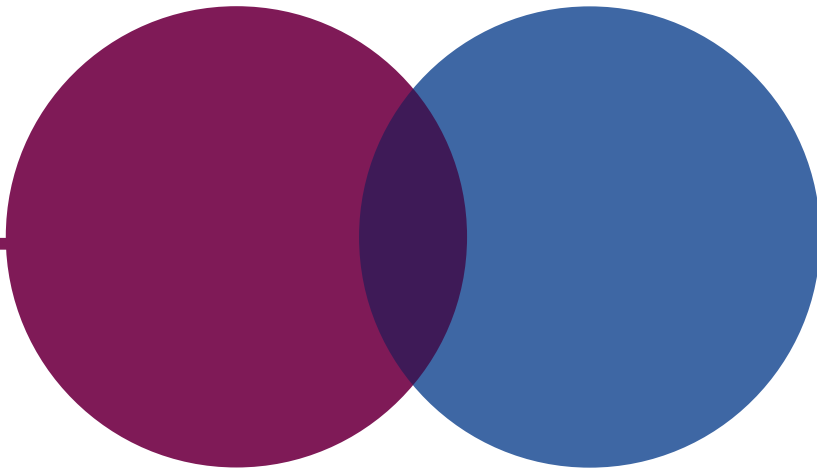




National Audit Office



# Protecting consumers from unsafe products

Department for Business,  
Energy & Industrial Strategy

---

**REPORT**

**by the Comptroller  
and Auditor General**

---

**SESSION 2021-22**

**16 JUNE 2021**

**HC 294**

## 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.