

Office for Product Safety and Standards

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UK Product Safety Review: Call for evidence

To the Office for Product Safety and Standards

Please find attached the National Fire Chiefs Council (NFCC) response to the consultation paper published on 11th March 2021 titled UK Product Safety Review: Call for Evidence.

NFCC is the professional voice of the UK fire and rescue services (FRS) and is comprised of a council of UK Chief Fire Officers. This submission was put together by the NFCC's Home Safety Committee, which is a key component of the NFCC's Prevention Coordination Committee.

NFCC believes at the core of fire and rescue services prevention work is the explicit aim to reduce fire risk; in essence the individual or community must be at the centre of all we do. We seek to help fire and rescue services prevent fire fatalities and serious injuries in the home, where the majority of fire deaths occur.

The vision of the NFCC is to improve safety in communities by working collaboratively with fire and rescue services, promoting national approaches where they work best.

Rick Hylton (on behalf of Neil Odin)



NFCC Prevention Committee Chair

Charlie Pugsley



NFCC Electrical Safety Lead

Response to Questions

1. How easy is it to understand the current framework of product safety regulation? What areas, if any, could be simplified or made easier to follow?

Stakeholders – The framework is not unreasonable, however there is a gap when it comes to online sales which needs to be addressed. This can be further compounded by second hand goods online (e.g. via auction or recycle platforms). There is a lack of transparency when it comes to risk assessments.

Consumers – As noted, the lack of transparency with product risk assessments when there is a possible safety issue, could undermine public trust in the system. ·

Consumers – more information/education is needed on how to report issues e.g. citizens advice, trading standards etc. · PAS 7050 ‘Bringing safe products to market’ was/is useful, but principles such as using simple language, being direct on what the potential hazard is and work to inform/educate the consumer needs to continue.

2. In what areas, if any, should product safety regulation be strengthened or improved?

Risk assessments should fully consider hazards such as fire and its potential to affect many people (e.g. a sharp object may harm a person, a fire many harm many due to fire spread).

In product safety issues, decisions are made as to instigate a corrective action such as a safety notice or a full product recall, but there is little to no transparency. This can damage consumer and stakeholder trust in the responsible company and the regulator.

Work with the OPSS has highlighted how much more data relating to fire issues may be available e.g. from insurance bodies, private sector forensic investigators and spares/repairs – but this data is not shared with trading standards/OPSS etc. therefore risk assessments for fire must be flawed if based on incomplete intelligence.

Effective product safety regulation should be supported by effective surveillance and enforcement. However, trading standards have seen significant reductions in establishment over recent years and do not normally have ring-fenced budgets, so a lack of resources is an issue. Local authorities/trading standards may be reluctant to take on enforcement action especially against a large company due to legal costs. Central funding for enforcement or the use of something like the ‘Proceeds of Crime Act’ or following the Environment law’s ‘polluter pays’ principal, may enable more effective enforcement action. Has the OPSS seen a prosecution of a large company since its inception? If so, publicity may help as a deterrent.

3. Should regulation be targeted more at the product itself or the manufacturer’s systems that produce it? Please explain.

NFCC does not have enough data/expertise to answer this question, but it would appear to be context dependant. For example, in the case of a fulfilment house, the product should be the focus. Whereas a defined manufacturer such as a white goods company, a focus on the manufacturer would probably be more productive.

4. How could the current product safety framework do more to support innovation or the supply of new technologies to consumers? Using examples,

how could it better anticipate upcoming changes in manufacture and production?

While NFCC does not have enough data/expertise to answer this question fully, to have standards that are outcome based rather than being prescriptive (as with the proposed Furniture & Furnishing regulations) could support more innovation.

5. What areas of the current regulatory framework could be tailored to create more opportunities for UK innovation and manufacturing?

While NFCC does not have enough data/expertise to answer this question fully, to have standards that are outcome based rather than being prescriptive (as with the proposed Furniture & Furnishing regulations) could support more innovation.

6. How well is the conformity assessment system working? What are your experiences of it and of self-assessment?

NFCC does not have enough data/expertise to answer this question.

7. Reflecting on the response to the COVID-19 pandemic (as set out in the case study), what changes could be made to help bring safe products to market more quickly?

While NFCC does not have enough data/expertise to answer this question fully, improving transparency and having external peer review may enable this.

8. What role should voluntary standards play in product safety? What are the benefits and drawbacks of linking regulation to voluntary standards?

Benefits of linking regulation to voluntary standards – While we have many responsible and ethical businesses, it can be argued that some are not. For example, various manufacturers, distributors and retailers sold dangerous ‘hover boards/balance boards’. It also took significant lobbying and the threat of a judicial review to get an international home appliance company to change their unsafe advice for a product which was subsequently recalled.

With just voluntary standards, it is foreseeable that product safety may suffer even more, particularly with new technology emerging more quickly than standards develop.

9. What are the key challenges for regulating product safety in online sales? What has worked well in terms of regulation and where are the opportunities?

While NFCC does not have enough data/expertise to answer this question fully, challenges include traceability, the role of online fulfilment houses or auction platforms and surveillance and enforcement of an online environment.

10. Thinking particularly about new models of distribution and supply (including online sales and the sharing economy), is it always clear where responsibility / liability for product safety lies?

No, the role of online fulfilment houses or auction platforms can make this challenging.

11. To what extent are product safety issues arising from consumers producing (e.g., 3D printing) and / or hiring out and selling products to each other?

NFCC not have enough data/expertise to answer this question.

12. Have you any insights on whether consumers know what to look out for ensure a product is safe when buying online and /or how to raise safety concerns? How could these processes be made easier or clearer?

NFCC does not have enough data/expertise to answer this question.

13. What role should voluntary commitments, such as the Product Safety Pledge, play in consumer protection from unsafe products? Can you share any evidence or experiences of the benefits and drawbacks?

NFCC does not have enough data/expertise to answer this question. However, responsible companies/people will be responsible, whereas irresponsible companies/people may require surveillance, regulation and enforcement.

14. What might a typical product lifecycle look like in the future as we move towards a circular economy? Can you provide examples, including of connected and second-hand products?

NFCC does not have enough data/expertise to answer this question. It can be very hard for fire and rescue services to identify second hand or repaired goods post-fire.

15. How can we build in flexibility to the regulatory framework to adjust to changes in product lifecycles and technology, including changes in understanding of risk? How do businesses integrate safety considerations with other aspects of product regulation such as environmental considerations?

NFCC does not have enough data/expertise to answer this question. However, safety and/or regulatory outcomes such as 'outcome based standards' may help, if supported with sufficient data. Also, more open and transparent risk assessments may help.

16. For how long should responsibility for the safety of the product lie with the manufacturer? What responsibilities should apply to software integral to products, second-hand goods or supply of replacement parts?

Safety should be for the life of the product, unless an 'end of life' or 'maximum use' guidance is given. The sale of second hand goods should have a level of accountability.

Replacement parts should be safe for the intended use.

NFCC does not have enough data/expertise to comment on software.

17. How is enforcement of product safety changing in light of new products (e.g., connected devices, 3D printed) and new ways of distributing products (e-commerce, sharing economy). What are the greatest challenges?

NFCC does not have enough data/expertise to answer this question.

18. How well does the current system for corrective action and recalls system work? How could the regulatory framework better support it?

Taking the Whirlpool (WP) tumble dryer corrective action/recall as an example, the advice given following the corrective action (safe to use while awaiting a repair) was not in the view of the fire service and NFCC safe, suitable or sufficient. Getting to the point of a full recall with accompanying advice from WP not to use the machine until repair or replaced, took far too long. It required significant engagement and the threat of a judicial review. Could such a scenario (especially if it had a lower public profile) happen again? The regulatory framework needs to have more transparency e.g. with the company's risk assessment. The home Trading Standards authorities should seek support (and be accountable) when dealing with issues (noting the additional support that OPSS has sought to provide). There are also issues with online sales as noted in earlier responses.

19. When it comes to product enforcement, how well does the system deliver transparency and confidence while maintaining confidentiality? Please explain.

NFCC have supported the call for transparency in regards to product safety risk assessments for several years now. While NFCC appreciates that there may be some detail that cannot be publicly shared, it seems counter-intuitive that decisions are being made on public safety, but the rationale that supports the decision is not in the public domain. This must impact on public trust.

20. What toolkit of enforcement duties and powers is needed for effective enforcement now and in the future? Do enforcement authorities have the right tools they need, including data availability, to do the job?

NFCC does not have enough data/expertise to answer this question in full. However, enforcement authorities need to be adequately resourced to be effective in their role and to ensure an appropriate safety culture exists.

Also as noted elsewhere, if funding for enforcement activities has to compete against (for example) social care and other community priorities in a local authority budget, there is a foreseeable issue where enforcement suffers. This also applies to decision making for enforcement with extensive legal costs as noted in response to question 2.

21. How could greater use of technology and innovation support more effective, business friendly enforcement and compliance?

NFCC does not have enough data/expertise to answer this question.

22. When it comes to product liability, do consumers have the right tools and information to take action on their own behalf? Please explain.

No, or at least not consistently, as seen with the Whirlpool tumble dryer corrective action/recall issues in recent years. Until the threat of the judicial review, lobbying, consumers were not being heard and were given advice which the fire services and NFCC considered to be dangerous. All through the process, there was no transparency in terms of WP's risk assessment. In terms of consumer information/education, anecdotal experience of speaking with consumers, some stakeholders and even journalists, suggests that many did not know how to report potentially dangerous product safety issues (e.g. to Trading Standards). The actions

of Peterborough Trading Standards in dealing with the WP matter highlighted a gap in expertise, resourcing and the response.

23. Does the current framework adequately protect all people in society, including vulnerable groups and those with particular needs? And could it be improved?

More can be done to protect and support the vulnerable and those with particular needs. For example:

- Non-internet based options for reporting issues and product registration (e.g. possible issues with 'internet poverty', some older persons/disability demographics).
- Consider issues relating to English as a second language. Some metropolitan areas have high levels of diversity with approximately hundreds of languages/dialects spoken.

24. Are there any examples of, or issues where, the impact of regulation is different for people from different groups in society?

NFCC does not have enough data to answer this question fully, but anecdotal accounts from fires would suggest that people from lower socio-economic groups or other demographics may be buying more products from market places (physical/online) or second hand, gifted or recycled sources. Also, as detailed in question23, issues with accessibility, languages etc. exist.

25. How can we ensure the processes for consumer recourse are accessible to all kinds of consumer?

More consumer information and/or education. Transparent processes. More can be done to protect the vulnerable and those with particular needs.

Seek to ensure support is in place for the vulnerable, for example:

- Non-internet based options for reporting and product registration (e.g. possible issues with 'internet poverty', some older persons/disability demographics).
- Consider issues relating to English as a second language.