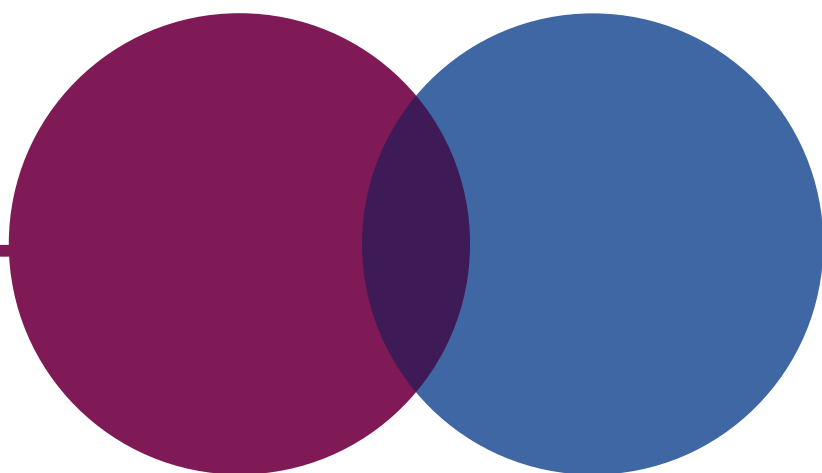




National Audit Office




Protecting consumers from unsafe products

Department for Business,
Energy & Industrial Strategy

REPORT

**by the Comptroller
and Auditor General**

**SESSION 2021-22
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HC 294**



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Department for Business,
Energy & Industrial Strategy

Report by the Comptroller and Auditor General

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Commons in accordance with Section 9 of the Act

Gareth Davies
Comptroller and Auditor General
National Audit Office

8 June 2021



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Key facts

3,000

estimated number of house fires caused by faulty appliances each year in the UK

£14m

amount spent by the Office for Product Safety and Standards (OPSS) in 2020-21 on UK-wide product safety operations

£143m

total 2019-20 spend by local authority Trading Standards services in England, which perform various regulatory functions including product safety

Nearly 5,000

approximate number of attendances at A&E in England each year with injuries from accidents involving fireworks

17%

percentage of consumers who consider product safety when purchasing goods

January 2018

date the OPSS was created to regulate product safety at a national level, covering all consumer goods except for food, medicines and vehicles

5

number of national incident responses the OPSS has so far initiated, including removing more than 550 listings of hand sanitisers and face coverings from online stores during the COVID-19 pandemic

39%

real-terms reduction in total spend by Trading Standards services in England between 2010-11 and 2019-20

9 in 10

proportion of UK internet-using adults that have used online marketplaces, which anyone can sell through and are estimated to have a higher risk of safety issues than traditional purchases

Up to 2.8 million

anticipated number of lorries arriving each year at Dover, Eurotunnel and Holyhead in scope for product checks by January 2022, up from around 100,000 currently

Summary

1 While most consumer goods we buy are likely to be physically safe, unsafe products can cause injury, financial costs and even fatalities. Harm to health and safety can be visible, such as an estimated 3,000 UK house fires caused by faulty appliances and nearly 5,000 admissions to hospital with injuries from fireworks each year. But harm can be less obvious, such as toxic or carcinogenic chemicals in cosmetics. There are no data available on the overall scale of harm caused by consumer products or how this has changed over time.

2 In the UK, general 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, but do not require this to be proven to regulators before selling to consumers. Some product types with more risk of safety problems, such as electricals, toys, cosmetics or upholstered furniture, have specific regulations with additional safety requirements or processes. Before EU Exit, most product safety regulation in the UK derived from EU regulations and directives.

3 Until 2018, consumer product safety regulations were enforced entirely by local Trading Standards services (or by environmental health teams in Northern Ireland). These services, which in England spent £143 million in 2019-20, sit within local authorities and are locally accountable. They include several regulatory responsibilities, of which product safety is only one. During the 2010s, it was widely considered that this local system was not well-equipped to deal with increasingly complex national and international product markets. This was highlighted by high-profile problems with Whirlpool tumble dryers identified in 2015, and the fire at Grenfell Tower in 2017 that originated from a fridge freezer.

4 In January 2018, the government established the Office for Product Safety and Standards (OPSS), a new office within the Department for Business, Energy & Industrial Strategy (BEIS), to bring national capacity and leadership to product safety issues. The OPSS's product safety operations budget has grown from £10 million in its first year to £14 million in 2020-21. Its national role includes identifying and assessing product risks and intervening directly on nationally significant, novel or contentious issues. The OPSS works alongside Trading Standards services, which still regulate at local level and undertake most enforcement, and other stakeholders such as the British Standards Institution and Border Force.

5 The ability of product safety regulation to protect consumers from harm depends on the extent to which it can keep pace with evolving product markets. People increasingly buy goods online or make and sell products from home – trends that accelerated during the COVID-19 pandemic – which creates different risks from goods sold on the high street. Changing product types also create new risks – for example, from automated and unsupervised operation of ‘smart’ devices. Many consumer goods are imported, and new trading relationships with the EU and the rest of the world may mean changes to UK regulators’ work. In March 2021, the OPSS launched a major review seeking views on the longer-term approach to product safety and ensuring the regime is fit for the future.

Scope of this report

6 This report examines the extent to which the UK’s product safety regime can protect consumers from harm and keep pace with changes in the wider environment, focusing on the role and work of the OPSS. In scoping our study, we worked with the OPSS and other stakeholders to develop an evaluative framework for what good product safety regulation looks like. As the OPSS was created only in 2018, we do not expect the new arrangements to have achieved full maturity in all areas. Nevertheless, we have used this framework to assess progress in key areas and identify priorities going forward.

7 This report covers:

- preventing unsafe goods from being purchased – by setting appropriate product requirements, ensuring businesses comply with those requirements, and influencing consumers to avoid buying unsafe goods;
- responding to product safety problems – by identifying problems as they arise, intervening quickly to address them, and learning from experience to make future interventions as effective as possible; and
- adapting to new and changing risks – including those arising from EU Exit and technological developments.

8 While this report considers the effectiveness of the UK’s overall product safety regime, we did not audit the performance of individual Trading Standards services or other stakeholders. We also did not examine products covered by separate national regulators and outside the remit of the OPSS, including food, medical products and vehicles, or any services not involved in the supply of consumer goods.

Key findings

Preventing unsafe goods from being purchased

9 Safety requirements in the UK are widely considered to be appropriate for most products, and the OPSS is working to keep regulations up to date. Regulations set requirements on businesses to make and sell safe products and, depending on risk, the checks and testing that should be undertaken. For some products, technical standards developed by the British Standards Institution, which are themselves voluntary, can be used to demonstrate compliance. Stakeholders of all types who we interviewed raised no concerns over the general level and appropriateness of product standards in the UK. However, there is a challenge in ensuring regulations stay up to date with new information or products. In some cases, the government has been slow to do this – for example, there are not yet specific safety regulations on smart technologies. Following EU Exit, the UK will be solely responsible for setting regulations, and the OPSS has launched a major review to update the product safety regime (paragraphs 2.3 and 2.4).

10 The regulators rely on influencing industry to comply with product regulations, but an estimated 24% of businesses are unaware of their responsibilities.

Businesses are responsible for complying with regulations and ensuring products are safe. The OPSS and Trading Standards services do not undertake checks or require proof of compliance before products are sold to consumers, other than limited surveillance on imports at the border. The regulators rely, therefore, on influencing businesses to meet requirements, including through published guidance and advice. The OPSS also liaises directly with more than 150 key businesses and trade associations through its business reference panel, and Trading Standards services provide advice to around 100,000 businesses. While the regulators consider these activities beneficial, OPSS research found that 24% of relevant businesses surveyed did not think they had product safety responsibilities. The OPSS has started work to understand business awareness better, but has not completed a full analysis of businesses that are harder to reach or have a lower likelihood of compliance (paragraphs 2.5 to 2.7).

11 Consumer engagement with product safety is weak. Regulators can support consumers by informing them of potential risks, to encourage them to avoid buying unsafe goods. In various regulated sectors, consumers do not prioritise safety considerations, and recent research estimates that only 17% of consumers consider safety when purchasing a product (behind factors such as price and ease of purchase). The OPSS works with other organisations including charities and trade associations to inform and influence consumers. Its work to date has been limited to specific campaigns, such as on fireworks and Halloween costumes, rather than driven by an assessment of knowledge gaps or efforts to improve general product safety awareness. The OPSS does not yet know what reach or impact its own direct communications to consumers would have, but has begun to explore this further. This includes testing whether its messaging about product safety can improve how many consumers register their products so they can be contacted in the event of a recall (paragraphs 2.8 to 2.10).

12 The OPSS's ability to influence the safety of products being bought and sold is constrained by gaps in its understanding of consumers and industry. Understanding consumer and business perceptions and experiences is crucial to ensure that regulations work, and to influence effectively. The OPSS developed a research programme soon after it was established and has made progress in building evidence on specific issues. However, there remain important gaps in its understanding. For example, while it has started to analyse consumer attitudes and behaviours, it does not yet know what groups of consumers are most at risk – such as those more likely to buy cheap or counterfeit goods that may be unsafe – and has not articulated how it interprets consumer vulnerability. Understanding different consumers – what they buy, how they buy it and how they use it – can help regulators and businesses improve safety awareness and ensure standards are effective at keeping all consumers safe (paragraphs 2.11 to 2.13).

Responding to product safety problems

13 The OPSS has made impactful responses to some high-profile national product safety issues since it was established in 2018. The OPSS was created to add national capacity to the product safety regime. It uses various tools to intervene at a national level, including product withdrawal requests and mandatory recalls. It also leads the regulatory response on product safety incidents that need significant national coordination, of which there have so far been five. In 2018, it intervened in ongoing issues with Whirlpool tumble dryers, helping to implement a more robust recall process that considered how to engage with hard to reach consumers. More recently, the OPSS organised a programme of work to respond quickly to product risks presented by the COVID-19 pandemic. For example, it removed more than 550 non-compliant online listings of hand sanitisers and face coverings, and prevented more than three million items of non-compliant protective equipment from entering the UK (paragraphs 3.3 to 3.5).

14 The OPSS has been slower to address other serious areas of consumer harm as it does not have the data and intelligence it needs to assess consumer risks. Regulators need timely data to spot problems as they arise, and a system to prioritise which risks to address. To date, the OPSS's national incident responses have mostly been reactive to pressing issues, rather than resulting from a broader assessment of risk. In 2021, it initiated a national incident response to harm from small, high-powered magnets that join together if swallowed and can require surgery. Such problems had been identified long before the OPSS was established, but it only initiated an intervention process in February 2021, after it had gathered the data to identify it as a nationally significant issue. The OPSS inherited a regime lacking in good-quality national data. It has been working to improve how it collects and analyses intelligence to respond to issues more quickly, including establishing an intelligence unit and starting to develop a data strategy, which is at an early stage. We found its emerging data strategy to be a good start but less mature than in other government organisations. In particular, it has not yet set out in detail how it plans to overcome the challenges it has identified or ensure it uses relevant and high-quality data (paragraphs 3.6 to 3.10).

15 The OPSS has provided new forms of support to local Trading Standards services, which they have found helpful. The OPSS works alongside local Trading Standards services, including providing technical and scientific support. Local authorities have experienced funding reductions since 2010, and between 2010-11 and 2019-20 total spend by Trading Standards services in England fell by 39% in real terms. While product safety is a priority for many Trading Standards services, 16 out of 17 services we interviewed reported that their ability to intervene consistently is hampered by limited capacity and competing priorities. Since its introduction, the OPSS has delivered several support initiatives that were welcomed by services we interviewed, including technical training, testing resources, free access to technical product standards, and help to understand and prepare for the impact of EU Exit (paragraphs 3.11 and 3.12).

16 Despite these improvements, local and national approaches are not yet well coordinated. The regulators aim to work together in a coordinated way to minimise duplication and maximise effectiveness. The OPSS has limited data on Trading Standards activities, which constrains its ability to align its work with local intervention. Some Trading Standards services we interviewed told us of cases where the OPSS and local regulators were examining the same product or business at the same time, risking duplication of work. Services we interviewed also gave mixed views on the response they received when requesting specific advice or technical support from the OPSS, indicating a potential mismatch in expectations between national and local regulators (paragraphs 3.13 and 3.14).

17 The OPSS does not yet have a way to measure its own performance or the impact of product safety regulation. Regulators need to measure performance to understand the impact of their work and guide decision-making. The OPSS is relatively new, and is developing metrics to assess its performance, including the progress of key activities and some indicators of outcomes. These measures are so far not directly linked to its strategic priorities, do not have clear benchmarks or targets, and are not integrated with planning, budgetary and operational processes to ensure they can be used to maximise effectiveness. The OPSS has also made some early progress in considering how to evaluate the impact of its work and of product safety regulation more widely. This work is ongoing, and there is not yet any robust measurement in place (paragraphs 3.15 to 3.17).

Adapting to new and changing risks

18 The OPSS has come to the end of its initial three-year strategy and is currently considering how to regulate product safety in the years ahead. The OPSS's initial strategy covered 2018 to 2020 and focused on strengthening national capacity for product safety and responding to pressing issues it inherited. The OPSS has made progress on key issues that led to its creation, including developing new product risk databases to replace systems the UK previously accessed within the EU single market, and establishing a national incident management team. It is now considering how product regulation can be less reactive and more proactively adapt to changing risks, such as from new technologies and trading relationships. It is also considering how to ensure it has appropriate regulatory powers and governance arrangements to maximise its effectiveness (paragraphs 4.3 and 4.4).

19 The government does not yet know the full product safety implications of EU Exit but estimates that new responsibilities will cost regulators £9 million a year. Since the UK left the EU single market in January 2021, regulatory functions previously carried out at EU level have been repatriated to the OPSS. Goods-checking by Trading Standards services needed at some ports and borders is also expected to increase significantly by January 2022. For example, up to an anticipated 2.8 million lorries will be in scope for checks at Dover, Eurotunnel and Holyhead, up from around 100,000 currently. The OPSS recently estimated that its new regulatory functions will cost an additional £6 million per year and has begun recruiting additional staff; it also estimates that additional requirements at ports and borders will cost a further £3 million a year. Other changes, such as consumers no longer having access to the EU's platform to resolve disputes with sellers in the single market, may also affect the wider regime. The government has not yet analysed the impact of all these changes or identified whether and how to address them (paragraphs 4.5 to 4.7).

20 Product safety regulation has not kept pace with trends in online commerce, where there are gaps in regulators' powers. Online sales grew steadily over the past decade, a trend that has accelerated during the COVID-19 pandemic. This includes growth in online marketplaces, which have been used by an estimated nine in ten adults who use the internet. These platforms, provided by websites such as some online stores and social media sites, can be used by anyone to sell products, but are not responsible for the safety of goods sold by third parties. These platforms have become increasingly popular with people who sell from home rather than business premises, or from overseas, both of which present challenges for regulators to investigate or take enforcement action. A recent study that sampled potentially risky products from online marketplaces found that 66% of them failed safety tests, with risks including electric shock, fire and suffocation. The OPSS's product safety review is seeking views on how to improve regulation of online marketplaces (paragraphs 4.8 to 4.11).

21 Staffing and capacity challenges in Trading Standards services present risks to the sustainability of the regulatory system. Among services that responded to concurrent workforce surveys, there were reductions of 48 qualified officers from 2016 to 2017 and 99 qualified officers from 2017 to 2018. We estimate this could equate to an average annual reduction of around 10% of qualified staff in those services that answered concurrent surveys. We interviewed services that told us they could not attract and develop enough new officers to replace experienced staff who retire. For example, surveys indicate that more than 45% of all Trading Standards staff in Scotland were older than 50 in 2019, up from 40% in 2017. The OPSS has not yet developed a vision for what the overall system of product safety regulation should look like or a plan to ensure this model is sustainable (paragraphs 4.12 and 4.13).

Conclusion

22 In 2018, the government reformed the product safety regime to strengthen it, including establishing the OPSS as a national regulator. The OPSS has made a good start in addressing the immediate issues it faced: it has made impactful interventions on national issues, including strengthening high-profile recall processes for household appliances, provided new forms of support for local regulators, and developed new databases to prepare for EU Exit.

23 However, the product safety regime faces major challenges to keep pace with changes in the market. There are gaps in regulators' powers over products sold online, local and national regulation is not well coordinated despite improvements, and the OPSS does not yet have adequate data and intelligence. The OPSS is currently consulting on how to ensure the regulatory framework is fit for the future. Until it establishes a clear vision and plan for how to overcome the challenges facing product safety regulation and the tools and data needed to facilitate this, it will not be able to ensure the regime is sustainable and effective at protecting consumers from harm.

Recommendations

24 The OPSS has made progress on the immediate issues it faced but is now looking at how it can ensure product safety regulation is effective and adaptable. These recommendations are intended to help it in this process.

25 The OPSS should do the following:

- a Use its product safety review to set out clearly its vision for what product safety regulation should look like, and a detailed plan for how to get there.** It should work with BEIS and other relevant parts of government to articulate an ideal target operating model that addresses specific challenges the regime faces, including:
 - the respective roles of national and local regulators and the sustainability of these services;
 - the powers and tools that regulators will need, including to regulate products sold online effectively;
 - what governance arrangements will help the OPSS maximise its effectiveness; and
 - the impacts of EU Exit on the regime.
- b Speed up efforts to ensure it has the data and intelligence it needs to identify and prioritise areas of most risk to consumers.** It has made progress in understanding barriers to getting good data, but now needs to establish in detail what specific data and information it requires to achieve its aims and how it will collect and analyse these data.
- c Establish which consumers may be particularly vulnerable to unsafe products, and in what circumstances.** To achieve this, it could work with and learn from the experiences of other regulators that have articulated their interpretations of vulnerable consumers.
- d Work with local Trading Standards services to improve coordination between local and national regulation.** It should engage with local services to understand what is and is not working in practice and consider how to get better data on local regulatory activity across the UK. It should explore what lessons it can learn on proportionate data gathering from other regulators that work with local regulation, such as the Food Standards Agency and Gambling Commission.

- e **Examine how best to influence businesses and consumers to prevent problems from occurring.** This could include business segmentation analysis to ensure regulators can influence harder-to-reach businesses and assessing what impact the OPSS could have by more directly trying to raise consumer awareness and understanding.
- f **Build on its work so far to ensure it has a meaningful way to measure performance and impact.** In addition to identifying key performance indicators, it should link indicators clearly to its strategic objectives, identify appropriate success measures, and continue to improve its understanding of how product safety regulation leads to better outcomes.

Part One

The UK's product safety regime

1.1 While most goods we buy are likely to be physically safe, unsafe products can cause injury, financial costs and even fatalities for consumers. Harm to health and safety can be visible, such as fires caused by faulty appliances, or less obvious such as toxic or carcinogenic chemicals in cosmetics (**Figure 1**). There are no data available on the overall scale of product safety harm or how this has changed over time.

1.2 In the UK, the General Product Safety Regulations 2005 require businesses that make or sell products to ensure they are safe when used normally or in a way that could be reasonably foreseen, but do not require this to be proven to regulators before selling to consumers. Some product types – typically with more risk of safety problems such as electricals, toys, cosmetics or upholstered furniture – have specific regulations with additional safety requirements or processes. Before EU Exit, most product safety regulation in the UK derived from EU regulations and directives.

1.3 Until 2018, consumer product safety regulations were enforced entirely by local Trading Standards services.¹ These services, which in England employ around 2,000 people and spent £143 million in 2019-20, sit within local authorities and are locally accountable. They include several regulatory responsibilities, of which product safety is only one. During the 2010s, it was widely considered that this local system was not well-equipped to deal with increasingly complex national and international product markets. This was highlighted by high-profile problems with Whirlpool tumble dryers identified in 2015, and the fire at Grenfell Tower in 2017 that originated from a fridge freezer.

1.4 In January 2018, the government established the Office for Product Safety and Standards (OPSS), a new office within the Department for Business, Energy & Industrial Strategy, to bring national capacity and leadership to product safety issues. The OPSS's product safety operations budget has grown from £10 million in its first year to £14 million in 2020-21. Its national role includes identifying and assessing product risks and intervening directly on issues that are nationally significant, novel or contentious. The OPSS works alongside Trading Standards services (including providing technical and scientific support), which still regulate at local level and undertake most enforcement activity, and other stakeholders (**Figure 2** on page 16).

¹ In Northern Ireland, this work is done by environmental health teams. For the purposes of this report, references to Trading Standards include these services.

Figure 1

Examples of product safety harms

Unsafe products can cause harm in different ways, which may not always be visible or easy to attribute

Visible harm caused by product fault, such as:

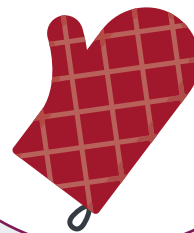
Items that catch fire

For example, an estimated 3,000 house fires each year in the UK are caused by appliance faults.¹



Faulty protective items

For example, oven gloves that do not adequately protect the wearer from heat.



Visible harm that may or may not be due to a product fault, such as:

Items involved in accidents

For example, there are nearly 5,000 attendances at A&E in England each year for injuries from fireworks.²



Items used incorrectly

For example, furniture that falls and causes injury because it is not correctly attached to the wall.



Hidden harm, such as:

Carcinogens

For example, cosmetics such as makeup or moisturiser that involve cancer-causing substances.



Toxic chemicals

For example, toxic materials in toys (paints, plastics) that can cause harm over time.

**Notes**

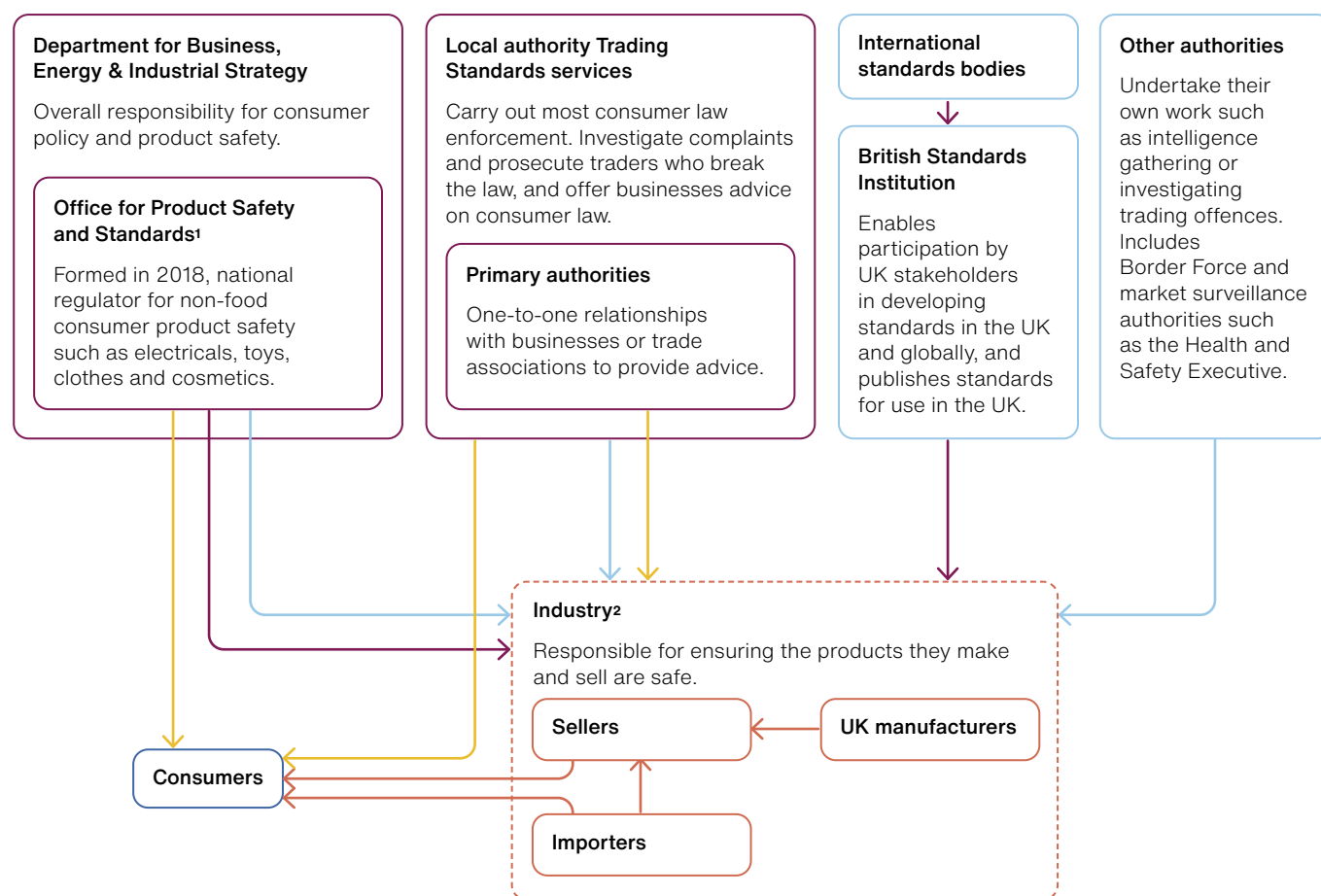
- 1 Based on house fire data from April 2014 to March 2016, as reported in Which?, *Revealed: the brands linked to the most appliance fires*, February 2018.
- 2 Based on A&E attendances data from 2014-15 to 2017-18, as reported in NHS, *Hospital admissions and A&E attendances for firework injuries*, November 2020.

Source: National Audit Office analysis of public information

Figure 2

The UK's consumer product safety regime since 2018

The Office for Product Safety and Standards works alongside others to regulate and enforce product safety



□ Core regulatory framework

□ Other oversight bodies

➔ Regulations and standards setting

➔ Enforcement

➔ Commercial relationship

➔ Information and advice

Notes

- 1 The Office for Product Safety and Standards' (OPSS's) key activities are: developing product safety legislation and policy; researching and assessing product risks at national level; supporting local regulators with guidance, technical expertise and capability building; intervening on issues that are nationally significant, novel or contentious; and, product safety campaigns for consumers and industry.
- 2 Firms may integrate the various industry roles. Consumers can also buy directly from sellers overseas.
- 3 The OPSS also has overall government responsibility for standards and market surveillance policy.

Source: National Audit Office analysis of public information and stakeholder interviews

1.5 The ability of product safety regulation to protect consumers from harm depends on the extent to which it can keep pace with evolving product markets. For example:

- people increasingly buy goods online or make and sell products from home – trends that accelerated during the COVID-19 pandemic – which creates different risks from goods sold on the high street;
- products themselves change, such as ‘smart’ devices which operate automatically and unsupervised;
- many consumer goods are imported, and new trading relationships with the EU and the rest of the world may mean changes to the role and work of UK regulators; and
- some manufacturers are trying to meet the demand for sustainable products by making them easier to repair rather than replace. Longer lifespans may mean products are more likely to develop faults or be bought second hand.

In March 2021, the OPSS launched a major review seeking views on the longer-term approach to product safety and ensuring the regime is fit for the future.

Scope of this report

1.6 This report examines the extent to which the UK’s product safety regime can protect consumers from harm and keep pace with changes in the wider environment, focusing on the role and work of the OPSS. In scoping our study, we worked with the OPSS and other stakeholders to develop an evaluative framework for what good product safety regulation looks like (**Figure 3** overleaf). As the OPSS was created only in 2018, we do not expect the new arrangements to have achieved full maturity in all areas. Nevertheless, we have used this framework to assess progress in key areas and identify priorities going forward.

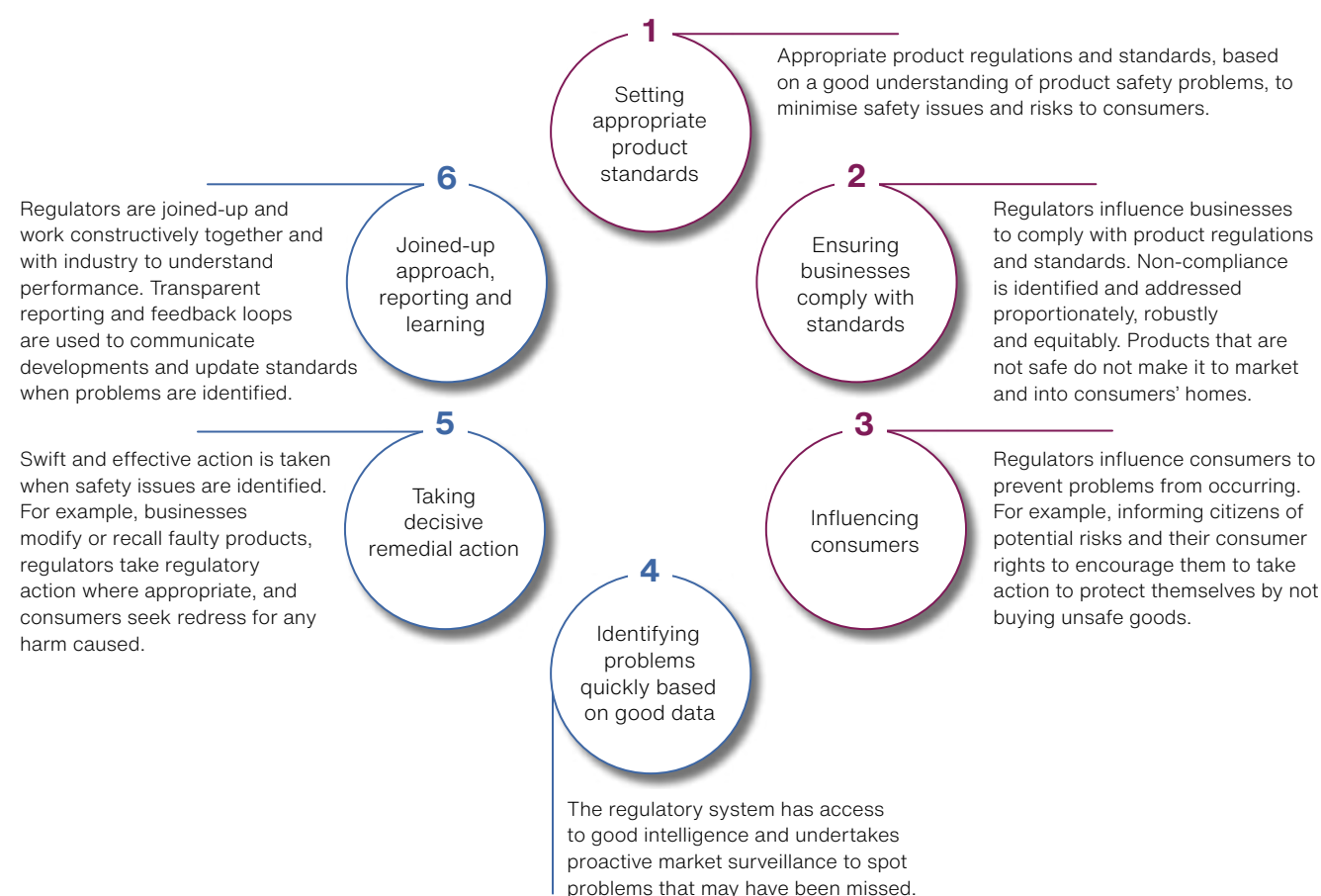
1.7 The rest of this report covers:

- preventing unsafe goods from being purchased – by setting appropriate product requirements, ensuring businesses comply with those requirements, and influencing consumers to avoid buying unsafe goods (Part Two);
- responding to product safety problems – by identifying problems as they arise, intervening quickly to address them, and learning from experience to make future interventions as effective as possible (Part Three); and
- adapting to new and changing risks – including those arising from EU Exit and technological developments (Part Four).

Figure 3

Our evaluative framework for what good product safety regulation looks like

In 2020, we worked with stakeholders to develop an evaluative framework for our study



○ Work to *prevent* product safety problems

○ Work to *respond* to product safety problems

Source: National Audit Office analysis of public information, stakeholder interviews and our past work on regulation

1.8 While this report considers the effectiveness of the UK's overall product safety regime, we did not audit the performance of individual Trading Standards services or other stakeholders. We also did not examine products covered by separate national regulators and outside the remit of the OPSS, including food, medical products and vehicles, or any services not involved in the supply of consumer goods. Finally, we did not examine the OPSS's other responsibilities not related to consumer product safety, such as construction products or regulatory delivery across government.

Part Two

Preventing unsafe goods from being purchased

2.1 UK regulators seek to prevent harm from unsafe products by ensuring businesses make and sell safe products, and by influencing and supporting consumers to make safe purchases.

2.2 This part examines:

- how the Office for Product Safety and Standards (OPSS) uses regulations to set product safety standards;
- how regulators influence businesses to comply with regulations and standards;
- consumer awareness and understanding of product safety risks; and
- whether the OPSS has sufficient understanding of industry and consumers to inform its approach.

Setting appropriate product standards and regulations

2.3 Regulations set legal requirements for businesses to make and sell safe products. General regulations require all products sold in the UK to be safe, and there are more than 20 product-specific pieces of legislation with additional safety requirements. For some products, specific regulations set additional safety requirements, and technical standards developed by the British Standards Institution (and in many cases internationally), which are themselves voluntary, can be used to demonstrate compliance. Some regulations also require businesses to perform checks and testing before a product goes on sale, depending on risk (**Figure 4** overleaf). Stakeholders of all types who we interviewed raised no concerns over the general level and appropriateness of product standards in the UK.

Figure 4

Conformity assessment in the UK consumer product safety system

Regulatory requirements depend on product type and level of risk

Increasing safety risk



Source: National Audit Office analysis of public information and Office for Product Safety and Standards documents

2.4 There is a challenge in ensuring regulations remain fit for purpose and reflect new information or products. In some cases, the government has been slow to do this. For example, regulations on furniture fire safety have not been updated since 1988 to reflect innovations in safety testing or office furniture increasingly used in the home (**Case study 1**). Regulations have also not kept pace with newer types of product such as ‘smart’ technologies or artificial intelligence. These product types are continually developed, and items already purchased can have their software updated, but they are not specifically considered within current regulations. Following EU Exit, the UK will be solely responsible for setting regulations, and the OPSS launched a major review in March 2021 to update the regime, within which ‘new products and product lifecycles’ is one of five key issues.

Influencing businesses to comply with standards

2.5 Businesses are responsible for complying with regulations and ensuring products are safe. They do not need to evidence compliance to the OPSS or Trading Standards services before selling to consumers. The regulators do not require assurance over product safety or undertake proactive checks, other than surveillance on imports at the border which is limited. For example, the largest UK port, Felixstowe, handles millions of consignments of imported goods each year. While most consignments are likely to be low risk for product safety issues, Felixstowe only has capacity to inspect fewer than 1,000 a year, which it targets based on high-risk products and importers. Some other points of entry to the UK have no enforcement staff.

Case study 1

UK Furniture and Furnishings Fire Safety Regulations 1988



The government has been slow to update safety regulations for domestic furniture

The problem

UK regulations require that domestic upholstered products pass specific flammability tests and labelling requirements. These requirements have not been updated since 1988 and require fabrics to be tested against a flammable foam that is no longer used and can be complied with using harmful flame-retardant coatings. The regulations also do not cover commercial products being used within the home, such as office chairs, which come under another regulatory regime with different testing requirements.

The regulatory response

In 2010, a government review concluded that the regulations should be revised. It consulted on their reform in 2014 and 2016, and in 2019 the Office for Product Safety and Standards announced its plan to develop a new legislative framework. The work remains in consultation: the OPSS is engaging with technical and scientific experts to inform the policy response and with the British Standards Institution to develop a new voluntary standard.

Source: National Audit Office analysis of public information

2.6 The regulators therefore use a range of tools to influence manufacturers, retailers and importers to comply with regulations, including guidance, advice and events. For example:

- the OPSS publishes guidance for businesses, and works with trade associations through meetings and awareness-raising events such as on the Covid-19 pandemic and EU Exit;
- the OPSS liaises directly with over 150 key businesses and trade associations through its Business Reference Panel;
- Trading Standards services provide advice to around 100,000 businesses through 'primary authority partnerships', which are agreements through which they provide assurance and advice on a range of issues including product safety;
- the regulators conduct market surveillance and enforcement activity (Part Three), through which they can provide advice and mandate product changes following investigations; and
- for cosmetics products specifically, businesses must upload details of products, including ingredients, on a central database before placing them on the market.

2.7 Despite these activities, OPSS research found that 24% of relevant businesses surveyed did not think they had product safety responsibilities, and a further 7% were not sure which requirements were needed to be compliant. Only 3% of businesses surveyed thought local authorities were the most useful source of information to ensure compliance, behind their suppliers and manufacturers. The regulators have observed a rise in people setting up businesses from home, or selling handmade products, who may be unaware of the applicable regulatory requirements to ensure product safety. The OPSS has started work to better understand business awareness, including surveying businesses to understand their attitudes to product safety, profiling risky importers, and identifying new small-scale producers of protective equipment during the COVID-19 pandemic. However, it has not yet completed a full analysis of businesses that present higher product safety risks, are harder to reach or demonstrate poor compliance across the products it regulates.

Consumer engagement with product safety

2.8 Regulators can support consumers by informing them of potential risks and encouraging them to protect themselves by not buying unsafe goods. Other stakeholders can also help consumers make safe choices, including industry, charities and consumer organisations.

2.9 Most consumers do not consider safety risks when buying products. In various regulated sectors, research has indicated that consumers often prioritise issues such as price, brand or overall quality ahead of safety considerations. OPSS research estimates that only 17% of consumers consider safety when purchasing a product, behind factors such as price and ease of purchase (**Figure 5**). Electrical Safety First found that around one in five surveyed consumers said they would knowingly buy a fake or substandard electrical product for a saving of 50% or less.

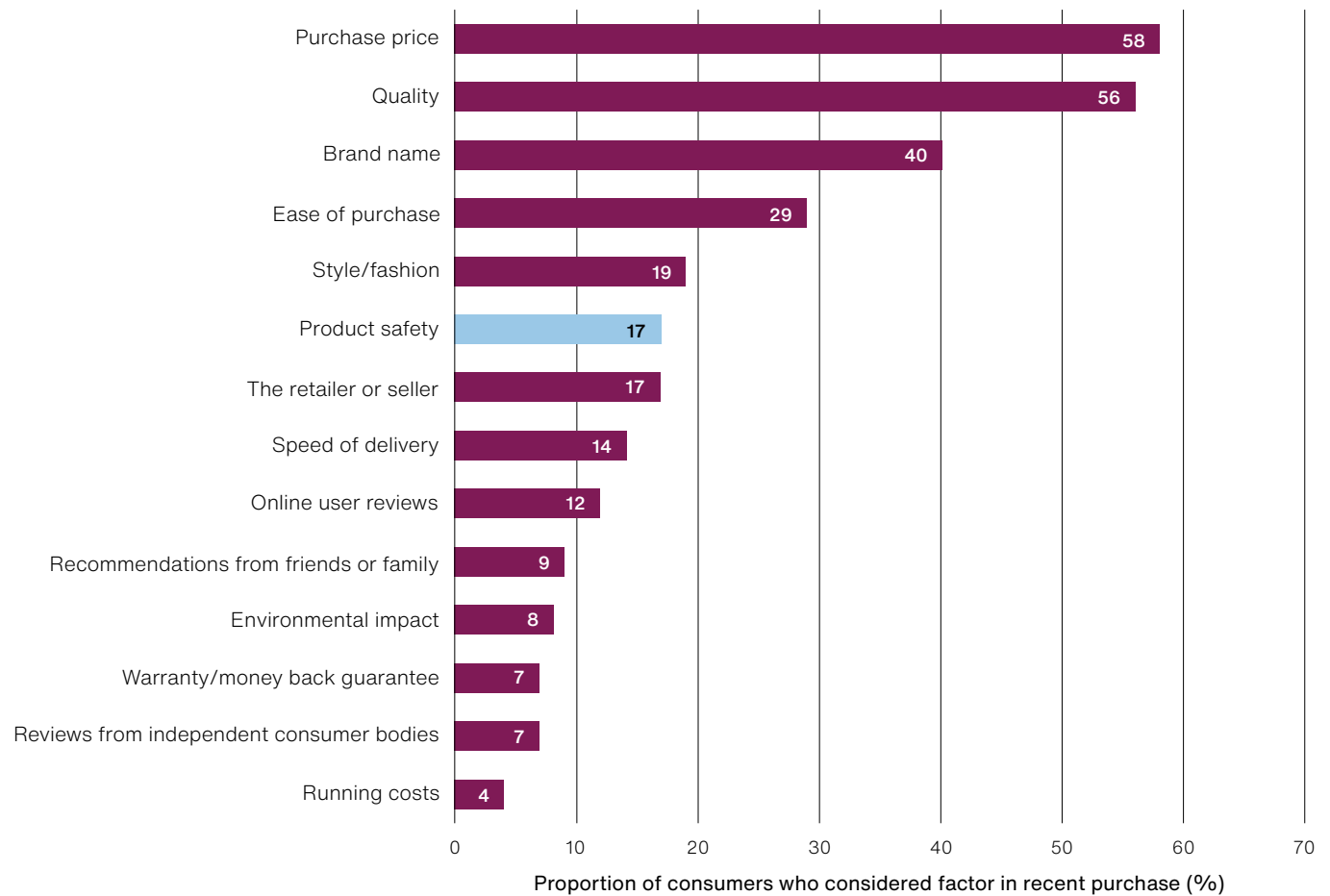
2.10 The OPSS has begun to explore what reach and impact it can have through different ways of communicating directly to consumers. It identifies partner organisations and coordinates with them to inform consumers of product safety risks. For example, it has recently led work with The Royal Society for the Prevention of Accidents, the Chartered Trading Standards Institute, the Child Accident Prevention Trust, and sector-specific trade associations to disseminate messaging on product safety. The OPSS's work to date has been limited to specific campaigns, such as on fireworks and Halloween costumes, rather than driven by an assessment of consumer knowledge gaps or an attempt to improve general product safety awareness. It is estimated that only 19% of consumers think government is the most trusted source on product safety (behind retailers and manufacturers), and the OPSS does not yet know what reach or impact its own direct communications to consumers would have. However, it is currently testing, using randomised control trials, whether its messaging about product safety can improve how many consumers register their products. Consumers often register products to activate or extend a warranty, but doing so also makes it easier to be contacted if the product is found to be unsafe and is recalled.

Figure 5

Influencing factors on consumer purchases, 2019

Of surveyed UK consumers, 17% identified product safety as a consideration in a recent purchase

Factor in purchase decisions

**Note**

- 1 These data came from a 2019 survey of 3,562 consumers who had made a purchase in the previous three months. Participants could pick multiple factors, and so the figures do not total 100%

Source: Office for Product Safety and Standards, *Consumer Attitudes to Product Safety*, October 2020

The OPSS's understanding of consumers and industry

2.11 Regulators need to understand consumer and business perceptions and experiences in order to set appropriate regulations and to influence effectively. For example, understanding different consumers – what they buy, how they buy it and how they use it – helps inform how to improve awareness and understanding as well as ensure standards are effective at keeping all consumers safe.

2.12 The OPSS developed a research programme in 2018, soon after it was established, that set out its research priorities and plans for initial projects. Before 2018, there was no similar programme of research. The OPSS has made progress in building evidence on specific issues, having commissioned 43 research projects since the programme began and published eight papers, including:

- the findings of a nationally representative survey of UK consumers, exploring attitudes and behaviours relating to product safety, awareness of the product safety system and assumptions regarding the role of different actors within it;² and
- a review of safety risks associated with domestic battery energy storage systems and measures to mitigate them.³

2.13 Despite the work so far, there remain important gaps in the OPSS's understanding that it has not yet addressed. For example, while it has begun high-level segmentation of consumer attitudes and behaviours, it does not know what groups of consumers are most at risk, such as those more likely to buy cheap or counterfeit goods that may be unsafe. It also has not yet articulated how it interprets which consumers may be vulnerable under what circumstances, and how the work of businesses and regulators can help to address this. We have previously reported on other regulators' efforts to understand how their work relates to consumer vulnerability.⁴ The approaches taken by these regulators may provide useful learning for the OPSS.

² Office for Product Safety and Standards, *Consumer Attitudes to Product Safety*, October 2020.

³ Office for Product Safety and Standards, *Domestic battery energy storage systems*, October 2020.

⁴ Comptroller and Auditor General, *Vulnerable consumers in regulated industries*, Session 2016-17, HC 1061, National Audit Office, March 2017.

Part Three

Responding to product safety problems

3.1 Despite efforts to ensure unsafe goods are not sold, some products will not comply with legislative requirements and may pose significant risks. UK regulators, therefore, seek to identify safety problems as they arise, address them quickly to protect consumers from harm, and where appropriate take enforcement action against businesses that have not complied with regulations.

3.2 This part examines:

- how the Office for Product Safety and Standards (OPSS) intervenes directly on product safety issues that are nationally significant, novel or contentious, including how it uses data and intelligence to inform its approach;
- coordination between national regulation by the OPSS and local regulation by Trading Standards services; and
- how the OPSS measures its performance and the impact of product safety regulation to inform future interventions.

Direct intervention by the OPSS

3.3 While local Trading Standards services still conduct most enforcement of consumer product safety regulations, the OPSS now also intervenes at a national level on issues that are nationally significant, novel or contentious. Through powers held by the Secretary of State for Business, Energy and Industrial Strategy, the OPSS uses a range of tools to:

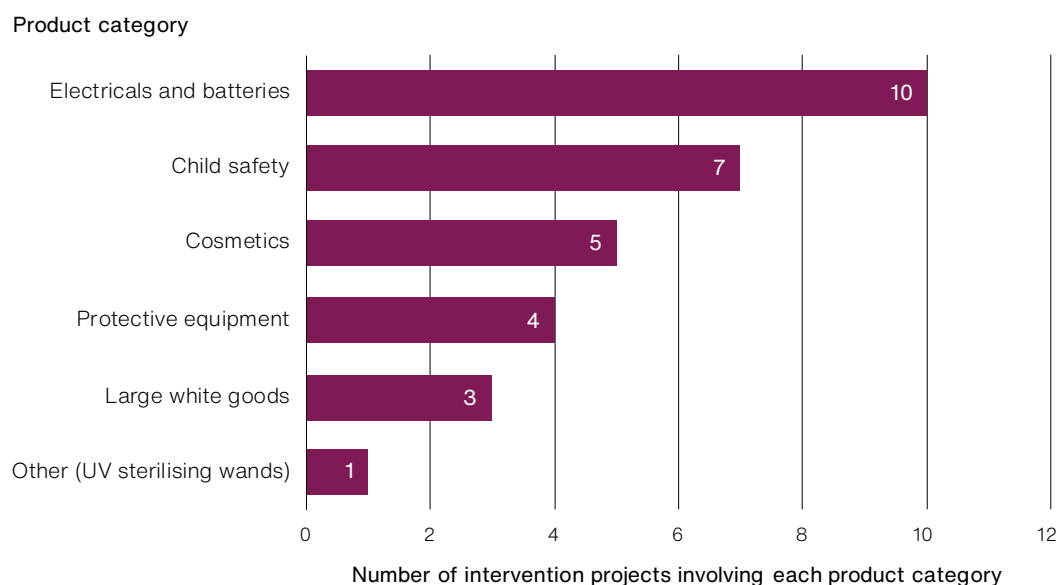
- check compliance, for example through visual and documentary checks and product testing;
- address non-compliance through statutory information requests, alterations of product descriptions, and the provision of business advice; and
- deal with product safety issues, through referrals to local authorities, product withdrawal requests and mandatory recalls.

The OPSS has used these tools to investigate and intervene on different types of product (**Figure 6** overleaf).

Figure 6

Office for Product Safety and Standards (OPSS) product safety intervention projects, January 2018 to April 2021

The OPSS has intervened on different types of consumer product

**Note**

1 Most projects have involved more than one type of investigation and intervention.

Source: National Audit Office analysis of Office for Product Safety and Standards data

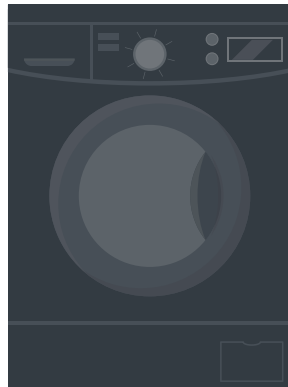
3.4 The OPSS was established in part to address product safety incidents of national significance. It has set up an incident management plan to identify and coordinate a regulatory response to issues that need significant national coordination. Since its introduction, the OPSS has initiated a response for five national incidents:

- two relating to Whirlpool appliances – one on tumble dryers (May 2018) and one on washing machines (December 2019);
- two during the first COVID-19 lockdown – one on face coverings and one on hand sanitisers (both April 2020); and
- one on small, high-powered magnets (February 2021).

3.5 The OPSS has used this approach to make impactful interventions on high-profile safety issues. For example, soon after its creation the OPSS intervened in ongoing problems with Whirlpool tumble dryers by assessing modifications that Whirlpool was offering, and subsequently implementing a more robust recall process that further considered how to engage with hard to reach customers (**Case study 2**). The OPSS and Whirlpool also used learning from this to launch an effective campaign after identifying a safety fault in some washing machine models in December 2019. More recently, the OPSS organised a programme of work to respond quickly to consumer product risks presented by the COVID-19 pandemic (**Figure 7** overleaf).

Case study 2

Whirlpool tumble dryers, 2015–2019



The Office for Product Safety and Standards (OPSS) intervened in the national Whirlpool tumble dryer incident

The problem

In August 2015, the domestic appliance company Whirlpool found a safety fault in some of its tumble dryer models that posed a fire risk, and informed its primary authority, Peterborough Trading Standards. In August 2016, a Whirlpool tumble dryer that had not been remedied caused an apartment fire in Shepherd's Bush, London, raising further concerns about Whirlpool's tumble dryer safety.

The regulatory response

Using established risk assessment processes, Peterborough Trading Standards initially assessed the risk as low and agreed that Whirlpool should offer modifications but not tell consumers to stop using affected tumble dryers. After the 2016 fire, it required Whirlpool to advise consumers to stop using affected models. In May 2018, shortly after it was established, the OPSS started reviewing Whirlpool's modification programme. In June 2019, the OPSS concluded there was still a substantial safety risk for unmodified tumble dryers, announced its intention to issue a recall notice, and worked with Whirlpool to focus further on harder-to-reach consumers. This campaign led to more than 130,000 further customers contacting Whirlpool regarding a recall, resulting in a total of 1.8 million resolved cases.

Source: National Audit Office analysis of public information and Office for Product Safety and Standards documents

Figure 7
Consumer product safety response to the COVID-19 pandemic

The Office for Product Safety and Standards (OPSS) initiated a programme of interventions in response to the pandemic

Example activity	Description
Gathering insight	The OPSS surveyed consumers to understand attitudes and behaviours towards products related to COVID-19, focusing on hand sanitisers and face coverings.
Training for local regulators	The OPSS helped design and deliver training to Trading Standards services to assist with local enforcement relating to product safety and the pandemic.
Support at ports and borders	OPSS staff were deployed at airports, including Manchester and Heathrow, to assess imported face coverings against safety requirements. This led to 59 imports being checked at the border, with more than three million items prevented from entering the UK.
Compliance monitoring	The OPSS examined hand sanitisers and face coverings sold online against labelling requirements. This led to the removal of more than 550 listings of non-compliant products.
Product testing	The OPSS tested 33 ultraviolet light sanitising devices (used to kill bacteria) against product safety requirements, of which 12 were recalled due to serious safety risks.

Note
1 This table covers OPSS's COVID-19 work focused on consumer products, and does not include other coordination and regulatory work the OPSS has conducted in response to the pandemic.

Source: National Audit Office analysis of Office for Product Safety and Standards information

Responding quickly based on good data and intelligence

- 3.6** Timely intelligence on consumer problems enables regulators to identify serious risks and act urgently in response to these. Good-quality data and risk assessment also help regulators build a better understanding of which products are the most dangerous and decide where to focus resources.
- 3.7** The OPSS inherited a regulatory regime lacking in good-quality, national-level data on product safety risks, constraining its ability to understand consumer harm and make timely and effective interventions. For example, it does not know the number of injuries sustained by consumers due to faulty or unsafe products or have a way to collate a full picture of consumer complaints data from different sources. In 2020, the OPSS identified several challenges it faced to gathering intelligence more effectively, including a lack of powers to request data from industry, limited incentives on businesses and other stakeholders to share product safety information, and technological challenges such as loss of access to EU databases.

3.8 The OPSS does not have the data and intelligence it needs to assess different risks to consumers, which has slowed its response to some serious areas of harm. To date, the OPSS's national incident responses have mostly been reactive to pressing issues, rather than resulting from a broader assessment of risk, due to limitations in its data and intelligence. In 2021, it initiated a national incident response to harm relating to small, high-powered magnets that join together if swallowed and can require surgery. Problems with such magnets have been identified long before the OPSS was established, as early as 2006, but the OPSS only initiated an incident response in February 2021 after it had gathered the data to identify it as a nationally significant issue (**Case study 3**).

Case study 3

Small, high-powered magnets



The Office for Product Safety and Standards' (OPSS's) response has been slowed by data limitations

The problem

Serious harm can be suffered, particularly by children, from swallowing small, high-powered magnets such as in toys and jewellery. Harm comes from swallowing two or more at the same time. If the magnets are in different sections of the bowel, they can magnetise together and cause injury or cut off blood supply, requiring emergency surgery or intensive care. This has occurred across the world and goes back a number of years – an OPSS review of available literature identified 102 paediatric cases globally, going back to 2008, 75% of which required invasive surgery. More recently, NHS data supplied to the OPSS in early 2021 identified 40 paediatric admissions in the UK in 2020.

The regulatory response

UK regulations require magnets above a certain strength in toys (but not in other products) to be encased in a structure that is not generally accessible or likely to be swallowed. The first individual occurrence reported to the OPSS was in January 2018, shortly after it was established, although occurrences were reported by Trading Standards services as early as 2006. In February 2021, the OPSS raised a national product safety incident, and it has started to investigate the issue further and explore potential regulatory interventions.

Source: National Audit Office analysis of public information and Office for Product Safety and Standards data

3.9 The OPSS is working to improve how it collects and analyses data to respond to issues more quickly. For example, it established an intelligence unit to gather and analyse data and produce intelligence for use across the organisation. It also created new national databases, including the Product Safety Database, to collect intelligence on product risks in the UK following EU Exit. The OPSS is developing an overarching data strategy to bring these initiatives together and inform its longer-term approach to improving the regulatory system's intelligence base.

3.10 We reviewed the OPSS's emerging data strategy and its overall approach to data and assessed it as a good start but less mature than in other government organisations. Our analysis used an evaluative framework developed in previous work on data use in government.⁵ While we found areas of strength and good practice, the OPSS's data strategy is relatively immature compared with other public bodies we have assessed using the same framework. In particular, while the OPSS has identified some key data gaps and challenges, it has not yet set out in detail how it plans to overcome these or ensure it uses relevant and high-quality data (**Figure 8**).

Coordination of national and local regulation

3.11 Since 2010, local authorities have experienced reductions in funding, and product safety resources are not ringfenced. Between 2010-11 and 2019-20, total spend by Trading Standards services in England fell by 39% in real terms (**Figure 9** on page 32). While product safety is a priority for many Trading Standards services, 16 out of 17 services we interviewed reported that their ability to investigate and intervene consistently is hampered by limited resources and competing service priorities. For example, around half of Trading Standards services did not undertake any chemical testing of consumer products from 2016 to 2019.⁶ The COVID-19 pandemic has added further pressures on local authorities,⁷ and Trading Standards services told us officers had been redirected to COVID-19 response work.

3.12 Product safety legislation does not give the OPSS powers to direct Trading Standards services, but it works alongside them including providing technical and scientific support. Since its introduction, the OPSS has delivered several new initiatives of support that were welcomed by Trading Standards services we interviewed (**Figure 10** on page 33).

⁵ Comptroller and Auditor General, *Challenges in using data across government*, Session 2017–2019, HC 2220, National Audit Office, June 2019.





⁶ Unchecked UK, *Investigation: hidden chemicals and consumer goods*, August 2020.

⁷ Comptroller and Auditor General, *Local government finance in the pandemic*, Session 2019–2021, HC 1240, National Audit Office, March 2021.

Figure 8

Our assessment of the Office for Product Safety and Standards' (OPSS's) data strategy, as of May 2021

The OPSS's emerging data strategy is at an early stage and we observed areas that require improvement

National Audit Office evaluation principle	Initial assessment (percentage score and red-amber-green rating)	Good practice we observed	Areas that require improvement
Strategy			
An organisation should have a clear understanding of its data ambitions and a strategic approach to achieving these.	 52%	Strategic principles and themes have been identified, and strategic gaps are recognised.	Costs of data services are not understood, and changes to data and migration activities have not been planned.
Business alignment			
The key principles of an organisation's data strategy should be evident throughout the entire business.	 50%	Data are treated as a strategic asset. Information is processed in separate teams and databases and passed on to support business activities.	There is not a shared data model across the organisation that is recognised and supported by all business areas.
Governance			
An organisation should have appropriate governance to provide direction and oversight of a department's data projects and data decisions.	 35%	Data are actively managed within the OPSS and some data governance structures appear to be in place.	We did not see evidence of a data architecture, including clear ownership of data sets, or evidence that data quality is routinely assessed, measured or monitored. Unclear how governance structures provide strong and effective oversight.
Technology and data standards			
Are defined and implemented consistently across the organisation.	 31%	We saw some evidence that data are shared sensitively and consideration that they are used ethically.	We did not see evidence that data standards exist and are clearly defined, including relating to data storage. Nor are the data yet of high quality.

Note

- 1 Scoring is based on our assessment of the Office for Product Safety and Standards' (OPSS's) current data strategy, which is in development, against a framework we have used to assess data strategies in other public bodies. Each score is based on various criteria. A score below 20% would be rated red; 20–40% red/amber; 40–60% amber; 60–80% amber/green; and above 80% would be rated green and considered good practice.

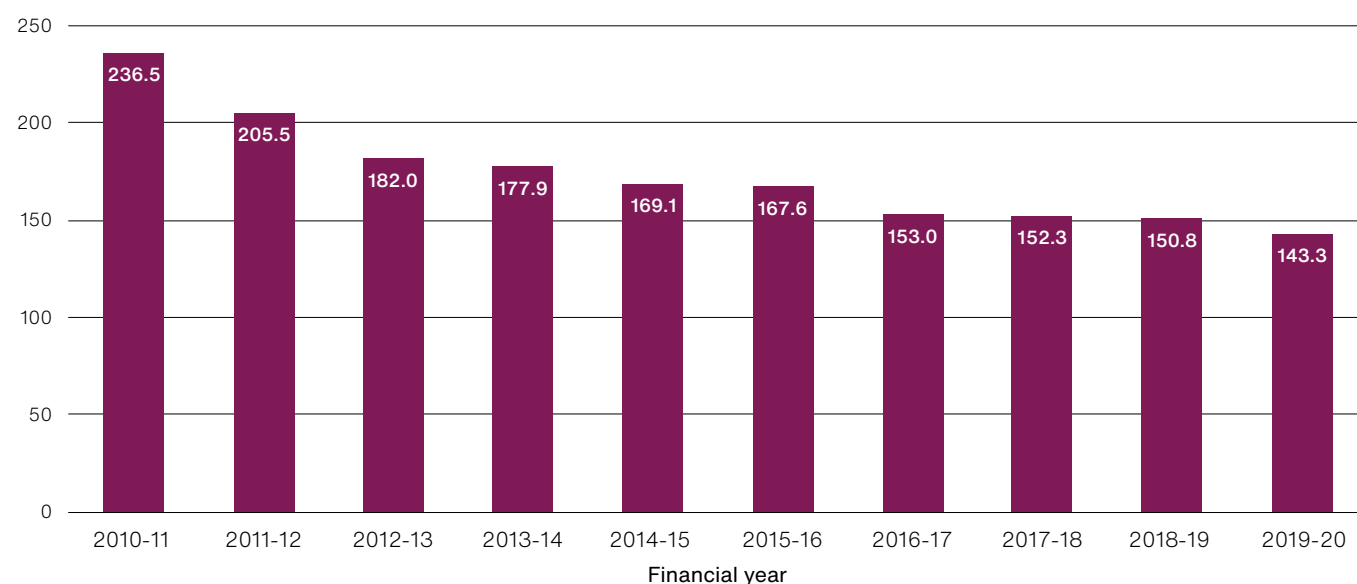
Source: National Audit Office analysis of documents from, and interviews with, the Office for Product Safety and Standards

Figure 9

Local Trading Standards spend in England, 2010-11 to 2019-20

Total Trading Standards gross expenditure in England reduced in real terms by 39% between 2010-11 and 2019-20

Total Trading Standards spend in England (£m, 2019-20 prices)

**Note**

1 Data are in 2019-20 prices and have been adjusted for inflation using the GDP deflator.

Source: National Audit Office analysis of data published by the Ministry of Housing, Communities & Local Government

3.13 Despite these improvements, local and national approaches are not yet well coordinated. The regulators aim to work together in a coordinated way to minimise duplication and maximise effectiveness. The OPSS has published guidance setting out when Trading Standards services should share information about product risks and how the regulators should work together in response to national safety incidents. Despite the progress set out in paragraph 3.12, we found the following:

- The OPSS requires Trading Standards services to record instances of non-compliance onto a product safety database but does not have data on other activities such as product testing or fines. Without this wider picture, its ability to align its work with local intervention is constrained.
- Some Trading Standards services we interviewed told us of cases where the OPSS and local regulators were examining the same product or business at the same time, risking duplication of work.

Figure 10

Office for Product Safety and Standards (OPSS) support to local Trading Standards services since 2018

The OPSS has delivered several initiatives to support Trading Standards services' product safety activities

Initiative	OPSS actions
Training	Has delivered training to Trading Standards officers, in partnership with the Chartered Trading Standards Institute, including on conformity assessments, corrective actions and implications of EU Exit.
Other help with preparation for EU Exit	Has met with Trading Standards representatives to discuss the implications of EU Exit on product safety regulation and communicated weekly developments to the profession.
Access to product testing facilities	Provides funding to locally based test houses to enable access to product testing for compliance with regulations. The OPSS has so far provided £1.4 million for this testing.
Online resources and guidance	Has developed new guidance pages online to provide operational support and advice to Trading Standards officials on various topics.
National coordination groups	Has supported the National Product Safety Group and Coprime ports and borders group, bringing together Trading Standards services, government departments and other stakeholders to undertake product safety projects and share best practice.
Access to British Standards Institution material	Provides free access to technical product standards and relevant materials from the British Standards Institution, to assist product safety enforcement work.
Ports and borders funding	Provides grant funding to Trading Standards services for their ports and borders programme and coordinates additional checks on the safety of imported goods at borders.

Source: National Audit Office analysis of Office for Product Safety and Standards information

3.14 Services we interviewed also gave mixed views on the level of expert advice and support provided by OPSS, indicating a potential mismatch in expectations between national and local regulators. Some services reported that guidance was helpful and technical expertise had been provided. However, services that were less happy told us that requests to the OPSS for specific guidance or technical support were either declined or met with generic references to legislation, rather than considered and decisive advice.

Measuring performance and impact

3.15 Regulators need a good understanding of performance and impact so they can prioritise what works, make improvements and be held accountable. Good performance measurement includes: collecting good-quality, relevant data; setting clear benchmarks to assess progress against; evaluating regulatory impact on key issues; and reporting transparently to stakeholders.⁸

8 National Audit Office, *Performance measurement by regulators*, November 2016.

3.16 The OPSS is relatively new and while it tracks and reports on the progress of key projects, it is still developing metrics to assess its overall performance including some indicators of outcomes. Its measures are so far not directly linked to its strategic priorities, do not have clear benchmarks or targets, and are not integrated with planning, budgetary and operational processes to ensure they can be used to maximise effectiveness. The OPSS voluntarily publishes an annual delivery report to provide transparency on its key activities and progress in the year. However, this is largely narrative and does not set out quantified indicators.

3.17 The OPSS has made some early progress in considering how to evaluate the impact of its work, and of product safety regulation more widely. It has conducted critical reviews to learn lessons from key programmes such as the Whirlpool incidents and preparations for EU Exit. Teams across the OPSS have also taken part in exercises to identify and understand the potential impact of their various workstreams. This work is ongoing, and there is not yet a robust process to measure the impact of regulatory interventions in practice.

Part Four

Adapting to new and changing risks

4.1 Products, and the way they are distributed to consumers, are constantly evolving, for example through changing technologies and the growth of online retail. The remit and scope of regulators can also change quickly, for example in response to new trading relationships with other countries. Regulation needs to be able to respond effectively to such changes and any emerging risks.

4.2 This part examines:

- the Office for Product Safety and Standards' (OPSS's) forward strategy for the product safety regime;
- the impact of EU Exit on the product safety regime;
- the impact of technological developments and retail moving online; and
- the sustainability of local Trading Standards services.

The OPSS's forward strategy for the product safety regime

4.3 The OPSS's initial strategy covered 2018 to 2020 and focused on strengthening national capacity for product safety and responding to pressing issues it inherited. It concentrated on four key areas: using data and intelligence to inform decision-making; helping consumers make informed choices; using regulatory powers and tools to protect consumers; and building a more robust regulatory infrastructure. The OPSS has made some progress in these areas and the key issues that led to its creation, including developing new product risk databases to replace systems the UK previously accessed within the EU single market, and establishing a national incident management team.

4.4 The OPSS has initiated projects to develop its approach to regulating product safety in the years ahead. Through these projects, it is starting to consider how it can be less reactive and more proactively adapt to changing risks. For example, it launched a major review of the product safety regime in March 2021, in which it is consulting on how to build flexibility into the regulatory framework to adjust to changes in product lifecycles and technologies. It is also considering how to ensure it has appropriate regulatory powers and governance arrangements to maximise its effectiveness.

Impact of EU Exit

4.5 Since the UK left the EU single market in January 2021, product safety regulatory functions previously carried out at EU level have been repatriated to the UK. As part of its role, the OPSS is responsible for most of these functions on behalf of the Secretary of State for Business, Energy and Industrial Strategy. Imports from the EU also come into scope for product checks, meaning the level of checking by Trading Standards services needed at some ports and borders is expected to increase significantly by January 2022 (**Figure 11**).

Figure 11

Direct impacts of EU Exit on UK product safety regulators

EU Exit will affect the work of the UK's product safety regulators

1 New regulatory functions for the Office for Product Safety and Standards (OPSS). These are:

- assessing proposed new product standards to determine whether they are suitable for businesses to demonstrate compliance with regulations;
- regulating conformity assessment bodies that provide independent assurance that products meet standards;
- regulating chemical hazards in products and assessing whether new materials are safe;
- collecting, reviewing and disseminating reports of serious-risk products and non-compliance to local regulators;
- reviewing technical and scientific progress on safety hazards and assessing whether regulatory changes are required;
- providing technical product safety input in trade negotiations and engaging with government stakeholders on established trade deals; and
- delivering product safety requirements of the Northern Ireland Protocol, including ensuring effective market surveillance and enforcement capacity in Northern Ireland, meeting legal obligations to contribute financially to European standards committees, and monitoring any variations in rules between Great Britain and the EU.

2 Goods-checking on imports from the EU

Since the UK left the EU single market in January 2021, imports entering the UK from or via the EU came within scope for product checks. The UK deferred these checks, initially until July 2021 and then to January 2022. Imported goods subject to checks by Trading Standards services at some ports and borders (part-funded by the OPSS) are expected to increase significantly. For example, up to 2.4 million lorries arrive at Dover and Eurotunnel each year and are anticipated to all become subject to checks, where currently only those from outside the EU single market (0.1 million) are in scope for checks. At Holyhead Port, an estimated 0.4 million lorries a year will become subject to checks.

Source: National Audit Office analysis of information from Office for Product Safety and Standards and other stakeholders

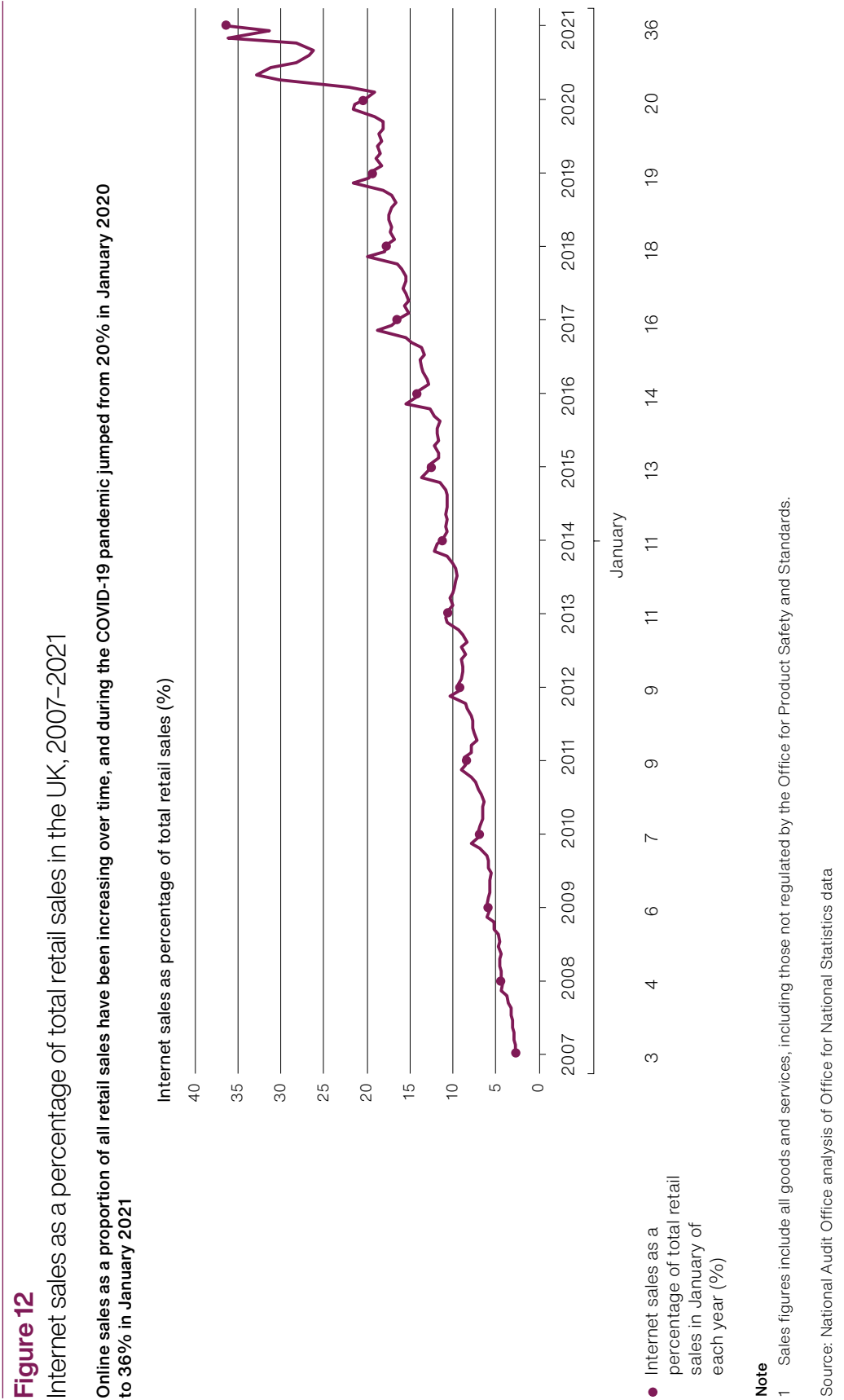
4.6 The OPSS recently estimated that its new regulatory functions will cost it an additional £6 million per year, and it has begun recruiting additional staff including chemicals experts. For each of its repatriated responsibilities, it has mapped out the function, the skills and capacity needed to do it, and the risks if it is not delivered effectively. The OPSS also estimates that additional requirements at ports and borders will cost a further £3 million a year, split between the OPSS and those local Trading Standards teams with a goods point of entry. The OPSS told us that funding for future years will form part of the government's Spending Review process.

4.7 Other implications of EU Exit on the wider product safety regime, including on importers, manufacturers and consumers, may also affect how UK regulators undertake their roles. The government has not yet analysed the impact of all these changes or identified whether and how to address them:

- UK consumers no longer have access to the EU's platform to resolve disputes with sellers based in the single market.
- People and businesses that buy products from EU countries to sell in the UK are now importers, and subject to regulatory responsibilities such as product safety certifications. Some Trading Standards services we interviewed reported that many new importers are not aware of their new responsibilities.
- The UK is no longer part of the EU's conformity assessment scheme, in which products are marked with the CE logo to show conformity with relevant product regulatory requirements. The UK has introduced its own UKCA (UK Conformity Assessed) mark for Great Britain and UKNI mark for Northern Ireland. Industry representatives we interviewed told us this will lead to changes to manufacturing processes and new administrative costs. Businesses that sell products in the UK and EU will also need to certify in both jurisdictions from January 2022 when the UK will no longer recognise the CE mark.
- UK capacity for product testing, which assists the conformity assessment process, is currently low. For example, there is no capacity to test pyrotechnic products in the UK. Testing capacity is expected to reduce further as UK testing houses struggle to attract business in the period to January 2022 while the new UKCA mark is not mandated.

Adapting to social and technological developments

4.8 Online sales have grown steadily over the past decade, a trend that has accelerated during the COVID-19 pandemic. For example, internet sales as a proportion of total retail sales in the UK rose from less than 5% in 2007 to 20% in January 2020 and then nearly doubled during recent lockdowns to 36% in January 2021 (**Figure 12** overleaf).



4.9 Online marketplaces have also grown in popularity, have been used by an estimated nine in ten adults who use the internet,⁹ and are a significant source of potential product safety harm. Online marketplaces are platforms provided by various websites, such as some online stores and social media sites, that anyone can use to sell new or used goods. These platforms are not responsible for the safety of products sold by third parties – it is the seller who is responsible. Online marketplaces have become increasingly popular among people who make products at home and with overseas sellers looking to export goods to the UK. Regulators, industry and consumer representatives we interviewed raised concerns that sellers using these platforms are less likely to comply with product requirements, increasing risks to consumers and leading to unfair competition with compliant businesses. A recent study by six consumer organisations across Europe sampled potentially risky products from multiple online marketplaces and found that 66% failed safety tests, with risks including electric shock, fire and suffocation.¹⁰

4.10 There are gaps in regulators' powers to regulate online marketplaces, including the following:

- The OPSS and Trading Standards services need to work with these platforms to remove unsafe product listings. For example, Amazon told us of various ways it goes beyond minimum regulatory requirements to ensure the safety of products sold by third parties on its marketplace, such as informing sellers of their responsibilities, monitoring consumer complaints and, if needed, de-listing products.
- Regulators often find it difficult to identify who a seller is on online marketplaces, or where they are operating from and therefore which local authority should respond. Where sellers are overseas, making contact is particularly difficult and regulatory powers are limited.
- People who sell through these platforms increasingly do so from home, rather than business premises. The regulators do not have powers to inspect non-business premises without a search warrant.
- On social media sites, goods can be sold from private pages or groups. Other than offences that would meet the threshold for serious crimes, Trading Standards services have limited ability to undertake anonymous market surveillance or test purchase activities, as it could involve covertly gathering personal information that is not public.

⁹ Which?, *Online marketplaces and product safety*, November 2019.

¹⁰ The European Consumer Organisation (BEUC), *Two-thirds of 250 products bought from online marketplaces fail safety tests, consumer groups find*, 24 February 2020, available on the BEUC website: www.beuc.eu

4.11 The OPSS recognises the risks from unsafe goods sold on online marketplaces. It is currently working with a range of platforms to try to improve outcomes by, for example, providing advice to consumers to make informed purchasing decisions. It is also developing a voluntary code of conduct for online marketplaces relating to product safety, similar to an existing code developed in the EU. The OPSS's product safety review is seeking views on how to improve the regulation of online marketplaces.

Sustainability of Trading Standards services

4.12 Staffing and capacity challenges in Trading Standards services present risks to the sustainability of the regulatory system. The total number of Trading Standards officers working in the profession has reduced. The Chartered Trading Standards Institute found a reduction of 48 qualified officers among services that responded to both of its 2016 and 2017 workforce surveys, and a reduction of 99 qualified officers among services that responded to both the 2017 and 2018 surveys. We estimate that this could equate to an average annual reduction of around 10% of qualified staff in those services that answered concurrent surveys (this estimate is for illustrative purposes, and its limitations are set out in Appendix Two). We interviewed services that told us they cannot attract and develop enough new officers to replace experienced staff who retire, resulting in a distorted age profile. For example, surveys indicate that more than 45% of all Trading Standards staff in Scotland were over the age of 50 in 2019, up from 40% in 2017.

4.13 The OPSS has not yet developed a vision for what the overall system of product safety regulation should look like or a plan to ensure this model is sustainable. For example, it has not designed a target operating model to articulate the future role of Trading Standards services in product safety regulation or assessed the impact of changes in Trading Standards staffing on the long-term effectiveness of such a model.

Appendix One

Our audit approach

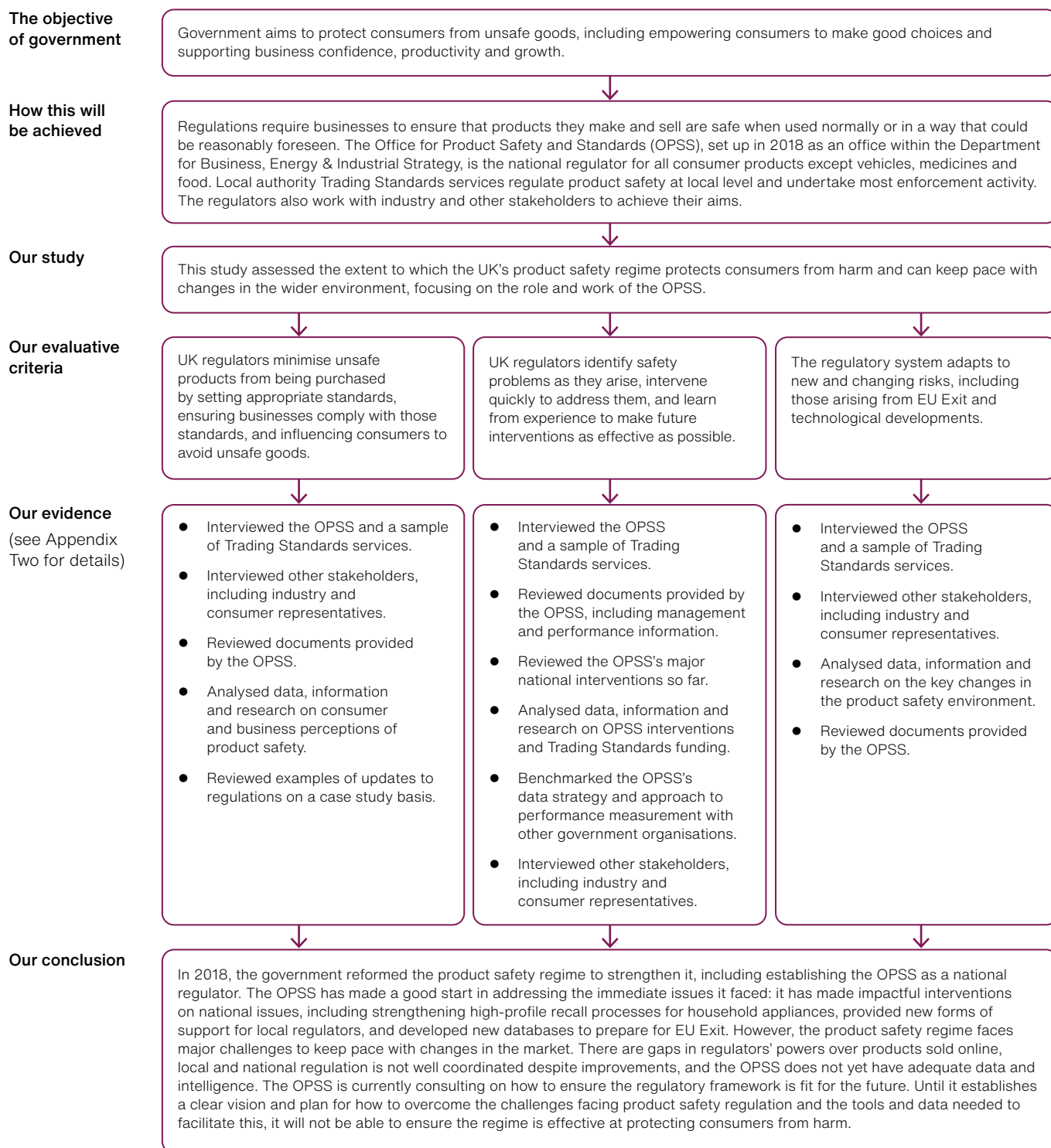
1 This study examined the extent to which the UK's product safety regime protects consumers from harm and can keep pace with changes in the wider environment, focusing on the role and work of the Office for Product Safety and Standards (OPSS). It covered:

- preventing unsafe goods from being purchased – by setting appropriate product standards, ensuring businesses comply with those standards, and influencing consumers to avoid buying unsafe goods;
- responding to product safety problems – by identifying problems as they arise, intervening quickly to address them, and learning from experience to make future interventions as effective as possible; and
- adapting to new and changing risks – including those arising from EU Exit and technological developments.

2 We worked with the OPSS and other stakeholders to develop a high-level evaluative framework for what good product safety regulation looks like (Figure 3 on page 18). This framework and our underlying assessments were based on established principles of good regulation and our past work, including on other areas of regulation and on data use in government. Appendix Two sets out specific past work we used to inform our evaluations. As the OPSS was only created in 2018, we did not expect the new arrangements to have achieved full maturity in all areas but used our evaluative framework to assess progress in key areas of regulation and identify priorities going forward.

3 While this report considered the effectiveness of the UK's overall product safety regime, we did not audit the performance of individual Trading Standards services or other stakeholders. We also did not examine products covered by separate national regulators and therefore outside the remit of the OPSS, including food, medical products and vehicles.

4 Our audit approach is summarised in **Figure 13** overleaf. Our evidence base is described in Appendix Two.

Figure 13**Our audit approach**

Appendix Two

Our evidence base

1 We reached our independent conclusions on the effectiveness of product safety regulation in protecting people from unsafe products by analysing evidence collected between November 2020 and March 2021.

2 We applied an analytical framework with evaluative criteria to our analysis. We worked with the Office for Product Safety and Standards (OPSS) and other stakeholders to develop this framework, which considered the work of UK regulators to prevent and respond to product safety problems. Our framework also considered whether the regulatory system can adapt to new and changing risks, including those arising from EU Exit and technological developments. As the OPSS was only created in 2018, we did not expect the new arrangements to have achieved full maturity in all areas but used our evaluative framework to assess progress in key areas of regulation and identify priorities going forward. Our analytical framework was primarily based on:

- established principles of good regulation, such as those identified in the 2005 Hampton review;¹¹
- standards and criteria identified in other published guidance and reports such as the National Audit Office's (NAO's) 2016 guidance on regulatory performance measurement, which illustrates the importance of regulators setting clear objectives and measuring performance against these,¹² and the NAO's 2019 report on the challenges in using data across government;¹³ and
- evaluative approaches we have developed and used in previous assessments of regulators and regulatory frameworks, including our previous reports examining food safety and standards¹⁴ and gambling regulation.¹⁵ Our audit approach is outlined in Appendix One.

¹¹ National Audit Office, *Hampton Implementation Reviews – Guidance for Review Teams*, March 2008.

¹² National Audit Office, *Performance measurement by regulators*, November 2016.

¹³ Comptroller and Auditor General, *Challenges in using data across government*, Session 2017–2019, HC 2220, National Audit Office, June 2019.

¹⁴ Comptroller and Auditor General, *Ensuring food safety and standards*, Session 2017–2019, HC 2217, National Audit Office, June 2019.

¹⁵ Comptroller and Auditor General, *Gambling regulation: problem gambling and protecting vulnerable people*, Session 2019–20, HC 101, February 2020.

3 We conducted interviews with product safety regulators to inform our assessment, covering topics related to each of our evaluative criteria.

- *Semi-structured interviews with the OPSS:* we conducted several semi-structured interviews with officials from the OPSS to discuss topics including: identifying consumer harm; influencing businesses and consumers; the product safety regulatory framework and coordination within this; monitoring and enforcing compliance and taking decisive remedial action; setting product safety standards; performance reporting and learning; and the OPSS's data strategy.
- *Early scoping discussions with representatives from local and national Trading Standards services:* to inform our understanding of local enforcement and the challenges that Trading Standards services face, to help design our study.
- *Structured interviews with local authority Trading Standards services:* we carried out structured interviews with a sample of 17 Trading Standards services from across the UK (in Northern Ireland, this service is delivered by environmental health teams). Our questions covered day-to-day product safety regulatory practices, capacity and expertise, the impact of changes in the wider environment, the coordination and coherence of the regulatory system, and the impact made by the OPSS since it was created. It was not intended to be a representative sample of the UK but was selected to provide a range of perspectives based on different sizes and types of local authority, from different regions and nations, and including both urban and rural environments. Our sample was: Aberdeen City Trading Standards; Belfast City Environmental Health; West Yorkshire Trading Standards; Devon, Somerset and Torbay Trading Standards; City of Edinburgh Trading Standards; Hertfordshire Trading Standards and fraud; Hounslow Trading Standards; Isle of Anglesey Trading Standards; Kent Trading Standards; Leicestershire County Council Trading Standards, Manchester City Trading Standards; Newcastle City Trading Standards; Newry, Mourne and Down Environmental Health; North Lanarkshire Trading Standards; Cambridgeshire and Peterborough Trading Standards; Solihull Trading Standards and Environmental Compliance; and Thurrock Trading Standards.

4 We also met with other stakeholders within the product safety regime, to gather perspectives, experiences and evidence across all of our study areas.

We interviewed representatives from the following organisations:

- *Other regulatory stakeholders and market surveillance authorities:* Association of Chief Trading Standards Officers; Border Force; British Standards Institution; Chartered Trading Standards Institute; Health and Safety Executive; and UK Accreditation service.
- *Consumer advocates, representative bodies and charities:* CHEM Trust; Child Accident Prevention Trust; Citizens Advice; Electrical Safety First; National Consumer Federation; Royal Society for the Prevention of Accidents; Unchecked UK; and Which?.
- *Members of industry and representative bodies:* Amazon; Association of Manufacturers of Domestic Appliances; Baby Products Association; British Electrotechnical and Allied Manufacturers Association; British Measurement and Testing Association; British Retail Consortium; British Safety Industry Federation; British Toy and Hobby Association; Cosmetic Toiletry and Perfumery Association; Federation of Small Business; Furniture and Fire Research Association; Make UK; and Whirlpool.
- *Other stakeholders and interested parties:* Competition and Markets Authority; Department for International Trade; Food Standards Agency; Dr. Gordon Hayward; Local Government Association; and London Fire Brigade.

5 To examine whether UK regulators set appropriate product standards, influence businesses to comply with those standards and influence consumers to avoid buying unsafe goods, we did the following:

- Analysed secondary evidence, including published data, information and research, on consumer and business perceptions of product safety. When examining industry awareness of product safety regulations and consumer perceptions of product safety, we used data from recent OPSS surveys and triangulated this with surveys and evidence from other sources. We analysed survey research which included the following:
 - Unpublished research undertaken by *IFF Research*, on behalf of the OPSS: *Industry Attitudes to Product Safety*, January 2020. Total survey population was 1,000 businesses, including retailers, manufacturers, installers, distributors and repairers. Survey results were weighted by size and business type to be representative of the business types that were sampled.

- Research undertaken by *Kantar*, on behalf of the Department for Business, Energy & Industrial Strategy: *Consumer attitudes to product safety*, September 2020. This is a nationally representative survey of UK consumers, with a total survey population of 4,265 people. Our analysis used two statistics, in particular, which had survey responses of 3,562 (influencing factors when purchasing a product) and 4,226 (trusted sources of information on product safety).
- Research undertaken by *Censuswide* on behalf of Electrical Safety First regarding safe shopping online, October 2019. This was a nationally representative survey of UK consumers aged 16 and over, with a total survey population of 3,006. Respondents were first asked if they would knowingly buy a substandard or counterfeit product for a saving. Those that said they would be willing were then asked what level of saving would make them willing to buy such a product. Of the 3,006 respondents, 625 (21%) said they would buy such a product for savings of 50% or less.
- Reviewed published documents and internal management information relating to the OPSS's work and approach to setting and reviewing product regulations, its understanding of consumers and industry, and its activities to influence both stakeholder groups to achieve its product safety objectives.
- Reviewed examples of updates to regulations on a case study basis, such as the UK Furniture and Furnishings Fire Safety Regulations 1988.

6 To assess whether the regulators identify problems as they arise, intervene quickly to address them, and learn from experience to make future interventions as effective as possible, we did the following:

- Reviewed published documents and internal management information relating to the OPSS's direct interventions, data and intelligence processes and systems, and engagement with Trading Standards services and other regulatory partners.
- Analysed performance measurement information and reporting for product safety regulation, including from the OPSS, against established good-practice criteria.
- Undertook primary data analysis on the number and type of OPSS regulatory interventions to date.
- Reviewed the OPSS's major national interventions so far: the Whirlpool tumble dryer and washing machine recalls; consumer product regulatory interventions made in response to the COVID-19 pandemic; and small, high-powered magnets.

- Examined available data on product safety issues recorded by market surveillance authorities, including Trading Standards services. There are limited quantitative data available that provide an aggregated picture of Trading Standards regulatory activities relating to product safety across the UK, but we examined relevant data and information that are reported and used by other sources. For example, we reviewed Citizen's Advice's Consumer Service data, which provided data on consumer complaints on safety defects across England and Wales, and European Commission safety gate data on product safety alerts raised by different market surveillance authorities across Europe. We also analysed some data the OPSS holds on Trading Standards services, including on the use of the Product Safety Database, sample testing and attendance at relevant training courses.
- Analysed secondary evidence, including published research, on Trading Standards regulatory activities. This included Unchecked UK's report: *Investigation: hidden chemicals and consumer goods*, August 2020. The investigation was based on data gathered through a freedom of information request made to 198 local authorities in England, Wales and Scotland, to which 178 councils responded. Authorities were surveyed about their sampling of consumer goods for the presence of hazardous chemicals above legal limits.
- We analysed data on Trading Standards spend between 2010 and 2019. This came from local authority data published by the Ministry of Housing, Communities & Local Government. To adjust our analysis of the change in funding for inflation, we used the GDP deflator indices for 2010-11 and 2019-20.
- Benchmarked the OPSS's data strategy and overall approach with other government organisations, using an evaluative framework developed in our previous work on data use in government.¹⁶ Our assessment was focused on four key principles: data strategy; how the strategy aligns with the rest of the organisation; data governance; and technology and data standards.

7 To examine how the regulatory system is adapting to new and changing risks, including those arising from EU Exit and technological developments, we did the following:

- Reviewed published information relating to the key changes in the product safety environment, including the implications of EU Exit on consumers and businesses and changes in product technologies and the impact on product safety regulation. This included published information on the results of a product safety testing study undertaken by six consumer organisations across Europe. The study was based on a selective sample of products and not representative of all products sold on online marketplaces. The sample was based on possible safety risks, with products considered higher risk selected for testing.

¹⁶ Comptroller and Auditor General, *Challenges in using data across government*, Session 2017-2019, HC 2220, National Audit Office, June 2019

- Analysed secondary data and information relating to the key changes in the product safety environment. In particular, we examined Office for National Statistics data relating to online retail sales as a proportion of all retail sales since 2007. We also examined secondary surveys and research relating to consumers' use of online marketplaces, consumer product safety risks from goods sold on online marketplaces, and changes in funding and staffing in the Trading Standards profession. This research included the following:
 - Research conducted by *Populus* on behalf of *Which?: Online marketplaces and product safety*, November 2019. Data were gathered through an online survey of 2,104 UK adults, and weighted to be representative of the UK population (aged 18 and over). Of the respondents, 91% (1,921) identified they had previously purchased an item from an online marketplace.
 - Three workforce surveys of Trading Standards services across the UK (and the Department for the Economy in Northern Ireland) published by the Chartered Trading Standard Institute, from 2016, 2017 and the latest in 2018-19. In each year, it was assessed that the number of respondents who provided enough information for the results of their submissions to be deemed usable for statistical analysis was 122, 113 and 97 respectively (out of 197 services in total). The surveys were not representative due to differences in regional response rates but have been used to indicate changes in the qualified workforce among services that replied to concurrent surveys. Some 82 services provided sufficient workforce data in both the 2016 and 2017 surveys (and had a reduction of 48.4 qualified officers), while 78 services did so in both the 2017 and 2018-19 surveys (and had a reduction of 99.4 officers). We were not able to access the underlying data from these surveys, but estimated what these reductions might equate to as a percentage of the qualified workforce based on a broad assumption that the overall trend in all surveyed services will have been approximately the same as the trend in just those services that responded to multiple surveys. Our estimate is therefore uncertain, and the actual reduction in qualified staff could be smaller or larger.
- Reviewed published documents and internal management information relating to the OPSS's future strategy and plans, including its preparation for the implications of EU Exit.

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