

Nineteenth Report of Session 2021-22

Department for Business, Energy & Industrial Strategy

Protecting Consumers from Unsafe Products

Introduction from the Committee

Unsafe and dangerous products can cause harm in different ways. Harm can be visible, such as the estimated 3,000 house fires each year in the UK that are caused by appliance faults. It can also be less obvious, such as toxic or carcinogenic chemicals in products or disinfectant that is not as effective as it claims. UK regulations require businesses that make or sell products to ensure they are safe when used normally or in a way that could be reasonably foreseen. Products which are at greater risk of safety problems, such as cycling helmets and electricals, have additional requirements. Since EU Exit, product safety regulations are set by the UK government (although many are still derived from EU regulations and directives) and are sometimes based on internationally recognised product standards.

Until 2018, consumer product safety regulations (apart from food, medicines and vehicles) were enforced entirely by local authority Trading Standards services. In response to increasingly complex national and international product markets, the government created the OPSS in January 2018 to regulate consumer product safety at a national level. Its role includes identifying and assessing product risks and intervening directly on nationally significant product issues. It works alongside Trading Standards services which still regulate at local level and undertake most enforcement activity. For expediency, in order to tackle immediate issues including known problems with household appliances and preparing for EU Exit, the OPSS was set up as a new office within the Department for Business, Energy & Industrial Strategy (the Department). The OPSS's product safety operations budget has grown from £10 million in its first year to £14 million in 2020–21, and in 2022 it will be taking on new duties for regulating construction products.

Based on a report by the National Audit Office, the Committee took evidence on 1 July 2021 from the Department for Business, Energy and Industrial Strategy. The Committee published its report on 30 September 2021. This is the government's response to the Committee's report.

Relevant reports

- NAO report: [Protecting consumers from unsafe products](#) – Session 2021-22 (HC 294)
- PAC report: [Protecting consumers from unsafe products](#) - Session 2021-22 (HC 180)

Government response to the Committee

1: PAC conclusion: The OPSS lacks the data it needs to proactively identify and address risks to consumers from unsafe goods.

1: PAC recommendation: The OPSS should write to us within six months and set out the progress made in its data strategy, including its data-sharing pilot with the NHS and whether it is achievable in practice. Its response should set out what other data sources it has identified and begun to collect to improve its intelligence base.

- 1.1 The government agrees with the Committee's recommendation.

Target implementation date: Spring 2022

1.2 The Office for Product Safety and Standards (OPSS) agrees to write to the Committee within six months of the PAC report to detail the progress made on OPSS's data strategy.

1.3 OPSS is currently developing a data strategy, including improving its intelligence sources and identifying data gaps. It has four main objectives:

- shaping OPSS' organisational activity and approach using the power of data;
- ensuring effective use and control of data OPSS owns and shares with others;
- using data and outputs to drive behavioural change in consumers, businesses and the public;
- targeting OPSS' regulatory activity towards the greatest risks using data and analysis.

1.4 The data-sharing pilot with the NHS should be completed by Spring 2022 following which the results will be evaluated to understand the benefits, insights and challenges involved. OPSS will include an update on this work when it reports back to the Committee.

1.5 OPSS will also continue to develop and utilise its internal data sources, including the Product Safety Database which records hazardous and non-compliant products identified by UK market surveillance authorities and can be used to identify trends and areas of specific risk. For example, OPSS' intelligence unit is currently trialling new software that will facilitate the collection of corroborated intelligence, adding an additional layer of value to OPSS' intelligence products, thereby enhancing operational decision making. OPSS's risk unit is also developing new risk assessment methodologies to ensure that OPSS' regulatory activities are targeted towards the highest risks.

2: PAC conclusion: The OPSS has struggled to reach some businesses and consumers to prevent harm being caused by unsafe products.

2: PAC recommendation: The OPSS should develop a detailed plan for proactively communicating with and influencing industry and consumers. This should set out how different industry and consumer groups, including vulnerable and hard to reach demographics, will be targeted using different approaches.

2.1 The government agrees with the Committee's recommendation.

Target implementation date: Spring 2022

2.2 OPSS has conducted a comprehensive survey asking 4,000 consumers about their attitudes and behaviours related to product safety and undertaken consumer safety information campaigns with partners such as the Royal Society for the Prevention of Accidents, Electrical Safety First, Child Accident Prevention Trust and Chartered Trading Standards Institute to raise awareness on safety issues.

2.3 OPSS' safety campaigns on fireworks, Halloween fancy dress, button batteries, counterfeit products and Christmas campaigns have been very successful. These campaigns reached more than 2 million people over the last year. OPSS has improved reach and accessibility too.

2.4 OPSS runs a Business Reference Panel composed of technical and regulatory leads from 200+ trade organisations and individual businesses representing a diverse range of sectors from food production, hospitality and retail to commercial and consumer product manufacturing.

2.5 OPSS is planning to enhance understanding of consumers and businesses, enabling a more proactive and segmented approach to regulating the system, better protecting people

and preventing harm including developing a better understanding of how more vulnerable consumers can be better protected.

2.6 The Committee cited in its Report a survey finding that “24% of businesses remain unaware of their product safety responsibilities.” OPSS would like to clarify that the survey posed the question: “Other than to make sure nobody is harmed, what is the primary reason your business ensures high levels of product safety standards?” to which 24% chose a response option of “not applicable/no responsibility”.

3: PAC conclusion: There is insufficient coordination between the OPSS, local authorities and other parts of government.

3: PAC recommendation: The OPSS should work with the Department and other parts of government to ensure the regulatory system is better coordinated. In particular, it should engage with MHCLG and other relevant departments to address concerns around the long-term sustainability of the Trading Standards workforce. In their update to this Committee, they should explain how they intend to resolve this issue.

3.1 The government agrees with the Committee’s recommendation.

Target implementation date: Spring 2022

3.2 OPSS recognises the fundamental role that local Trading Standards services play in product safety regulation and the importance of attracting new people into the profession. OPSS provides national capability to supplement and enhance the effectiveness of local authority enforcement activity. This includes: provision of scientific and technical capability; intelligence and risk capability to provide a national risk picture; national incident management capability; and Trading Standards capability building. OPSS engages with local authorities and Trading Standards bodies and their views and feedback inform OPSS’ delivery. OPSS is currently clarifying its offer to Trading Standards to facilitate greater understanding and co-operation.

3.3 OPSS was instrumental in the development of a new Regulatory Compliance Officer apprenticeship, working with the Chartered Trading Standards Institute (CTSI) and other regulators to diversify entry routes into a career in regulatory services.

3.4 The Department for Business, Energy and Industrial Strategy (the department) currently provides £12 million funding to National Trading Standards (NTS) and £1.25 million to Trading Standards Scotland per annum to add specialist expertise and to support trading standards to enforce cases that stretch beyond local boundaries. OPSS also supports Trading Standards through funding testing laboratories, training, national co-ordination and intelligence such as the Product Safety Database, sharing information on unsafe or non-compliant products, with 1,300 local authority users and 9 national regulators. Local authority regulatory services are funded from each local authority’s budget, in line with local decision-making, but OPSS will continue to inform central government discussions on maintaining the effectiveness of Trading Standards Services.

4: PAC conclusion: Gaps in the regulatory framework make it harder to protect consumers from new risks presented by online marketplaces and emerging technologies.

4: PAC recommendation: The Department and OPSS should write to us within six months to update us on the progress of their product safety review, and how and when they will address gaps in the regulatory framework. This should include a clear assessment of the key constraints the regime faces in regulating product safety through online marketplaces and keeping regulations up to date with changes in product technologies.

4.1 The government agrees with the Committee's recommendation.

Target implementation date: Spring 2022

4.2 OPSS will write to the Committee within six months of the PAC report to detail progress made on its plan for the future of UK product safety regulation.

4.3 In OPSS' first three years, it has conducted significant research into emerging technologies, such as 'smart' products, and set up a major review into the product safety system looking to ensure UK regulations are fit for purpose now and in the future. OPSS is creating a robust approach to working with and holding to account online retailers and preventing unsafe products from reaching consumers. OPSS continues to develop this. OPSS' data strategy, product safety review and regulatory strategy will all help to address aspects of these challenges.

4.4 The Product Safety Review consultation closed on 17 June 2021 and OPSS has been reviewing the 158 responses. OPSS will be looking to address identified gaps in the regulatory and legislative framework and seeking to build in sufficient flexibility to allow it to meet future challenges and changes in markets and consumer practices. OPSS' response was published on 11 November 2021.

4.5 OPSS is also acting ahead of any legislative changes. It has an expanded online investigation capability with a dedicated team able to conduct online market surveillance and work with platforms to have non-compliant items dealt with. OPSS has conducted enforcement investigations into online sales of toys and electricals and has established more robust approaches for third party sellers outside the UK.

5: PAC conclusion: The regulatory system is lacking capacity and skills to meet the challenges it faces.

5: PAC recommendation: The Department and OPSS should evaluate the regulatory resource needed for the future of the regulatory regime. This should reflect the impacts of product checks at the UK border, the OPSS's new duties on construction products and the loss of resource at local Trading Standards services.

5.1 The government agrees with the Committee's recommendation.

Target implementation date: Spring 2022

5.2 OPSS is currently reviewing of the Product Safety framework to ensure it is simple, flexible and fit for the future. It is seeking to ensure the regime and the legislation can keep up with new technologies and changing business models in the future – promoting innovation while continuing to ensure protection for consumers.

5.3 OPSS provided £1.45 million for checks at key UK ports and borders for national product safety risks last year. In addition, the Department for Levelling Up, Housing and Communities is providing dedicated resource to specifically fund OPSS' construction products activity. OPSS will continue to work with local authorities, ports and border staff to address national product safety risks.

5.4 Regarding construction products, over 2021 OPSS is primarily focused on developing capacity - creating a knowledgeable team internally; developing robust statutory tools; strengthening local authority capabilities, test houses and standards committees; and working coherently with the Building Safety Regulator. It has also begun work to understand the nature of the sector and where the compliance risks may sit within it, including an assessment of supply chains, variation in producer scale and capability, diffused risks and accountabilities, and issues of competency and culture.

5.5 As the national regulator for construction products, OPSS will continue to support local authorities and Trading Standards with competency and capability assistance as well as funding for their work on product safety.

6: PAC conclusion: The government has not yet set out a clear vision and detailed plan for the future of UK product safety regulation.

6: PAC recommendation: In their update to the Committee on the product safety review, the Department and OPSS should set out a timetable for the next UK product safety regulatory strategy. This strategy should set out clearly what type of regulatory system the UK will adopt to best combat the challenges it faces, and consider at what point the OPSS would be most effective as an independent regulator.

6.1 The government agrees with the Committee's recommendation.

Target implementation date: Spring 2022

6.2 OPSS will write to the Committee within six months of the PAC report to detail the progress made on its plan for the future of UK product safety regulation.

6.3 OPSS is currently creating a detailed regulatory strategy covering UK product safety and product standards and building on its existing regulatory experience to establish a proactive regulatory approach. This is due for publication in Spring 2022 and OPSS will update the Committee on the progress of this by 30 March 2022.

6.4 OPSS' considerations include: the developments in data availability and accessibility; expanded intelligence sources; better engagement with consumers and industry; a greater understanding of vulnerable groups and how OPSS can best protect them; and how best to support local authorities and Trading Standards services.

6.5 OPSS is committed to being a transparent, accountable and impartial regulator and governance arrangements are subject to regular review. OPSS has built the capability to do that job well – recruited specialists, established core processes and carried out significant research into the nature of the regulatory challenge. It has also established access to independent expertise and advice, for example, through the newly established Scientific Advisory Committee on chemicals safety for non-food consumer products.