



House of Commons

Business, Energy and Industrial  
Strategy Committee

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# **Safety of Electrical Goods in the UK: follow-up: Government Response to the Committee's second report of Session 2019**

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**Third Special Report of Session  
2019–21**

*Ordered by the House of Commons  
to be printed 25 June 2020*

**HC 494**

Published on 26 June 2020  
by authority of the House of Commons

## Business, Energy and Industrial Strategy Committee

The Business, Energy and Industrial Strategy Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Business, Energy and Industrial Strategy.

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### Committee staff

The current staff of the Committee are Stephen Aldhouse (Senior Committee Specialist), Dawn Amey (Senior Committee Assistant), Clementine Brown (Clerk), Gary Calder (Media Officer), Ian Cruse (Committee Specialist), Rebecca Davies (Clerk), Matthew Eaton (Committee Assistant), Becky Mawhood (Committee Specialist) and Ashleigh Morris (Committee Specialist).

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## Third Special Report

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On 1 November 2019, the Business, Energy and Industrial Strategy Committee published its Second Report of Session 2019, [The safety of electrical goods in the UK: follow-up](#) (HC 156). This Report was a follow-up to its previous Report, the Third Report of Session 2017–19, [The safety of Electrical Goods in the UK](#) (HC 503), published on 16 January 2018. Due to the 2019 General Election, the response from the Government was delayed.

The Government response was received on 12 March 2020 and is appended below. The Committee's recommendations are in **bold** type, the Government response in plain type.

## Government Response

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### Letter from the Minister for Small Business, Consumers & Labour Markets, to the Chair of the Committee, 11 March 2020

As the new Minister for Small Businesses, Consumers and Labour Markets, I value the opportunity to engage with you and the BEIS Select Committee on a range of issues.

One key area of my portfolio is that of product safety, an issue which the Committee has considered in detail in its two inquiry reports. I would like to take this opportunity to provide the Government's response to your follow up inquiry into the safety of electrical items, which is enclosed. The response highlights the work that has been undertaken by the Office for Product Safety and Standards (OPSS) since its launch in January 2018, and in particular its actions to shape and monitor Whirlpool's recalls of unsafe washing machines and tumble dryers. Whilst still a relatively new organisation, OPSS has already made a significant impact and will continue to drive change through delivery of its strategy and specific activities aimed at tackling safety of electrical items.

I am also responding to your letter of 4 February to the Chief Executive of OPSS in relation to Whirlpool's recall of washing machines which the company announced in December in 2019 and launched in January of this year. As OPSS is a departmental office within BEIS which leads on matters within my ministerial portfolio it is appropriate that I respond.

The issue of unsafe door interlock mechanisms in washing machines has been addressed much more quickly than the issue identified in tumble dryers in 2015. That reflects the important role of the national regulator, OPSS, in holding manufacturers to account for their responsibility to protect consumers and its growing capability. Whirlpool met OPSS in late October to indicate it was investigating a potential issue with certain door interlock mechanisms in particular models of washing machines. OPSS required the company to undertake further assessment and to provide additional data in order to establish the nature and scale of the problem, and to set out the action they proposed to deal with the issue. OPSS moved quickly to understand the risk to public safety and Whirlpool accepted the need for prompt action to inform consumers of the risk and to instigate a full recall to be announced as quickly as possible.

Manufacturers have an ongoing responsibility to monitor the safety of products on the market, and we expect them to keep safety issues under review, notifying the relevant

authority and taking appropriate action when a safety issue is identified. This is the case whether it is identifying additional models in an ongoing recall, or identifying and notifying new safety issues in other product ranges.

My predecessor met representatives from Whirlpool on 28 January to be updated on the situation and progress on the washing machine and tumble dryer recalls. She again reiterated the importance that the Government places on protecting consumers and our expectation that the company continues to take the necessary action to reach out to consumers with an affected appliance, particularly those who wrongly think they are unaffected. OPSS is closely monitoring the progress of the recall, and has committed to publishing regular updates on the progress of the recall. The published statistics are available at <https://www.gov.uk/government/news/whirlpool-washing-machine-recall-update>.

I share your concern that consumers should not have to wait an unreasonable length of time for a replacement or repair. Currently, consumers are waiting (on average) just over nine days from the point at which they decide whether they want a modification or a replacement, and just over 29 from when they register. We will, however, be keeping a very close eye on this figure as the recall goes on. OPSS has required that in relation to its repair option Whirlpool must ensure that there is evidence that the repair addresses the risk identified, that those undertaking the repair are adequately trained to do so effectively; and that a rigorous quality assurance process for repairs is in place. This approach has been agreed with BEIS Chief Scientific Adviser, Professor John Loughhead.

My predecessor made the Government's views on the use of non-disclosure agreements very clear. OPSS has told Whirlpool that communication between consumers and appropriate authorities on product safety issues should not be restricted in any way, including through the use of these agreements. OPSS is working with industry to better understand the use of non-disclosure agreements and develop guidance to avoid their misuse.

You ask about advice on whether to use the washing machine while awaiting a repair or replacement. Whirlpool's safety advice to users of affected machines is that the first step they must take is to switch off the appliance at the wall. The company has also said that, for those who simply have to use their machines, a cold-water wash reduces the risk, but the Government's advice is to switch off and not use the machine in order to eliminate the risk altogether. We have pressed Whirlpool to ensure their process for registering potentially affected appliances can identify consumers who are particularly vulnerable and prioritise them for appointments to replace or repair their machines.

Whirlpool is aware that it must take appropriate steps to manage an effective recall. OPSS has stressed that it is keeping progress under review, and that if the current action does not prove effective, Whirlpool must be prepared to take additional steps to ensure the removal of appliances from consumers' homes. Should Whirlpool offer a refund option, it will be important that this includes a mechanism to collect the old appliances to ensure they do not enter the second-hand market.

When the recall was announced by Whirlpool, the Chief Executive of OPSS wrote to online platforms requesting that they take steps to ensure affected washing machines and other recalled items were not available on their platforms to protect public safety. He also

wrote to the Charity Retailers Association, asking it to alert its members to the recall and to ask them to put measures in place to check any existing stock within their businesses before exposing it for supply.

I hope the Committees find the Government's response on the safety of electrical items useful and I would be happy at an appropriate point to update you on the work the department is taking to ensure public safety.

Paul Scully MP

# Appendix

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## Introduction

1. The Government welcomes the Business, Energy and Industrial Strategy Committee's further report into the safety of electrical goods in the UK. The issues examined by the Committee are important and it is right that they are subject to scrutiny. Everyone needs to have confidence in the safety of the electrical products in their home. They also have the right to expect that when a safety issue is identified with those products, that prompt and effective action will be taken to resolve it.

2. The law is clear: only safe products should be placed on the market. It is the responsibility of manufacturers to ensure that they comply with their legal obligations and to take swift action if they identify a safety risk in respect of products already in consumers' homes. We recognise the need to ensure that the system continues to be appropriate and effective to deal with the challenges of the future.

3. The Government welcomes this opportunity to update the Committee on the important role played by the Office for Product Safety and Standards as the country's first national product safety regulator. The establishment of OPSS represents a significant upgrade to the UK's product safety system with an addition £12 million annually invested in product safety; it has, for the first time, provided a co-ordinated national strategy for dealing with product safety issues.

4. OPSS is still a relatively new organisation which has grown significantly in size, experience and expertise in its first two years of operation. OPSS continues to expand to reflect its increased remit and workload. In the two years it has been in operation, OPSS has made notable progress, taking on significant challenges, and expanding its capacity and capability over time. The Office has built specialist teams expert in intelligence gathering and data analysis, scientific and technical advice, and incident management which are providing the capability needed to be able to react to national safety incidents as well as take proactive action on priority areas informed by intelligence and understanding of risk. In its first two years OPSS has already provided the UK with an evidence-based, expert led body with powers to act to protect UK consumers.

5. OPSS exists to deliver effective and trusted regulation for consumer products, that puts consumer safety first and enables businesses to understand and meet their legal and regulatory obligations. The Office supports Local Trading Standards Authorities in the vital work they do at the front-line through the provision of access to scientific and technical expertise, capacity building and support for testing of products.

6. OPSS provides dedicated resource, expertise and coordination for rapid and effective action when national product safety issues arise. This has been achieved by establishing a dedicated Incident Management team to lead and coordinate the response to such issues. The continuous improvement drivers within OPSS have ensured that lessons learnt in dealing with each incident are carried forward, allowing the organisation to continue to develop and build its expertise and experience. The ongoing development can be seen in the much more effective recent recall of washing machines, shaped by OPSS input at the

end of last year, compared with the earlier tumble dryer corrective action programme, a long standing incident (dating from 2015) which OPSS took over when it was newly established.

7. In the first few months of operation, the Office also launched a major Strategic Research Programme to address key topics, such as the safety of 3D printing, virtual reality, and consumer attitudes to product safety, registration and recalls. The programme has helped to shape our understanding of the level of complexity of the national and international challenges faced in ensuring consumer safety in a world characterised by increasing global trade, changing consumer expectations and behaviours, and rapid technological advances in product development.

8. In August 2018 OPSS published its 2018–20 Product Safety Strategy, setting out its key objectives and ways of working. OPSS published its first Delivery Report on 14 October 2019<sup>1</sup> which sets out the ways in which OPSS has been delivering its primary purpose—the protection of consumers. OPSS has been operational for two years and has achieved a significant amount since the publication of the Committee's first report into these issues in January 2018 as set out below. An important component of the work of OPSS has been to use the intelligence gathered during our wide-ranging activities and lessons learned from ways of operating to drive more targeted and effective actions to protect consumers moving forward. The strategy for the next operating period will build on this intelligence.

9. Early achievements of OPSS include:

- i) Ensuring effective action on white goods recalls leading to the modification or replacement of 1.8million appliances;
- ii) Publishing the first Government-backed code of practice on product recalls and providing training for trading standards officers on its use;
- iii) Public awareness raising campaigns on a range of issues, including button batteries, Halloween costumes, fireworks, lasers, and toys which have reached over 2 million people;
- iv) Providing £245,000 of additional investment to support local authority led teams at points of entry to the UK thereby helping to keep unsafe products off the market, bringing the total BEIS investment through National Trading Standards on product safety to £1.45 million;
- v) Providing over £1million of funding to local authority testing houses over two years to enable trading standards access to free testing of products to ensure they comply with relevant safety legislation;
- vi) Resolving over 7,500 enquiries from businesses, consumers and regulators, ensuring they have the information and support they need.

10. The Government is committed to ensuring that UK consumers continue to benefit from some of the highest levels of protection in the world, both now and in the future. The work of OPSS is central to ensuring we have a modern, transparent regulatory system in place to that has the capacity and capability to deliver real results for UK consumers.

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1 <https://www.gov.uk/government/publications/office-for-product-safety-and-standards-delivery-report>

## Whirlpool tumble dryers

**Recommendation 1: that the Government reviews and reports on how Trading Standards and OPSS dealt with Whirlpool and set out what lessons can be learnt for dealing with future product safety issues, especially in terms of product recalls for large and mass purchased white goods. We also recommend that OPSS and the Minister keep the pressure up on Whirlpool and continue to publish regular updates on progress.**

11. One of the key objectives in setting up OPSS was to establish a national product safety regulator that will lead and coordinate the response to national product safety incidents. OPSS has published a National Incident Management Plan<sup>2</sup>[1] that sets out clear responsibilities and processes that will be followed should a product safety incident be identified. It sets out a comprehensive strategy for dealing with these types of issues and details the roles and responsibilities of all key stakeholders including central government, local authorities and operational and industry partners.

12. The plan was reviewed after incorporating lessons learned from incidents including the Whirlpool tumble dryer recall. A reviewed incident management plan will be published annually. This year's review of the incident management plan will incorporate lessons identified from the continuing monitoring of Whirlpool tumble dryer recall and recall of Whirlpool washing machines.

13. Responsibility for leading and co-ordinating the response rests with OPSS, with local authorities playing a supportive role. The expertise within OPSS is also available to support local authority trading standards teams in responding to local incidents.

14. In March 2018, OPSS published the first Government-backed code of practice on product recalls and product safety. This Publicly Available Specification (PAS)<sup>3</sup> provides practical guidance to ensure that businesses are prepared to deal with product safety issues and can act promptly to protect public safety should a safety issue be identified with a consumer product. OPSS has provided free training for Trading Standards officers on the use of the code. In line with best practice, the PAS will shortly be reviewed ensuring that it takes account of feedback from those using it.

15. As the newly established national product safety regulator, OPSS was commissioned by the then Minister for Small Business, to undertake a review of the effectiveness and adequacy of the action taken by Whirlpool to address the risk of fires, specifically from excessive build-up of lint on the rear seal of tumble dryers.<sup>4</sup> The review was comprised of an engineering review into the effectiveness of the Whirlpool tumble dryer modification programme, looking at the actions and progress since the safety issue had been identified in 2015. The findings reached in the review were published in April 2019 and placed a number of requirements on the company. These requirements were that Whirlpool must:

- a) implement a more rigorous system of quality assurance to ensure that modifications are installed correctly and as per specification;
- b) improve its monitoring and management of risk;

2 <https://www.gov.uk/government/publications/incident-management-plan>

3 <https://www.bsigroup.com/en-GB/pas7100-supporting-better-product-recalls/>

4 <https://www.gov.uk/government/publications/whirlpool-tumble-dryer-review>

- c) continue its consumer outreach programme and consider alternative methods that would lead to an improved rate of take-up by consumers.

16. Following publication of the review, Whirlpool were given the opportunity to respond, setting out how they intended to meet the requirements placed on them by OPSS. This response was deemed to be inadequate in meeting the requirements above. As a result, Whirlpool were informed of the Government's intention to serve a recall notice under the General Product Safety Regulations 2005 (GPSR). Whirlpool responded by setting out actions they intended to take to facilitate a recall of the remaining affected tumble dryers. After further engagement with OPSS, an updated recall proposal was submitted which was deemed to be acceptable. Kelly Tolhurst MP, Minister for Small Business, Consumers and Corporate Responsibility at the time, announced the recall in the House of Commons on 11 July 2019.

17. At the time OPSS was established, the Whirlpool corrective action programme for tumble dryers had already been underway for several years. OPSS's involvement ensured that a full recall of unmodified appliances was undertaken. The recall required the company to commit to the effective recall of up to 800,000 affected tumble dryers. This is one of the largest product recalls of white goods undertaken in Europe.

18. OPSS has used powers to issue statutory Information Notices requiring Whirlpool to provide weekly data updates to OPSS on the progress of the recall. This requirement includes information on the number of unmodified machines which have been successfully recalled and detailed data on the quality assurance processes used when carrying out field modifications of affected machines. Failure to comply with these notices without reasonable cause is a criminal offence.

19. The Government committed to publishing regular updates on the progress of the recall. This was reiterated by the Minister during her evidence to the Committee. Updates have been published on gov.uk throughout this process.<sup>5</sup> Officials from OPSS continue to have weekly meetings with representatives of the Whirlpool Corporation during which the progress of the recall is examined in detail.

20. As of 3 March 2020, over 120,000 consumers have registered their affected tumble dryers with Whirlpool, of which over 103,000 have had their case fully resolved.

21. OPSS's action in relation to the tumble dryer recall set a strong precedent for its expectations of businesses involved in the manufacture and sale of consumer products. This has had a clear impact on Whirlpool's approach when the company identified a potential safety issue in certain models of washing machine. Whirlpool alerted OPSS of the issue in late October 2019 and after further investigation a full recall of the affected appliances was announced on 17 December 2019.

22. As with the tumble dryer recall, the Government is monitoring the progress closely and publishes regular updates on the progress of this recall online.<sup>6</sup> Since the announcement in December, over 144,000 affected washing machines have been identified, of which, over 111,000 cases have been fully resolved through an exchange or repair.

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5 <https://www.gov.uk/government/news/update-on-whirlpool-tumble-dryer-recall-progress>

6 <https://www.gov.uk/government/news/whirlpool-washing-machine-recall-update>

**Recommendation 2: that OPSS reviews the criteria it uses when deciding what data and information it withholds because of commercial confidentiality concerns and considers whether changes are required if current legislation inhibits data sharing to improve product safety.**

23. The Government understands how important it is that consumers have access to the safety information they need to take any action necessary when a safety issue is identified.

24. OPSS is committed to being transparent about its activities and regulatory approach. Since its creation in 2018, OPSS has published a Strategy for Product Safety, a Delivery Plan, Incident Management Plan and a Strategic Research Programme. OPSS has also published its Enforcement Policy<sup>7</sup> which makes clear its aim to be “transparent and accountable about their regulatory approach” in line with the Regulators’ Code. OPSS also publishes an annual report on enforcement and market surveillance activities.

25. OPSS is conscious that each investigatory activity could ultimately result in criminal proceedings and must, therefore, ensure that it does not hamper its ability to take effective enforcement action at a later date. OPSS has drawn on the experience and advice of other well-established regulators including the Food Standards Agency (FSA) and the Medicines and Healthcare products Regulatory Agency (MHRA) in relation to its approach on the publication of documents which relate to risk assessment, enforcement activity and potential criminal proceedings. It is not standard procedure for regulators to publish full risk assessments in other regulatory areas. Instead, where information is provided, it is done in the form of a summary statement. This is the approach that OPSS has also adopted.

26. Decisions relating to the release of information are always considered carefully and are made in accordance with the established legal framework, which includes the Freedom of Information Act and the General Data Protection Regulations. This approach is kept under regular review to ensure that all of OPSS’ activities are open to public scrutiny.

**Recommendation 3: that OPSS confirms what data sharing protocols it has agreed with the London Fire Brigade and other relevant product safety organisations.**

27. OPSS works with a wide range of stakeholders to ensure it has access to the data and information needed to protect UK consumers. The Government highly values the close relationship OPSS has with London Fire Brigade (LFB). As noted in evidence to the Committee, OPSS shares data as openly as is appropriate with trusted partners like LFB.

28. The OPSS Chief Executive, Graham Russell MBE, met with the Deputy Assistant Commissioner of LFB in October 2019 and agreed to develop a Memorandum of Understanding on how the organisations will work together on product safety and other areas of mutual interest, including how and when they will share data and information. The terms of this agreement are being finalised and will be announced shortly.

29. OPSS are also working with the National Fire Chiefs Council to raise the awareness of front-line fire officers of the importance of collecting data after fires involving consumer products. Access to the relevant data, post incident, is vital in identifying trends in domestic fires including causes, models and frequencies. Officials from OPSS and the Home Office are working together to improve the data collection systems on incidents of domestic fires.

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7 <https://www.gov.uk/government/publications/safety-and-standards-enforcement-enforcement-policy>

30. Sharing data in real time is also important in identifying and managing product safety risks and incidents. OPSS has developed and launched a new Product Safety Database in November 2019. This new system enables OPSS, local authority trading standards teams and other enforcement bodies to have access to live case and incident information, enabling rapid alerts to be issued.

**Recommendation 4: that OPSS and BEIS conduct a new review of the safety of Whirlpool's modification and investigate other possible sources of fires in Whirlpool's tumble dryers and publish a full and comprehensive risk assessment. This should include an explanation of how RAPEX methodology has been used and customer testimonies assessed. The review should include a clear explanation of what risk means, in terms of the number of modified machines that might catch fire or malfunction.**

31. The review<sup>8</sup> published by OPSS in April 2019 marked one stage of the regulatory process; it was not the end point of Government action. The Review comprised a number of elements:

- a) an engineering review of the effectiveness of the modification;
- b) a review of the modification installation process;
- c) collection and analysis of fire incident data;
- d) a review of Whirlpool's customer outreach programme; and
- e) a mystery shopper exercise to review the advice provided to consumers by retailers and Whirlpool.

32. As noted above, the recall and ongoing modification of Whirlpool tumble dryers is under continual review by OPSS. An Expert Panel which includes the Chief Scientific Advisers of BEIS, the Home Office and the Health and Safety Executive, have provided advice to OPSS and Ministers based on the data provided by Whirlpool under the statutory information notices and continue to receive regular updates. At present, the evidence does not indicate that additional corrective action is necessary. Should this advice change at any time, OPSS has powers to take the appropriate enforcement action.

33. The Government takes the view that consumers need clear and concise information on which to make decisions to act. When the review was published in April 2019, a risk statement was published as a more accessible way of communicating key message about risk, rather than publishing a highly technical and complex document. This follows the practice of other regulators, including the Food Standards Agency.

34. Determination of risk levels is based on the best practice guidance. This is the accepted methodology for undertaking risk assessments of consumer products. Risk is calculated according to the severity of possible injury to the consumer, and the probability that such injury will occur.

35. The approach that the Government uses to assess risk is under review. Officials in OPSS are working with external experts/consultants to assess the methodology used to determine risk levels.

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8 <https://www.gov.uk/government/publications/whirlpool-tumble-dryer-review>

**Recommendation 5:** that Whirlpool should stop using NDAs with customers altogether.

36. The Government has made it clear that it does not condone the inappropriate use of non-disclosure clauses in compensation settlements where product safety is an issue.

37. In some circumstances, settlement agreements may be appropriate and beneficial to both parties, but non-disclosure clauses should not prevent consumers speaking to regulators if they have concerns about a product's safety and businesses should make this clear to consumers.

38. OPSS has made this clear to all white goods manufacturers, including Whirlpool, and is working with relevant industry representatives to develop and promote clear guidance for industry on the appropriate use of non-disclosure clauses. The guidance will be published in due course.

**Recommendation 6:** that the Government reviews what rights consumers have when they request information from a manufacturer if a product malfunctions and how much information is shared with safety organisations, such as the Fire Service.

39. Consumers have specific rights where damage or injury has been caused by a defective product. Under the Consumer Protection Act 1987, the producer of the product is liable for any damage in these circumstances. A defective product is one which falls below the safety standards that consumers are entitled to expect. In determining what the expected level of safety is for a given product, consideration will be given to the purposes for which the product has been marketed, what may reasonably be expected to be done with the product, and the time when the product was supplied.

40. There are specific legal obligations on manufacturers to notify the relevant enforcement authority when a safety issue is identified with a product. This enables relevant authorities to take the most appropriate action to ensure consumers are protected. The law also gives the Secretary of State the authority to compel manufacturers to provide information which will allow him to decide whether to serve (or vary existing) safety notices. These powers have been used by OPSS to obtain safety information.

41. Fire services play a vital role in conducting incident investigations following a fire and collecting data and information to enable the cause of fires and the products involved to be identified. OPSS works closely with LFB and fire services across the UK, to understand both individual incidents and the overall trends in the data. The Memorandum of Understanding referred to above will ensure that information on fire incidents will be shared with OPSS as the national regulator. OPSS, in turn, has ensured that LFB and other Fire Services have access to the Product Safety Database which provides a valuable data sharing platform for enforcement authorities.

## The Office for Product Safety and Standards

**Recommendation 7:** that the Government review the funding of LTS and their current ability to carry out surveillance and enforcement activities at a local level and contribute to data sharing at a national level.

42. Funding for local authority trading standards is provided from the local government annual settlement grant on a non-ringfenced basis. This means that local authorities have maximum flexibility to deliver services as they see fit, according to local needs. Local government funding will be reviewed as part of the 2020 spending review.

43. The Government has invested an additional £12 million per annum in the product safety system. Local authority trading standards teams throughout the UK play an invaluable role working with businesses at the front line. To support their activities OPSS has worked with the Chartered Trading Standards Institute (CTSI) and provided £250,000 to develop and deliver a training programme in 2018–19, with this figure rising to £400,000 in 2019–20. In 2018–19 £500,000 has been provided by OPSS to enable local teams to access testing services, this figure increased to £600,000 in 2019–20. This money has been used to test the compliance of a range of products including toys, cosmetics and electrical products.

44. Representatives from more than 190 local authorities have attended joint OPSS and CTSI training, amounting to over 1,800 officer training days on product safety throughout the UK with further training planned for 2020. This includes training on the use of the first Government-backed code of practice for product recalls, developed by OPSS and the British Standards Institution. Further training has been provided on technical documentation, risk assessment, and the safety of cosmetics and fireworks. Local authorities have also been given free access to technical British Standards, equipping them to identify safety issues and support compliance.

45. In addition to financial support, the new Product Safety Database enables local trading standards and other regulators to access and share information on product safety cases and incidents. This new UK database will also enable greater coordination between Trading Standards and other Market Surveillance Authorities.

46. The Ports and Borders team within OPSS supports the product safety system by providing support to market surveillance authorities at the border. In addition to this, as of October 2019, the Single Point of Contact (SPoC) function of National Trading Standards has joined OPSS. The SPoC team work at the UK's border to target unsafe products as they enter the UK. This new function is a further, valuable tool at OPSS' disposal as they deliver on their mission to protect UK consumers from unsafe goods.

47. National Trading Standards, which is funded by BEIS, also provides support to local authority trading standards services to coordinate and fund their enforcement responses to regional and national cases of consumer harm. BEIS provides around £13m a year to National Trading Standards.

**Recommendation 8: that OPSS work with online marketplace platforms to produce software and protocols which require sellers to provide information that can identify whether an item is recalled as a prerequisite to uploading for sale.**

**Recommendation 9: The Government should also consider what sanctions might be needed for online platforms who do not adequately police the second-hand goods being sold on their websites.**

**Recommendation 11: that OPSS works with online marketplace platforms to develop a more proactive approach that ensures that electrical goods are not placed for sale**

**online until their safety has been established. We also recommend that the Government publishes details of what role LTS are playing in policing electrical goods and what funding and resources they have to carry out this role.**

48. The internet has changed the way consumers shop and has vastly increased the options available to the public. Figures from the Office of National Statistics suggest that internet sales as a proportion of all retailing in the UK has risen from 4.2% in January 2008 to 19.2% in October 2019<sup>9</sup>[2]. This represents a significant shift in terms of consumer choices and has benefits for our economy, but it comes with significant challenges which must be addressed. As the internet continues to grow and transform our lives it is essential that we get the balance right between a thriving, open and vibrant virtual world, and one in which users are protected from harm.

49. The Government recognises the scale of the challenge in regulating online sales. OPSS is working proactively with major online platforms to ensure that they are playing their part in protecting UK consumers from unsafe goods; OPSS will continue to work with these businesses to ensure that they have robust proactive and reactive approaches in place to protect consumers.

50. In summer 2019, the Minister for Small Business, Consumers and Corporate Responsibility wrote to the UK heads of major online market places (Amazon, Alibaba, eBay, Gumtree, Facebook) to determine what steps they are currently taking to ensure that unsafe and non-compliant goods are not made available to consumers via their platforms. Officials are reviewing how these businesses can do more to proactively protect consumers who purchase goods from their platforms.

51. Officials from OPSS are establishing what safeguards these companies have in place. Individual relationship managers have been appointed for several of the major online platforms and discussions have shown that online marketplaces are keen to ensure they meet their legal obligations, but also that more needs to be done. OPSS is encouraging these platforms to establish Primary Authority arrangements that will give them access to expert and tailored advice as to how they can meet their legal obligations. Effective Primary Authority arrangements are already in place for Amazon and eBay.

52. Current safety legislation applies to online sales including sales of second-hand electrical goods. Officials in OPSS are conducting a review of product safety legislation to determine whether the existing legislative framework is adequate in light of the changes to traditional supply and distribution chains brought about by e-commerce. The Government recognises that the current framework was developed before the emergence of new and novel business models and the potential need to update legislation must be kept under review. Officials in OPSS are developing a UK Product Safety Commitment for voluntary action by major online platforms to encourage best practice from businesses who play a role in facilitating individuals buying consumers products.

53. OPSS is also conducting a project in conjunction with the leading electrical safety charity, Electrical Safety First (ESF), to gather evidence about how and where second-hand electrical products are being sold. The findings of this project are being used to develop guidance to consumers and retailers for use when buying or selling second-hand electrical goods, including online.

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9 <https://www.ons.gov.uk/businessindustryandtrade/retailindustry/datasets/retailsalesindexinternetsales>

**Recommendation 10: that the Government reviews and reports on how second-hand goods sales on the high street are being monitored and what action is being taken when recalled goods are found to be being sold. This should include the recycled goods market, and the role of local councils and others who sell, or who are intermediaries, for such goods.**

54. The Government-commissioned project with ESF referenced above aims to understand more about the second-hand goods market offline. This project involved visiting eight demographically diverse areas across the UK. A report on this project will be published in due course. OPSS will carefully consider their findings and any policy changes which may be appropriate in light of this study.

55. OPSS has also written to the Charity Retail Association to notify them about the Whirlpool recall and to warn them that their members may have affected stock. The Association has over 9,000 members—made up of charity and second-hand shops throughout the UK. They are acting to make their membership aware of these issues through their own channels.

56. Any distributor of second-hand goods has legal obligations regarding the safety of the products they sell. OPSS is developing guidance for businesses, which sell second-hand electrical goods. This will provide advice on the responsibilities that such businesses have. It is also developing specific training for Trading Standards officers to be rolled out this year on how to tackle the issue of unsafe electrical second-hand goods, including those which are sent to recycling centres.

**Recommendation 12: We recommend that OPSS and the Government make a clearer statement about plastic-backed fridges, indicating that they should no longer be manufactured, and setting out a grace period for the removal of such machines from supply chains and second-hand markets.**

57. The Government is pleased to note the Committee's recognition of its involvement in the development of a revised standard for fridge-freezers. The UK has been at the forefront of international efforts to introduce stringent new tests for manufacturers in relation to the backing materials used for refrigeration appliances.

58. The UK formally objected to the previous European fridge freezer standard in March 2016 because it was felt to be inadequate in addressing fire risks. As a result of this UK led activity, the standard was revised by the European standards body, CENELEC. The revised standard became applicable from 11 July 2019 and sets out enhanced provisions for demonstrating the fire safety of fridge freezers. It sets out more stringent flammability test methods for assessing the fire resistance of backing materials.

59. From 11 July 2019, fridge freezers manufacturers seeking to demonstrate compliance with the legal requirements through the use of the revised standard have had to ensure that backing materials pass this new test. The practical effect of this change will mean that manufacturers using the standard will no longer be able to use flammable plastic backing.

**Recommendation 13: that OPSS confirm that they are still on track to deliver the updated central registration and recall hub and if not when it will be operational. We recommend that such a portal should be based on product registration at point of sale and should be free from marketing.**

60. The Government recognises the importance both of providing consumers with access to information when product safety issues arise and in taking measures to ensure consumers can be notified in these circumstances.

61. The Government launched a dedicated website in July 2017 which provides information on product recalls. This site is now managed by OPSS and now covers a complete list of non-food related product safety recalls which fall within the remit of OPSS as well as links to other international recall sites to help consumers who have purchased products from overseas. The site provides signposting to websites which enable consumers to register their products. Links are also provided to enable consumers to navigate to other sites which provide information on food and drink related recalls, medicines and medical device recalls, and vehicle recalls.

62. OPSS has been undertaking significant digital development work since it was established. Much of the focus of that work has been on ensuring that the UK has the right tools for sharing information across market surveillance authorities after leaving the EU, to ensure the continued effective enforcement of product safety issues. The priority, therefore, has been in developing a market surveillance database which all UK market surveillance authorities can access in order to record information about unsafe products, actions taken, and share intelligence. This database is now up and running and will prove an excellent tool in building intelligence and informing risk-based decision making by regulators. It is a tool which enables:

- Individual authorities to share information and manage investigations within their authority, making internal cooperation more efficient;
- Market surveillance authorities to share product safety information, enabling cross-sector collaboration and more effective enforcement, especially where products are 'co-regulated' by multiple pieces of legislation; and
- Rapid alerts to be issued and received when an authority identifies a dangerous product so others can swiftly take appropriate action.

63. The current phase of the digital development work is considering communications with consumers. A project is underway to conduct focussed research with consumers to understand how they become aware of product recalls and their use of existing recall sites. This research will enable officials to identify gaps and design technological solutions to overcome these, should it be necessary. Officials in OPSS will develop and test prototypes with users.

64. OPSS is also taking proactive steps to increase rates of product registration. Officials work closely with the Association of Manufacturers of Domestic Appliances (AMDEA) and consumer bodies to promote the "Register My Appliance" scheme. This enables consumers to register their electrical appliances online, making it much easier for manufacturers to contact affected consumers should a safety issue be identified with a product they have purchased.

65. OPSS commissioned research to survey over 4,000 consumers to understand their attitudes to product safety, including product registration. The findings of this research will be used to provide a deeper understanding of consumer behaviours in order to develop future policy and campaigns.

66. In January 2020, OPSS began a product registration research trial with the aim of increasing registration rates by applying behavioural principles. This trial will assess the effectiveness of including interventions such as leaflets and stickers with electrical products. These will provide detailed information on how to register new electrical products. A number of manufacturers are participating in this trial by including leaflets detailing the importance of registering new products in all new tumble dryers from Spring 2020. The trial will monitor the level of registrations using the dedicated contact numbers printed on these interventions.

67. Recent experiences with large scale product recalls have demonstrated that consumers can be contacted using information provided at point of sale and through home delivery and payment method details. Developments in modern markets are delivering increased safety for consumers by making it easier for retailers and manufacturers to contact them through their digital footprint. Enhanced product safety awareness for consumers can be delivered by encouraging increased activity in these areas. The Government is currently concentrating resources on developing the use of these channels, rather than imposing a mandatory system which would require primary legislation.

**Recommendation 14: that the Government urgently indicate when a viable system of indelible marking will be introduced and the reasons for delay.**

68. The Government agrees with the Committee that the indelible marking of electrical products could be a useful means of helping to identify products in the event of a serious incident such as a fire. However, the effectiveness of this is reliant on investigations into fires routinely checking for this information on a consistent basis. It should be noted that there is nothing preventing manufacturers from indelibly marking their products as part of the normal production process. As the Committee notes, this is already done as standard in the automotive industry.

69. The Electrical Equipment (Safety) Regulations 2016 (EESRs) place an obligation on manufacturers to ensure that, before placing any electrical equipment on the market, that equipment bears a type, batch or serial number allowing its identification. Making such information indelible could make identification and data collection simpler if this is routinely checked following incidents of fire.

70. Research conducted as part of OPSS' strategic research programme identified a number of possible indelible marking systems. This research has identified no insurmountable technical barrier to introducing a system of indelible marking and manufacturers currently make individual business decisions whether to do so or not. The UK approach to product safety is based on prioritisation of high-risk products. It is important that if indelible marking is taken forward by business, a consistent approach is adopted across industries. This will help to ensure that data collected by fire services and others is not skewed by variable levels of uptake across manufacturers.

71. OPSS will shortly commence a call for evidence from key stakeholders in order to gain a deeper understanding of the key issues surrounding indelible marking of white goods. This evidence call will seek to learn what the main barriers are and identify lasting and workable solutions. The findings of this work will be used to shape OPSS work to work with industry to develop a code of practice on indelible marking of electrical products.

This should provide best practice guidance for industry on how to ensure that products can be identified through marking following incidents of fire. [The government is not currently considering bringing forward legislation in this area.]

**Recommendation 15: We recommend that OPSS updates us on when a national incident and injury database will be fully operational and accessible.**

72. OPSS has worked with Royal Society for the Prevention of Accidents (RoSPA) on a pilot study to assess the feasibility of collecting data relating to accidents involving consumer products. The primary objective of this pilot is to collect injury data from 6 NHS units across the UK. This will include data that is currently being collected and data provided by free text which staff will be asked to collect relating to any products involved in an incident and the circumstances leading to the injury. The pilot aims to specifically determine the:

- feasibility of collecting data;
- likely annual running costs;
- willingness of NHS staff to collect the data;
- quality and representation of the data; and
- time and resource required to analyse the extracted data.

73. Patients have been invited to anonymously self-record injury causation data across the six sites. This information will be analysed by RoSPA and OPSS will receive a report of the progress of this pilot in March 2020.

74. The findings of this work will determine the extent to which it is feasible to develop a national injury database.

**Recommendation 16: that OPSS approach insurance companies with a view to accessing data and information on incidents involving electrical goods.**

75. The Government recognises the importance of using all appropriate data to protect consumers. OPSS is undertaking a review of all aspects of its evidence base to ensure it has all the information it needs to protect consumers and businesses against the risks posed by unsafe products. Insurance industry data may prove a valuable strand of this and officials in OPSS have been engaging with representatives of the insurance industry as part of this work.

76. Initial discussions have been with the insurance sector to gain an understanding of the evidence they hold on incidents involving electrical goods and to examine what barriers exist to the sharing of information with OPSS as the national product safety regulator.

**Recommendation 17: We look forward to the Government's review and consultation on the OPSS. As the Minister has promised, this should seriously consider making it an independent and fully transparent body, placing the consumer at the heart of its decision making.**

77. The Government has committed to consulting on the future of OPSS. The primary focus of the Government is ensuring UK consumers are protected from unsafe products. The primary emphasis up until this point has been on establishing OPSS as an effective national regulator, focussing on ensuring safety outcomes rather than consideration of the supporting structures.

78. The Government consultation on the future of OPSS will be issued in due course.