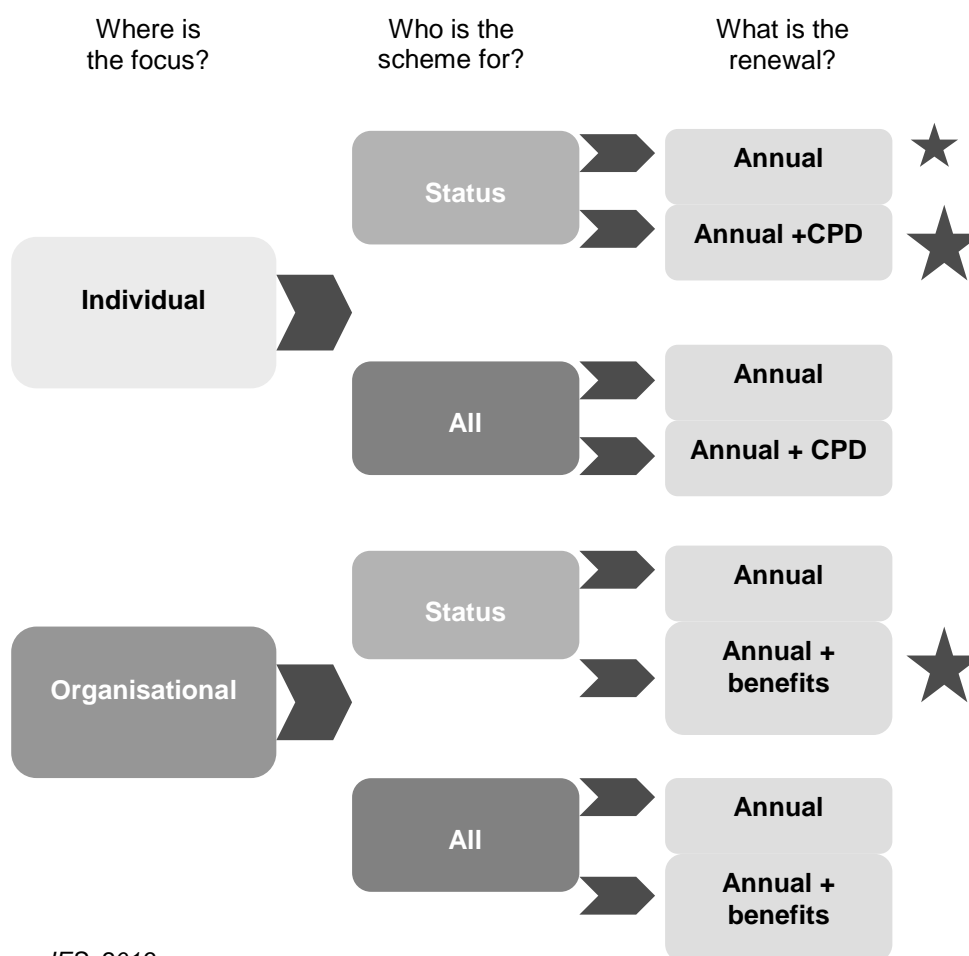
6.4   Models of approach

From our exploration of individual schemes it is possible to identify some different models of approach that would seem to be common amongst schemes. In doing so we have separated out voluntary and mandatory schemes:

6.4.1   Voluntary occupational regulation schemes

In Figure 6.2 below we present a framework distilled from the various voluntary occupational regulation schemes examined as case studies. This shows some of the characteristics of the types of schemes we examined. The first big differentiator is between individual and organisational schemes, the second is between those schemes which try to be inclusive (opening their doors to as many people in the occupation as possible) versus those that try to be exclusive (building their constituency by setting themselves apart in some way). The third main differentiator is the renewal process, in which most schemes seek a regular (normally annual) renewal process but some others make renewal conditional on some other criteria. For individual schemes the renewal criterion is most commonly some proof of CPD. For organisational schemes, renewal may offer some form of benefit in return ie when an organisation renews they receive a benefit, such as access to free or cheaper insurance, in exchange. Explicit tangible benefits are rarely included in individual schemes.

---

[51]   CORGI itself claims that its brand is known by eight out of ten people in the UK. See:
http://www.corgiservices.com/

Figure 6.2   Model of voluntary schemes

Where is the focus?	Who is the scheme for?	What is the renewal?
Individual	**Status**	Annual ★
		Annual +CPD ★
	All	Annual
		Annual + CPD
Organisational	**Status**	Annual
		Annual + benefits ★
	All	Annual
		Annual + benefits

Source: IES, 2013.

In Figure 6.2 we have indicated with stars those combinations which seem to work in practice (with the larger star illustrating the most common routes from our case studies). For example, one of the models that appears quite frequently amongst the case study schemes is a focus on the individual, that emphasises the status differential of those who engage with it, both initially and also through the need for CPD. Equally, organisational, status-oriented schemes that emphasise tangible member benefits is also a fairly common model among the case study examples.

Figure 6.3   Model of mandatory schemes
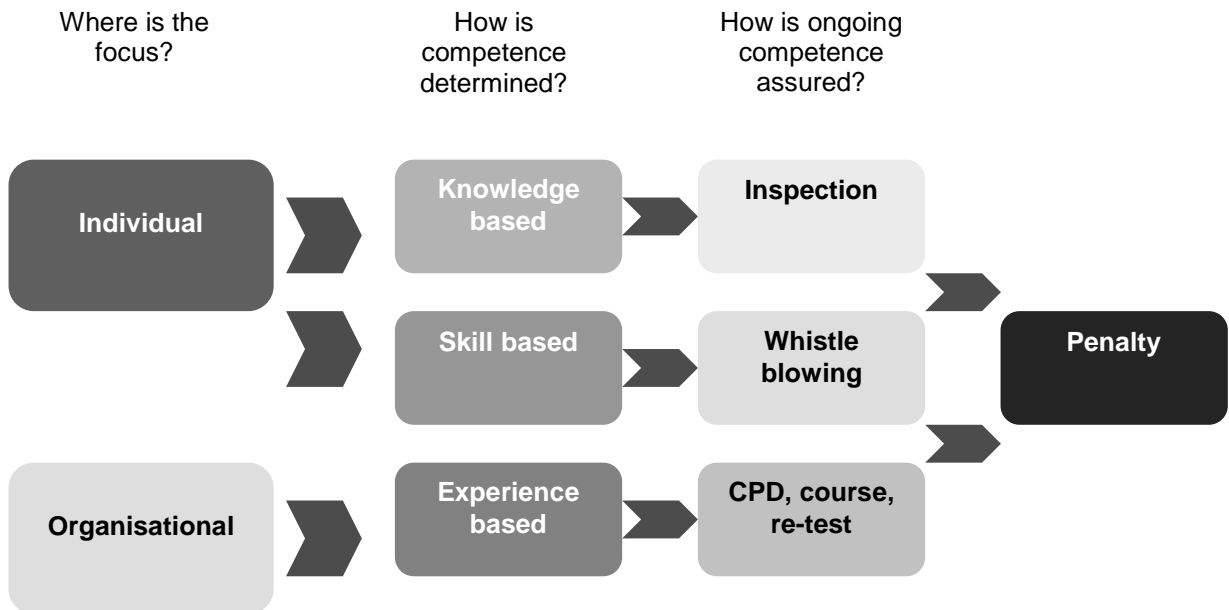
Source: IES, 2013.

In Figure 6.3 above we present a model of mandatory schemes that have set minimum prescribed skill standards (ie licensing schemes and therefore registration is not included) which again shows the common characteristics. As with voluntary counterparts, these schemes are differentiated in terms of their focus on either the individual or the organisation (and for some schemes both). The second differentiating characteristic is their definition of competency and we have seen schemes which regulate for knowledge-based competence, those which regulate for skills-based competence and those which regulate on the basis of experience. In many cases schemes insist on some kind of combination or all three.

The third area of differentiation is a focus on how ongoing competence is assured. Some schemes contain elements of inspection or audit, some encourage a whistle blowing approach from members of the public or members of the occupation[52] and some schemes ask for CPD or mandatory updating of skills or some kind of re-test. Schemes may adopt more than one measure. The frequency of updating varies, with most requiring an annual membership plus some additional periodic competency update procedure at a less frequent interval.

---

[52] For example, some schemes (such as the Gas Safe Register) publish lists of their licensed members, so that members of the public are able to check tradespersons' names against the register on an online database. Members of the public can also complain to the regulatory body in the event of their not being satisfied with a regulated tradesperson's work, and where a
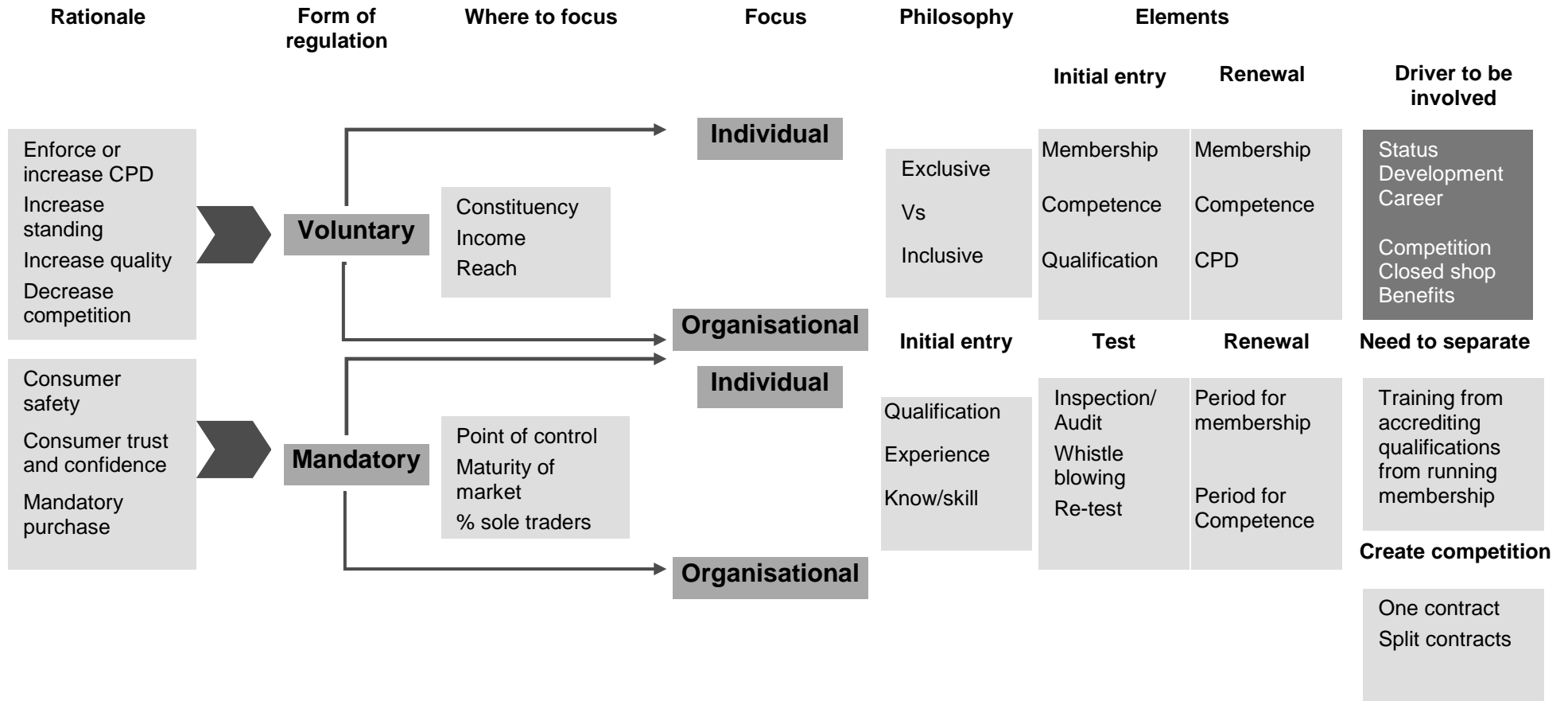
Unlike the voluntary schemes, there were no mandatory models which were perceived to be more successful than others, and this is likely to be because in general, mandatory schemes succeed because they are mandatory. For this reason it is likely that the precise model adopted is a less critical factor, providing appropriate systems and processes are in place to support it effectively. All mandatory schemes also imposed some kind of re-education or penalty for failure to abide by the regulations of the scheme. The Gas Safe Register, for example, publishes a sanction policy which includes the ability to adjust the frequency by which regulated firms' work is audited, depending on a judgement of risk, to 'target inspection resources where we anticipate finding work that might be considered of higher risk'. It also has the right to issue sanctions, such as suspension or removal from the register, apply probationary controls or a penalty fee. The General Pharmaceutical Council also publishes a sanctions policy and states that registrants can be advised and warned. Undertakings can be agreed or cases can be referred to a fitness to practice committee which can suspend, dismiss or place conditions on 'registration' for up to three years.

6.5   Decision tree

When considering the design of an occupational regulation scheme there are various decision points for potential regulators. We have mapped what we see as being the key ones below in Figure 6.4.

tradesperson becomes aware of an unregulated tradesperson claiming to be regulated they can raise this with the regulatory body.

Figure 6.4   Decision points

Rationale	Form of regulation	Where to focus	Focus	Philosophy	Elements		Driver to be involved

					Initial entry	**Renewal**	**Driver to be involved**
Enforce or increase CPD Increase standing Increase quality Decrease competition	**Voluntary**	Constituency Income Reach	**Individual** **Organisational**	Exclusive Vs Inclusive	Membership Competence Qualification	Membership Competence CPD	Status Development Career Competition Closed shop Benefits

				Initial entry	**Test**	**Renewal**	**Need to separate**
Consumer safety Consumer trust and confidence Mandatory purchase	**Mandatory**	Point of control Maturity of market % sole traders	**Individual** **Organisational**	Qualification Experience Know/skill	Inspection/Audit Whistle blowing Re-test	Period for membership Period for Competence	Training from accrediting qualifications from running membership

Create competition

One contract
Split contracts

Source: IES, 2013.

At the start of the model are the drivers that might distinguish between mandatory and voluntary schemes. Factors that drive the development of voluntary schemes are the need or desire to:

- enforce or increase CPD;

- increase professional status or standing in the eyes of the customer;

- increase quality;

- and/or set aside from competition.

Factors that often drive the introduction of mandatory schemes are:

- consumer safety;

- protection of the public

- consumer trust and confidence;

- and/or mandatory purchase (ie, the consumer is required to purchase the good or service and therefore is entitled to a guarantee of quality).

6.5.1 Voluntary occupational regulation schemes

As we have seen, voluntary schemes tend to be motivated by a desire to increase the amount of learning in a sector, or to increase standing either of an entire sector or of some group within it. Alternatively they can be motivated by the desire to increase the quality of personnel or the service itself and sometimes the motivation is to distinguish members from less qualified or lower quality traders.

The next decision is whether the scheme should be aimed at individuals or organisations. For voluntary schemes this decision is likely to be influenced by considerations of the potential regulatory body's natural constituency (ie those with whom they work and work through) and the likely source(s) of income to finance the scheme, which would provide the greatest potential reach in the sector. The nature of the initial driver for the scheme (to raise skills, standing and/or quality or reduce competition) can also influence the decision regarding whether to aim the scheme at individuals or organisations. The desire to raise training levels or increase standing can be achieved through either an individual or organisational scheme; however, depending on the precise nature of each occupation or sector (in terms of sector profile and employment models) one may be a stronger lever than the other in different situations. The implicit philosophy of the scheme and whether the aim is to promote an exclusive, 'differentiated' brand or to engage with as many individuals or employers as possible constitutes a further decision point.

The next decision concerns the requirements of the scheme regarding initial entry and ongoing renewal (if any). For voluntary schemes these requirements can include combinations of membership, proof of competence and/or the achievement of a qualification. Similar issues are usually considered when looking at the requirements for renewal, but with CPD often taking the prime focus, rather than qualifications, at this stage.

Finally we have tried to capture some of the reasons why individuals or organisations might wish to be involved in voluntary schemes. For individuals, the reasons for joining a scheme are likely to be status (a desire to demonstrate excellence), or for developmental reasons (the scheme offers training/development opportunities which are otherwise unavailable, or are more expensive, for non-members) or for career reasons (it is likely to be helpful in getting work commissions, a job or a better job). For organisations the influencing factors may be to differentiate themselves from the competition by signalling to the market that they are better in some way than their competitors (ie, a form of kitemarking), to create something akin to a closed shop based on quality or competence and restrict work opportunities to firms who abide by certain rules or principles, or because the benefits on offer make participation worthwhile.

6.5.2 Mandatory occupational regulation schemes

Mandatory schemes are most likely to be driven by consumer considerations; to address issues of health and safety, public protection, security, trust and confidence. Sometimes the driver is the introduction of legislation which makes purchase mandatory, perhaps for a service with which the customer may have little prior experience or understanding (Domestic Energy Assessments would be an example here). Across all these it is clear that consumer issues are the overarching driver.

For mandatory schemes the next decision is whether the scheme should be aimed at individuals or organisations. The rationale behind this decision is likely to be similar to that for voluntary schemes, but perhaps more focused on questions such as the best point of control in the sector, the proportion of sole traders, levels of turnover and the maturity of the market. A very immature market with constantly shifting and evolving organisational structures may be best regulated through individuals.

For mandatory schemes, exclusivity/inclusivity is not an issue, given the compulsion to join/participate; however certain factors are considered at initial entry to determine acceptability of the applicant and at the point of any subsequent tests of acceptability (ie at the annual or other renewal point). Three different qualities typically are used to determine the acceptability of prospective entrants: a qualification or qualifications; a set

period of experience (sometimes with conditions attached eg as to whether this period of experience has been under the supervision of a licensed practitioner); and some measure of knowledge and skill. Mandatory schemes also typically have clear criteria for ongoing acceptability. We found examples of inspection regimes, audits of practice, the encouragement of whistle blowing by scheme members or consumers and the re-testing of competence at regular intervals. Mandatory schemes also need to consider what period of renewal is appropriate, and this may differ between the various elements of the scheme.

For mandatory schemes there are further considerations which are important for the credibility of the scheme. These are issues of probity and ensuring that there are no internal conflicts within the scheme that can produce unforeseen consequences. In those schemes, that we explored, this meant in some cases activities are separated from each other and responsibility for them placed with separate bodies. Examples of this approach include separating training provision from regulation administration.

Finally, we have seen that schemes are often subject to a degree of competition with organisations bidding to run all or a component of a scheme. In some cases schemes have a single regulator (which can be bid for); an example here is the Gas Safe Register. In others there may be multiple regulators or multiple parties involved in certain aspects of the regulation, such as the accrediting providers in the Domestic Energy Assessor Scheme.

No one single model of occupational regulation emerges as a clear 'winner' in terms of its impact and success, and that is primarily due to the range of aims these schemes have. Neither have we seen any one model that clearly brings about certain clear outcomes. Rather there is a range of different models which have evolved to meet the needs of different occupational or sectoral circumstances. Our decision tree does not try to predict the outcome of the decision process but instead articulates the key decision points that scheme designers, stakeholders and potential regulatory bodies typically need to consider in the context of their sector and its circumstance. Appropriate reflection on these decision points will help designers create a scheme which is likely to be fit for purpose.

6.6   Conclusions

In this chapter the focus has been on identifying the design factors that influence the success of occupational regulation schemes and the decisions that have to be made regarding the elements to be incorporated therein.

For both voluntary and mandatory schemes the design and implementation process are the key to schemes' success. Once designed, mandatory schemes are easier to sustain (primarily due to their universal coverage), providing standards are upheld and appropriate systems exist to ensure compliance. In contrast voluntary schemes need to consider:

- the (endogenous or exogenous) issues they will address;

- how the scheme will make a difference;

- how the scheme will appeal and attract prospective members;

- how support can be gathered to enable the scheme to reach a 'tipping point' at which sufficient individuals and/or organisations are engaged to enable it to exert market influence.

Voluntary schemes that 'kitemark' their members' skills or quality levels, and thereby allow customers and clients to identify and 'buy' a differentiated product, appear to have most success. Voluntary schemes can also achieve success where they provide unique support or where a sufficiently powerful group of employers mandate a scheme.

Effort needs to be sustained over time if schemes, again especially voluntary ones, are not to decline; strategic reviews should be periodically held to ensure a scheme remains appropriate for employers' and employees' needs.

7 Conclusions

Occupational regulation is one of a range of possible levers to influence employers' investment in skills, as identified in the UKCES' Review of Employer Collective Measures study. However, there was relatively limited information regarding the impact of occupational regulation on skills in the UK because of the lack of a robust evidence base in this area. As a consequence the National Institute of Economic and Social Research (NIESR) was commissioned to assess the prevalence of the different kinds of occupational regulation within the UK and to identify its impact on training, qualification levels and wages. In turn, the NIESR research identified a number of other gaps in the evidence base around design, implementation and governance. The work reported here was designed in part to fill those gaps. Both studies form part of a programme of research to develop a greater understanding and insight into the levers available to employers to tackle skills challenges and maximise competitive advantage.

7.1 Drivers

What emerges from this study is that occupational regulation schemes reflect some key drivers of activity. The shape of the scheme and the main aspects of it are a response to specific pressures and influences. Through our ten case studies we identify those pressures and the occupational responses. The research findings indicate that internal and external drivers have distinct and separate effects on scheme design.

Internal drivers were defined as those originating from within the occupation itself, such as skills shortages, the need to adapt skills to a changing labour and/or product market or the desire to create a differentiated brand within the sector. They are endogenous. External drivers are exogenous and originate outside the occupation and comprise of environmental issues such as changing legislation or increasing/newly emerging concerns around public protection and health and safety (which in turn may be prompted by contemporary controversies or disasters). The research indicated that while voluntary schemes tend to focus on and be driven by endogenous drivers, in mandatory schemes issues such as consumer safety and consumer protection lead to exogenous factors being the main drivers (see Figure 7.1 below).

Figure 7.1   Drivers impacting on scheme creation
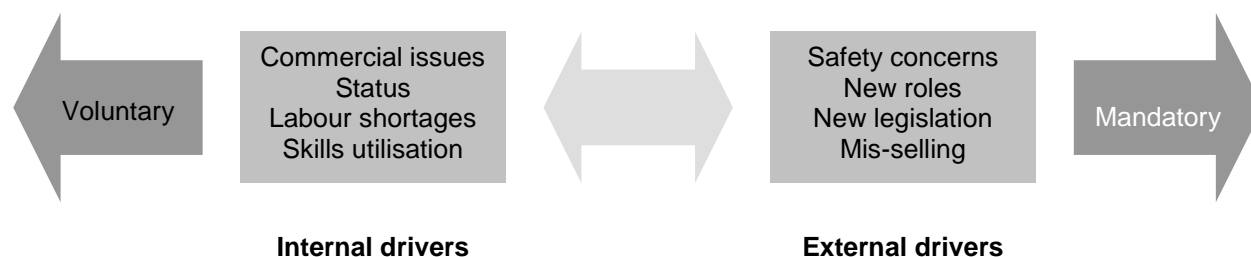
Source: IES, 2013.

These drivers also impact on decisions regarding allocation of responsibilities within and across organisations responsible for administering schemes. In particular, safety concerns can lead to responsibilities being disaggregated and/or subject to meta-regulation, as in the health sector. Issues around the maintenance of skill levels can sometimes lead to a separation of responsibility for the setting of skills standards from their assessment. For example, the development of national occupational standards is overseen by different organisations to those responsible for examining them and those organisations who train are not responsible for examining competence or capability) and for assessment against those standards.

7.2   Scheme design

An early decision is to **set the rationale and entry requirements** for an occupational regulation scheme. Once these have been agreed there are three other key elements that affect the nature of schemes. These can be broadly summarised as:

- agreeing continuing membership requirements, including CPD requirements where appropriate;

- setting standards of behaviour;

- defining benefits.

Table 7.1 below sets out the overarching design considerations that affect scheme design. Following this, the findings concerning the four main design issues – entry requirements, membership, behaviour, benefits – are summarised in the following sections.

Table 7.1 **Design considerations affecting schemes**

Entry	Membership	Behaviour	Benefits
How to reflect complexity of role/competence (deciding on levels and specialisms)	Determining membership maintenance process	Need for code of practice	Role of individual and organisational benefits
Defining the appropriate level of qualification	Cost	How to deal with infringements/ complaints	Tangible/ intangible
Defining the role of experience	Role of CPD		
Use of tests/exams	Desirability of formal review of competence		

Source: IES, 2013.

7.2.1 Setting entry requirements

In achieving the objective of raising minimum prescribed skill standards, there are some key considerations in determining entry requirements. Chief amongst these is the level of skill required to join the scheme. This reflects, firstly, the perceived needs of the sector or industry; and secondly, any initiatives to raise skill levels or status of the occupation. Another consideration is that of access: set the bar too high and the scheme may attract insufficient numbers to be viable; too low and skill levels are unlikely to be raised.

Schemes arrived at what they perceived to be the appropriate minimum prescribed skill standard through consultation with stakeholders (employees, unions, employers, providers etc) and comparisons with other relevant occupations, whilst taking into account the traditions of skill standards and qualifications inherent in the industry and occupation. The requirements are frequently expressed through specific qualifications such as accredited degree level courses or a series of recognised programmes of formal study. Some schemes allow multiple entry routes by accepting a range of courses and qualifications, or demonstrable experience, or a mix of both. Where there is no acceptable qualification to provide the full complement of skills, or where membership requires a skill level beyond (or skills that are additional to) existing qualifications, then additional means of assessment are often used such as tests, examinations, assessments or the recommendation of existing members.

There can be a particular challenge for those sectors where there is a high level of technical expertise or underpinning knowledge and the sector itself is rapidly-developing. In these situations schemes need to find ways to ensure that any assessments are kept up to date. Alternatives are to specify the knowledge requirements each time the industry standard changes, or to draw on the expertise of industry experts in interviewing or otherwise assessing candidates.

7.2.2 Detailing membership structure

Schemes vary in terms of the numbers of **vertical** levels of membership they encompass. The provision of different levels of membership allows them to reflect different (and progressive/hierarchical) skill levels. In addition, some reflect the complex nature of the occupation or sector by enabling different specialisms to join at an equivalent level (ie within the same **horizontal** band of a scheme). For example, some skilled trade schemes recognise specialists in different areas as being of an equivalent skill level while recognising they have different qualification and experience routes.

There are three separate elements to maintaining membership: paying a membership fee (which can be regularly collected, if a renewal policy is established); a requirement to maintain continuous learning and development; and the demonstration of continuing fitness to practise. Schemes vary in the extent to which they incorporate these elements. Nearly all the schemes examined for case studies had a renewal/revalidation process in place. This provides the opportunity to ensure that membership details remain current. It also affords the opportunity to monitor current skill standards if necessary (eg through evidence of CPD), and earn additional fees to sustain the scheme.

This latter point is of considerable importance for voluntary forms of occupational regulation, as their typical membership coverage is highly unlikely to be universal across the respective occupation they cover. Not only do they have to develop a membership base in an occupational environment where workers do not have to be members of the scheme to continue to practice, sometimes they may also be competing against other voluntary schemes in that environment. For some schemes renewals also provide the opportunity to make more rigorous assessments of ongoing competence or fitness to practice (normally strongly driven by customer safety concerns).

7.2.3 Behaviour

A minority of the schemes studied in this work seek to confirm the standards of behaviour of their members. Where they do so, typically the focus is on client safety or confidence. Codes of practice are common amongst health professionals (where their use is tightly bound up with notions of professionalism and ethics) and we also found them in sectors or occupations where there had been a behavioural problem (eg for the FSA Retail Investment Advisers, where there was a concern to protect consumers from financial mis-selling). The other example was for Domestic Energy Assessors, which may reflect a desire for caution in the creation of a new mandatory scheme, the desire to create a culture within the occupation that is ethical and customer driven and the focus of the scheme on individuals rather than companies.

Codes of conduct set behavioural expectations as a means either to safeguard the public/clients or to create a brand of trustworthiness and credibility. If a scheme has a code of conduct there also needs to be a process to determine the consequences following breach of the code. Therefore codes go hand in hand with procedures to handle infringements or complaints.

7.2.4 Benefits

In promoting voluntary schemes a key question is 'Why should individuals or organisations join?' What will motivate them when they can practice within the occupation without being compelled to do so? With mandatory schemes it is a somewhat easier decision as the clear choice for the individual or firm is to join the scheme or not work in the occupational role or operate in that area of work.

Schemes need to have a clear purpose otherwise they may fail to fulfil their promise and not attract sufficient members to become sustainable. Therefore ensuring that schemes become well-established and well-recognised is a critical task. A clear range of recognisable benefits is key to this part of the process. Benefits tailored to the needs and nature of the membership can make a significant difference. Thus, those seeking to attract smaller organisations tended to offer the power of collective purchasing in areas, such as insurance, while those seeking to appeal to individuals typically offered access to knowledge (CPD) and to helplines and opportunities to network. In schemes where there is an element of competition, membership can provide a competitive advantage. The factors that encourage individuals and organisations to join voluntary schemes are set out in Table 7.2. below.

Table 7.2   Reasons for joining voluntary schemes

Why individuals join	Why organisations join
To get 'know how'	To market and publicise the organisation
To access networks	To network with other organisations
To get career benefits	To raise reputation or branding
To access free or subsidised training or access to training which is tailored and high quality	To access free or subsidised training or access to training which is tailored and high quality
	To save money or reduce bureaucracy

Source: IES, 2013.

For regulators, efforts to provide these benefits can pay off in terms of increased membership (and hence increased membership income). In addition the provision of **tangible and intangible benefits** can help maximise adherence to the scheme. The challenge is in identifying the route through which some of the less tangible benefits help encourage people to remain members. For example, access to CPD may help raise service standards amongst members and, hence, drive repeat business; a similar point may be made regarding networking opportunities and the impact of that on employment potential. It is possible that such factors encourage individuals and companies to remain members but it is extremely difficult to provide evidence of such 'cause and effect' chains or indeed whether individuals would recognise this as part of their reasoning about the benefits of membership.

7.3   Decision points

The research found that certain design elements form key decision points for schemes and it is worth repeating them here:

- What is the scheme for? What is it a response to?

- Is the scheme to be voluntary or mandatory?

- Is the membership focus to be individuals or firms in the occupation? Will membership be a 'catch all', open to all within the occupation, or designed to appeal to a subset?

- What is the role of competence in determining entry to the scheme? How will this be measured?

- Is there a need for regular renewal of membership and/or competence? How often will this happen? How will ongoing competence be measured?

- How much will the scheme cost its members?

- What will attract potential members to join it (especially if a voluntary scheme)?

Reflection on these points will help organisations identify the key issues for their occupation or sector and shape a scheme that meets the needs of the regulator and the occupation.

7.4   Development over time

The occupational environment can be fluid and the factors that led to scheme initiation can change; therefore as schemes mature they often face pressures to which they need to respond, requiring the original scheme arrangements to evolve. Any one, or a combination, of those endogenous and exogenous drivers which influenced its creation in

the first place could drive changes. This could be anything from a change in skill levels demanded by a scheme through to changes in the management or governance structures of the scheme.

One of the key questions prompting the research was the impact of regulatory schemes on skills and it is therefore of some interest that the research revealed that debates about appropriate skills levels were common – and often difficult to resolve. There can be a real challenge in achieving the right balance. Schemes could come under pressure to upskill their membership in order to raise standards or raise the status of the occupation, but equally could be pressed by their members to ensure they did not unnecessarily and artificially raise the barriers to entry.
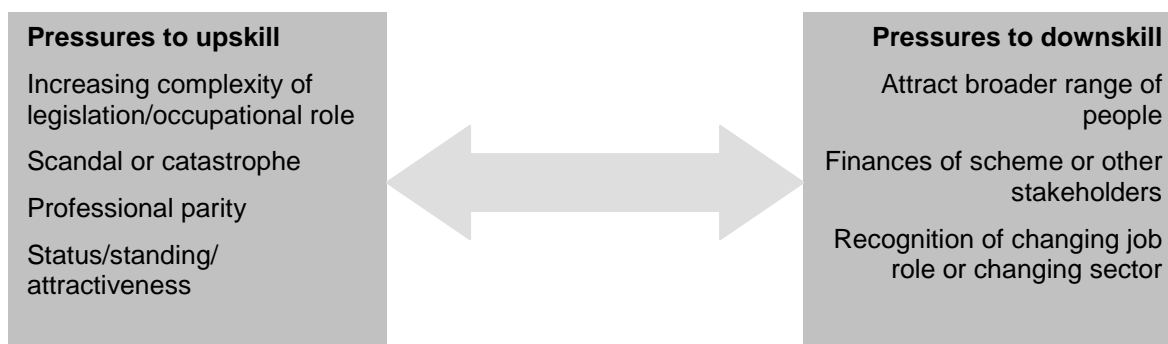
In addition to this need to balance access with the credibility of the regulated occupation there are additional factors influencing such decisions. Raise the skill 'bar' too high and membership is unlikely to grow at as fast a rate (and may well fall); leave it too low and incumbent members will start to question the value of membership. The situation is similar for potential members. They may question the added value which scheme membership could bring to their human capital, earning potential and career development prospects.

Both extremes on this dimension can bring perils to the regulatory body and indeed one of the schemes closed shortly after the research was conducted, as improvements to the prevailing skill levels amongst the potential workforce removed one of the original reasons for its establishment. There is, therefore, continuing pressure on regulators over time to review the skill level indicated by membership and assess its appropriateness. The various tensions involved in this balancing act are shown in Figure 7.2. It will be seen that the pressures to upskill are largely exogenous (if issues of status and standing and hence standing are viewed as largely derived through a process of external comparison) whereas pressures to downskill are mostly – with the exception of recognition of changes to job roles or the sector more widely – endogenous.

Increasing complexity of role can be a major driver to upskilling. In such cases it can be easier to determine where the entry level should be set as the increasing complexity is reflected in the qualifications on offer (for example, with degree programmes being designed to meet new requirements). In addition, seeing comparator roles or professions upskill can also serve to drive the balance in the direction of higher level skill requirements, or similarly the desire to increase the standing or attractiveness of a sector (to customers or potential employees, for example).

While downskilling may be driven by a desire to widen the potential recruitment pool to a wider range of applicants, it can also be a recognition that the job, role or occupation has changed and no longer needs the skills previously set. However this was not found to be a factor in any of the case study sectors examined. More often such a decision was driven by financial consideration, when a scheme found itself in need of more members. As the occupational map evolves and changes stakeholders may also feel that new labour markets (with changing skill requirements) are appropriate.

Figure 7.2   Pressures on skill levels in schemes

Pressures to upskill	**Pressures to downskill**
Increasing complexity of legislation/occupational role	Attract broader range of people
Scandal or catastrophe	Finances of scheme or other stakeholders
Professional parity	Recognition of changing job role or changing sector
Status/standing/ attractiveness	

Source: IES, 2013.

7.5   Impact

The schemes, both mandatory and voluntary, were generally well thought of by all stakeholders, including the most important constituents – employers and employees (although there were some dissenting voices). Schemes were largely seen to do what they set out to do. Across the case studies schemes were believed by employers and employees to raise skill levels, raise the effectiveness of those who were regulated, improve the quality of service, raise the status of the occupation or of regulated firms/individuals, and raise consumer confidence and safety. However, despite these positive findings, case study stakeholders also suggested that public, customer and employer recognition is not particularly high for many of these schemes.

In addition, a majority of employers believed that their scheme had increased the demand for skills in the occupation and a majority of both employers and employees believed that, in the absence of the scheme, people would not possess the skills to perform at the level that was now required. However, while employees tended to believe that being licensed/accredited/certificated helped employees to gain work, employers did not believe that the scheme had made any difference to their recruitment behaviour.

The costs of being regulated do not appear to be particularly harsh: employees do not find meeting the demands or costs of registration particularly difficult and only a minority of employers express concerns (and these seem to diminish as experience with a scheme progresses.) However, we recognise that the results of our relatively small scale survey should be treated as indicative only. A particular caveat to be borne in mind is that the survey did not reflect the views of those who had failed to meet the demands of regulation or who had found such demands a barrier to entry.

7.6   Areas of concern

Stakeholders raised some important points affecting the potential success of schemes. With voluntary schemes, in particular, there was evidence that well designed, marketed and supported schemes could establish a 'virtuous circle' of engagement and hence quite readily become embedded. Such schemes offered benefits that members value and help develop a profile in the sector that important stakeholders recognise. This, in turn, made it easier for the regulatory bodies to sustain and grow scheme membership. However, getting started can be difficult and schemes need to continue to maintain momentum, credibility and value over time especially if the environment in which the scheme operates changes or members' needs change.

This is part of a broader recognition that schemes operate in an ecosystem, are sensitive to environmental influences and are dependent on other parts of the system, including their stakeholders. In three of the case studies one particular stakeholder group - providers of training - had experienced demand reducing, to the point at which they were reconsidering the economic rationale for provision. If demand drops too low it can be difficult for potential scheme members to find appropriate courses, which then results in a further decline in application and membership levels.

Several schemes had experienced quite severe shocks in their environment – in one case a considerable reduction in demand for membership and in another, changing legislation, resulting in the need for major upskilling. More incremental changes may be no less damaging if not responded to promptly: changing consumer demand for example. The unpredictability of such changes was a source of concern for some occupational regulation schemes and there needs to be more thought given as to how schemes can assess and plan for likely changes. Some attention could be given to ways in which

existing data or alerts can be used to inform such horizon-scanning exercises and the use of techniques such as scenario-planning.[53]

Part of the problem for some of the schemes was the view amongst employers that there was low recognition amongst other stakeholders – primarily other employers and potential customers. This general recognition within the occupational community is important as it helps drive demand for regulated services and therefore helps to sustain schemes. Although this is important for mandatory schemes it is all the more so for voluntary schemes. An aware and informed public or client base is less likely to be duped by rogue traders and more likely to accept (and look for) regulation and any associated increase in costs. It is also important for potential purchasers to understand the rationale for the scheme and the value it brings so that they do not undermine it by seeking lower cost suppliers who are not regulated. Some concerted and joint effort to promote regulation would be valuable to increase public understanding of the reasons for regulation and the dangers posed by unlicensed providers.

7.7 Critical success factors

This study identified some key issues to address when considering regulation and some critical success factors for schemes. There should be:

- A clear rationale for the existence of the scheme and sector support for it.

- A skill level that raises skills high enough to screen out those who lack appropriate capability whilst not raising skills to the point that barriers to entry would exclude competent people or firms.

- For voluntary schemes, a clear and demonstrable case to individuals and/or firms of the benefits of having membership.

- Sufficient administrative resources in the regulatory body to ensure the scheme runs smoothly and to provide marketing and promotion efforts to ensure the scheme is maintained and stakeholders are fully aware of it. Marketing and promotion will be especially important for voluntary schemes.

- Flexibility to respond to environmental change and the ability to consult with members on key changes. A regulatory body able to resolve points of dispute or disagreement is also helpful.

---

[53] See Miller, Fairhurst and Hurley (2011) for an example of how this has been used in the health sector. Available at http://www.skillsforhealth.org.uk/component/docman/doc_view/344-rehearsing-uncertain-futures.html

Schemes which meet these criteria have successfully established themselves across a wide range of occupations and sectors and made a positive contribution to the skills and employability of individuals, as well as the performance of organisations and the experiences and confidence of customers. By exploring the factors that have helped them establish and maintain themselves, this research has identified relevant considerations for future decision-making by stakeholders. This is likely to be particularly of value if professional or other bodies are considering the introduction of regulation into new areas of practice.

Bibliography

Billett, S. and Smith, A. (2005), 'Enhancing Enterprise Expenditure on VET: Policy Goals and Mechanisms', in Journal of Vocational Education and Training, Vol. 57, No. 1, pp. 5-23.

BIS (2010) Skills for Sustainable Growth Strategy Document: Full report. Department for Business, Innovation and Skills, London.

Bosworth, D. L. (2009) Review of Employer Collective Measures: A Conceptual Review from a Public Policy Perspective. UKCES Evidence Report No 6. UK Commission for Employment and Skills, Wath-Upon-Dearne.

Cox, A., Sumption, F. and Hillage, J. (2009) Review of Employer Collective Measures: Policy Review. UKCES Evidence Report 8. UK Commission for Employment and Skills, Wath-Upon-Dearne.

Cox, A., Higgins, T., Marangozov, R. (2013) Understanding Employer Networks. UKCES Evidence Report 66. UK Commission for Employment and Skills, Wath-Upon-Dearne.

Financial Services Authority, (2000) A New Regulator for a New Millennium, London: FSA. Available: http://www.fsa.gov.uk/pubs/policy/p29.pdf [Accessed 11 March 2013]

Forth, J., Bryson, A., Humphris, A., Koumenta, M. & Kleiner, M. (2011) A review of occupational regulation and its impact. UKCES Evidence Report 40. UK Commission for Employment and Skills, Wath-Upon-Dearne.

Friedman, M (1962) Capitalism and Freedom. University of Chicago Press, Chicago.

Gospel, H. (2012) Understanding Training Levies. UKCES Evidence Report 47, UK Commission for Employment and Skills, Wath-Upon-Dearne.

Hogarth, T., Bosworth, D. L., Gambin, L. and Wilson R.A. (2009) Review of Employer Collective Measures: Empirical Review. UKCES Evidence Report 7. UK Commission for Employment and Skills, Wath-Upon-Dearne.

Keep, E (2006). 'Market failure and public policy on training: some reasons for caution', Development and Learning in Organizations, Vol. 20, No. 6, pp 7 - 9.

Kleiner, M. and Krueger, A. (2008) The Prevalence and Effects of Occupational Licensing. IZA Discussion Paper No. 3675. IZA, Bonn.

Shapiro, C. (1986) 'Investment, Moral Hazard and Occupational Licensing', Review of Economic Studies, Vol. 53, No. 5, pp. 843-862.

Smith, D. S. (1997) 'The eternal triangle: youth work, the youth problem and social policy' in I. Ledgerwood and N. Kendra (eds.) The Challenge of the Future. Towards the new millennium for the Youth Service. Russell House Publishing, Lyme Regis.

Stanfield, C., Sloan, S., Cox, A., & Stone, I. (2009) Review of Employer Collective Measures: Final Report. UKCES Evidence Report 10. UK Commission for Employment and Skills, Wath-Upon-Dearne.

Intelligence›Investment›Impact