

# **Working Group on Product Recalls and Safety**

## **Report to:**

Margot James MP, Parliamentary Under Secretary of State, Minister for Small Business, Consumers and Corporate Responsibility

**Neil Gibbins, QFSM FIFireE**

**Chair of the Working Group**

30 March 2017

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## Foreword



On 15 October 2016 the Minister for Small Business, Consumers and Corporate Responsibility, Margot James MP, announced a new 'Working Group on Product Recalls and Safety' (the "Working Group") to re-energise and refocus activity on this important area of work. I was delighted to be invited to chair the group, an opportunity to help reduce fires and other risks, something that has become a personal mission since I started my career in the fire service almost forty years ago.

The Working Group was brought together following a number of fires involving tumble dryers and other items referred to as "large white goods". Fire and rescue services are at the very end of the fault chain, when all safety controls before that point have failed, and as a result of that failure, people have been put at risk. Their input in terms of numbers and causation is valuable and valued, but should not be used as the barometer for tolerable risk; a refined safety process should ensure that hazards are identified and minimised much earlier in the chain.

In putting together the Working Group, the Minister invited experts who bring understanding of each link in the chain, many with a proven track record of success in risk reduction in related areas, to participate. All of the individuals and organisations contributing to this Working Group are listed in Annex A. I wish to thank them on behalf of the public for joining in the work of the group in a truly collaborative manner, sharing ideas and effort, helping deliver outcomes that will make a difference.

My experience tells me that effective risk reduction is best served by taking a view of all the potential hazards and the opportunities to remove or reduce the impact of them. The Working Group has been tasked to develop options to improve the system of product recalls and safety.

The primary focus of the Working Group has been to explore what practical actions member organisations can take, with the support of Government where necessary, to help ensure that the frequency of safety failures is minimised, that faults that could lead to harm are identified quickly and effective action can be taken to correct faults, by identifying the products and the places where they are being used.

In particular, the Working Group was asked to consider six key issues which are expanded upon in this report:

1. The causes of fire in white goods and the steps we can take to reduce them
2. Ways to improve the capture and use of data relating to faulty electrical goods

3. The value of marking white goods to preserve their identification through fire
4. Registration of electrical products at the point of sale
5. A Code of Practice for product recalls including the peer review of risk assessments
6. Improving the information available to consumers and the role of consumer education

In exploring these questions, I have become very conscious of a disconnect between central Government policy functions and the delivery of front line services to support businesses on consumer product safety matters when technically difficult decisions around corrective actions and recalls are being made. This contrasts sharply with arrangements in place in, for example, the food, motor vehicles and medicines sectors where local regulators are able to call on the expertise and assistance of technically able and well-resourced national regulators. Investment in central technical support would help to address, in the public interest, the imbalance of knowledge, expertise and resource that may currently arise between a local authority trading standards service and a national or multinational business. This report includes further information on the need for more central resource to underpin actions required.

I have seen the concept of 'Primary Authority' develop to embody the open and trusting relationships to support compliance that characterise the way we do regulation by consent in the UK and I see great potential through the use of Primary Authority for local authority regulators, BEIS and business to work more closely to ensure the right systems are in place and decisions made to provide necessary assurance of product safety.

While the Working Group has focussed its efforts on issues surrounding the safety of white electrical goods the solutions identified should apply to consumer goods more broadly.

This report sets out how a combination of a Code of Practice underpinned by behavioural insights research to better understand consumer behaviour, Primary Authority partnerships and more central technical resource can, through the goodwill and collaboration of all concerned, deliver a step change in approach to protect UK Consumers and legitimate businesses operating in the UK alike.

Updates on the following work streams emerging from the Minister's questions are included as follows:

- A. Develop a UK Code of Practice standard on evaluating product safety and managing effective correction actions (including recalls) that can be applied generally to consumer products.
- B. Develop and promote Primary Authority (with BEIS as the supporting Government department) as the key support mechanism on product safety and corrective actions for those involved in the manufacture and import of 'white electrical goods' and other consumer products.
- C. Actively encourage consumers to register appliances with their manufacturers and explore options to make registration easier to achieve, including for vulnerable consumers.
- D. Support research into consumer behaviour to better understand how citizens receive and respond to messages about corrective actions to improve their effectiveness.

Organisations represented on the Working Group remain committed, with the support of BEIS, to delivering system wide improvement in the UK framework for delivery of product recalls and safety.

**Neil Gibbins QFSM FIFireE**

## **2. Summary of Recommendations**

- **There is a need for centralised technical and scientific resource capability to support decision making and co-ordination of activity of Local Authorities and the businesses that they regulate. Central capability is required to address complex technical issues, assessing risk and helping to identify and share data and intelligence to evaluate emerging hazards. Consideration should also be given to the development of a single portal for consumer information on product corrective actions and recalls.**
- **There is a need to consolidate guidance on product corrective actions and recalls. A detailed Code of Practice should be developed with input from all relevant stakeholders; this should be informed by behavioural insights research. This should set out expected good practice with regard to product safety corrective actions (including recalls). To ensure that the Code of Practice gains wide acceptance, the UK national standards body, the British Standards Institution, should lead this work with the support of your officials and members of the Working Group.**
- **Full consideration should be given to establishing a hub to co-ordinate product safety corrective actions at a central level, similar to that operated by the Food Standards Agency.**
- **Systematic and sustainable ways to capture and share data and intelligence should be established and agreed by relevant parties – this should make use of existing systems used by Trading Standards and the Fire Service.**
- **Manufacturers and retailers should continue to work together and through standards setting bodies to develop technological solutions to product marking and identification.**
- **Primary Authority provides a key mechanism for ensuring that businesses, local authority and BEIS expertise is shared to ensure the protection of consumers. Primary Authority relationships, with BEIS acting as a ‘Supporting Regulator’ should be encouraged. Ideally, all major manufacturing and importing businesses should participate in such arrangements as a way of demonstrating compliance with requirements under the General Product Safety Regulations.**
- **The registration of appliances and other consumer goods with manufacturers by consumers should be encouraged to make corrective actions (including recalls) more effective. Research is required to understand barriers to registration. Organisations supporting vulnerable consumers may be able to play a key role in supporting registration of appliances.**
- **An expert panel bringing together trade associations, consumer and enforcement representatives and BEIS should be established to oversee the delivery of the above and further explore issues around second hand sales, marking and traceability of products and other issues as they arise.**

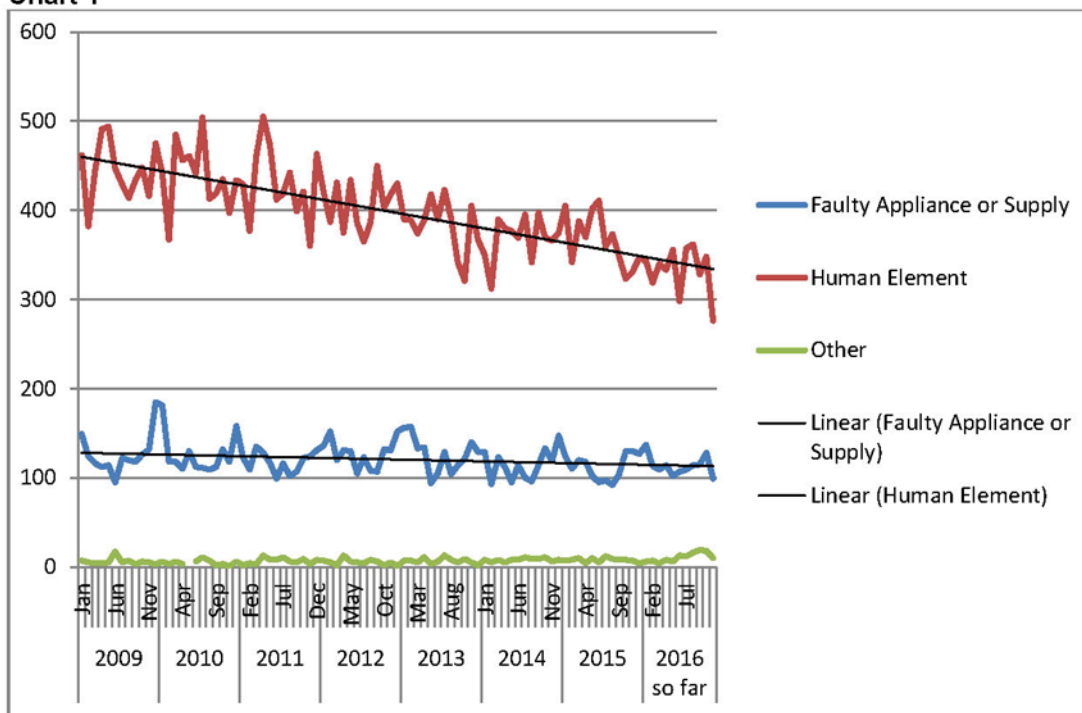
### 3. Key issues analysis and next steps

#### 3.1 The causes of fire in white goods and the steps we can take to reduce them

Home Office Fire Incident Statistics for England for 2014/15 show that around 6% of incidents attended by Fire and Rescue Services (31,300) were dwelling related with 36% relating to the misuse of equipment or appliances<sup>1</sup>. Other electrical appliances (as opposed to cooking appliances, space heaters and electrical distribution) were found to be the source of ignition in 12% of dwelling related fire incidents. Data held by the London Fire Brigade indicate that in 2015, in London, there were 431 private dwelling fires with an electrical appliance cause, with 45 injuries being recorded and no fatalities.

London Fire Brigade statistics show that while there has been a progressive decline in human causes of dwelling fires associated with electrical appliances, fires due to faulty large electrical appliances have remained fairly static over the last few years.

Chart 1



To provide context as to the relative safety of domestic electrical appliances, ROSPA's analysis of Hospital Admissions data associated with electrical goods found 241 admissions reported as resulting from exposure to uncontrolled fire within a building or structure (1.9%) compared to much commoner causes of injury such as misuse of power tools and other electrical appliances<sup>2</sup>.

<sup>1</sup> <https://www.gov.uk/government/statistics/fire-statistics-england-april-2014-to-march-2015>

<sup>2</sup> NHS

To set these statistics in context, there are 27.6 million households in the UK that each have an average of 41 domestic electric appliances, many of which are in daily use<sup>3</sup> and ROSPA reports 6,000 fatalities per year caused by home accidents<sup>4</sup>.

Product safety starts with manufacturers designing and manufacturing products that comply with reasonable safety standards. The concepts of product liability, the general obligation to place only safe products on the market and more detailed product specific safety regulations underpin the legal liability and responsibilities of manufacturers and importers under UK civil and criminal law.

The manufacturer must fully consider the likely uses of its products (including anticipated misuse by consumers). Greater understanding of this part of the equation is likely to have an impact on design, safety systems and, if necessary, the nature of corrective actions.

Products are required to be safe and what is safe in the case of domestic electrical goods is defined by reference to 'essential requirements' that are met by certification against approved standards produced by UK (BS), European (EN) and global (ISO) standard setting bodies.

The British Standards Institution operates a series of expert committees, comprising business, regulatory and consumer expertise that review the content of UK and international standards and support the development of new standards when required. There are a large number of detailed standards relating to the design and safety of domestic electrical appliances.

Development and revision of standards is a continual process, driven and supported by businesses wanting to do the right thing to improve industry standards and the quality of products available to the consumer.

Consumer safety organisations such as Electrical Safety First, test laboratories, BEIS, the Fire Service and other public bodies are able to input to the standards making process which is independent, open, transparent and trusted.

At international level there are good examples of close working between the Fire Service and manufacturers to protect UK consumers by seeking, or sometimes resisting, amendments to international standards.

Expectations of product safety and the pace of technological development in the UK and globally, place a responsibility on businesses, standards bodies and Government to remain aware of latest developments, opportunities to make products safer and issues arising elsewhere in the world and to update standards and products accordingly.

Engagement by the Association of Manufacturers of Domestic Electrical Appliances (AMDEA) in European and international business fora and by BEIS in EU and OECD fora are essential to ensuring that the UK remains fully engaged with emerging issues and opportunities to better protect consumers.

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<sup>3</sup><https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/families/bulletins/familiesandhouseholds/2015-01-28>

<sup>4</sup><http://www.rospa.com/home-safety/advice/general/facts-and-figures/>

Products should be designed to remain safe throughout their intended life and to fail safely at end of life – this is particularly important for items that may not be subject to routine maintenance.

The safety of products at point of import and also on their entry to the second hand market present particular challenges from an enforcement perspective. The existence of a single portal for access to product recall information would make it easier for businesses to meet their legal obligations and protect consumers.

In the second hand market there is a need to find means to ensure that corrective actions have been implemented where necessary before any product is resold.

Greater availability of information on corrective actions and awareness raising on where to find it would make it easier for those operating in second hand resale markets to meet their legal obligations and to be held to account.



## 3.2 The Product Safety Enforcement Landscape

Unlike many areas of regulation (such as food safety, medicines, health and safety etc.) product safety regulation does not have a Government body or resources dedicated to providing technical and scientific capability and co-ordination to support enforcement. Responsibility for the enforcement of consumer product safety laws is largely the responsibility of the 206 individual local authorities across the UK. Product safety is one of a wide range of responsibilities of local authority trading standards teams. The significance and resources they allocate to it is variable.

Few local authorities have specialist officers dedicated to working on product safety issues; generally officers with wider responsibilities will become involved in particular issues as and when they arise. Financial pressure on local authorities has resulted in substantial budget cuts to some trading standards departments - 53% budget cuts over the last five years being reported by the Chartered Trading Standards Institute<sup>5</sup>. This has inevitably impacted on the size of the overall trading standards workforce and the ability of the profession – particularly at the local authority level – to develop and maintain specialist skills and competency in the more technical areas of regulation, such as product safety. Yet effective enforcement against unsafe goods requires access to technical and scientific capacity which local authorities are not able to resource.

At a professional level, the Chartered Trading Standards Institute operates a ‘Lead Officer’ scheme where one or two skilled officers in particular topics, including product safety, provide a liaison and support role to other officers and expert contact point for the media and Government on technical matters. Lead Officers are unpaid and pick up this additional role in addition to their day jobs and this raises serious questions about the extent to which the current system relies on this professional goodwill and expertise and the extent to which this is sustainable. The Lead Officers are in most areas supported by an ‘enforcement focus group’ bringing together on an unpaid basis knowledgeable officers from a number of local authorities to discuss and provide guidance for their colleagues on issues affecting enforcement in this area as they arise.

Local authorities often support each other informally by peer review of processes, actions and proposed actions.

Currently some resources are allocated by BEIS to support a Trading Standards Single Point of Contact with HMRC to co-ordinate intelligence gathering on imported goods and a small amount of resource is allocated to some local authorities working at key border entry points to fund testing and surveillance activities.

At Central Government level, responsibility for product safety falls to a small specialist Product Safety policy team, now part of Regulatory Delivery within BEIS. The team includes policy specialists in particular product areas covered by EU Directives and also in General Product Safety matters. The team provides policy advice to Ministers, implements EU requirements into UK law and liaises with EU and other administrations. The central team currently provides only very limited advice to local authorities’ enforcement teams.

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<sup>5</sup> <https://www.tradingstandards.uk/news-policy/news-room/2016/warning-to-councils-over-cuts-to-statutory-services>

## Recommendations:

- **The Working Group recommends that the Government explores how technical and scientific capacity can be developed at a national level, to complement local delivery.**
- **Central capability is required to address complex technical issues, assessing risk and helping to identify and share data and intelligence to evaluate emerging hazards.**
- **Full consideration should be given to establishing a hub to co-ordinate product safety corrective actions at a central level, similar to that operated by the Food Standards Agency.**

'Primary Authority' is a statutory mechanism that enables businesses, and more recently groups of businesses such as those in trade associations, to receive 'assured advice' from a local authority which they are, subject to legal safeguards, entitled to rely on wherever they trade across the UK<sup>6</sup>.

A business can choose whether to enter into a Primary Authority partnership with a Local Authority (where that local authority also agrees to enter into the 'Primary Authority' agreement). Such agreements cover the particular areas of the local authority's enforcement responsibilities, one of which is product safety with regards to trading standards services.

Changes brought about by the Enterprise Act 2016 due to apply from 1 October 2017 are expected to enable BEIS to act as a 'Supporting Regulator' to Local Authorities in Primary Authority partnerships offering the potential for Local Authorities to access expert technical expertise and guidance when required<sup>7</sup>.

Business and public confidence would be improved if manufacturers have access to primary authority advice, to provide assurance that their information gathering and analysis processes are robust and effective, and that should corrective actions be required, processes are in place to ensure decisions are evidence based and appropriate to protect public safety.

The changes brought about by the Enterprise Act 2016 envisage that the Secretary of State will be able to act as a 'Supporting Regulator' to local authorities in Primary Authority partnerships in relation to product safety regulation. This could better support the making complex technical decisions on matters of product safety when they are significant importance to building competence and confidence in the UK approach to product safety including of corrective actions and product recalls.

In areas such as chemicals, fire safety and medical risk the Working Group see the ability to access such expertise and support when required as greatly enhancing the ability of Local Authorities to reach the right informed decisions in the public interest on product risk assessments.

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<sup>6</sup> <https://primaryauthorityregister.info/par/index.php/background>

<sup>7</sup> <http://www.legislation.gov.uk/ukpga/2016/12/contents/enacted/data.htm>

Members of the Working Group are keen to explore further with BEIS officials the role of Regulatory Delivery as a 'Supporting regulator' for Primary Authority partnerships and how this new role will work to ensure that local authorities facing complex and technical issues on risk assessment and product corrective actions in the consumer goods sector can access appropriately expert support and guidance and share their experience of national coordination mechanisms operating in other product sectors including food, medicines and motor vehicles.

Clearly the performance of such a national support role depends on this being adequately resourced and that is a matter for the Minister to consider.

**Recommendations:**

- **Primary Authority provides a key mechanism for ensuring that businesses, local authority and BEIS expertise is shared to ensure the protection of consumers.**
- **BEIS should develop its role as a 'Supporting Regulator'.**
- **Ideally, all major manufacturing and importing businesses should participate in such arrangements as a way of demonstrating compliance with requirements under the General Product Safety Regulations.**

### 3.3 Ways to improve the capture and use of data relating to faulty electrical goods

There are currently ad-hoc arrangements for sharing of information and data on product performance between the Fire Service, Trading Standards, BEIS colleagues and the manufacturers of domestic electrical appliances and their trade body AMDEA. While this is positive and is designed to identify issues and drive solutions it could be improved by a more systematic and sustainable approach. It shows the potential value of development of 'expert panel' mechanisms to improve dialogue and information sharing between Government, regulators and business sectors.

There is no direct link between information shared within the trading standards community (who share information via a product called 'TS Interlink') and Fire and Rescue Services who share information via the 'FINDS' system. The Chartered Trading Standards Institute and the National Fire Chiefs Council should explore formalising their data sharing arrangements.

There is also room for improvement in the way retailers and AMDEA engage when retailers are acting as manufacturers and specifiers of goods.

Manufacturers and importers are legally responsible for monitoring the safety performance of products that they place on the market and for informing themselves as to any risks that their products present<sup>8</sup>.

There are many sources of information about how products are performing that are directly available to manufacturers and importers of white goods.

In many cases, consumers with a faulty product will contact the retailer from which the product was bought. In the case of branded products, retailers will normally pass such complaints directly to the manufacturer.

Providing a route for retailers to also be able to easily identify and share concerns with the Primary Authority for the manufacturer or importer would increase accountability and strengthen integrity of the supply chain.

Where issues involve fire risk, the Fire Service has mechanisms to record and distribute data relating to incidents it is involved in but potentially the accuracy and completeness of this data could be improved<sup>9</sup>.

Citizens Advice operates a national consumer advice service partly funded by Government with provision for complaints requiring investigation by trading standards to be referred to the relevant local authority<sup>10</sup>. This is a rich source of data and it should be systematically analysed and used.

The insurance industry necessarily has or is in a position to collect and supply data to manufacturers and regulators if necessary on claims investigations where product failure is identified.

EU and OECD member state Market Surveillance Authorities share information on product risks and performance through RAPEX (EU) and the Global Portal (OECD).

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<sup>8</sup> [http://www.legislation.gov.uk/ukxi/2005/1803/pdfs/ukxi\\_20051803\\_en.pdf](http://www.legislation.gov.uk/ukxi/2005/1803/pdfs/ukxi_20051803_en.pdf)

<sup>9</sup> <http://www.fireservice.co.uk/>

<sup>10</sup> <https://www.citizensadvice.org.uk/consumer/get-more-help/report-to-trading-standards/>

Under the General Product Safety Regulations 2005 and sector-specific product safety legislation, manufacturers, importers and distributors are required to notify the relevant enforcement authority (usually local authority trading standards) should they have reason to believe that goods they have placed on the market are unsafe and pose a risk to consumers. It is anticipated that a Code of Practice as described later in this report will provide clarity on when notification is required but also encourage earlier sharing of information.

There are, of course, alternative approaches to force the sharing of information on product safety issues. In some jurisdictions, such as the United States, large civil penalties can be imposed for failure to disclose details of known issues<sup>11</sup>.

It is important that information that becomes available to the public sector is passed on both rapidly and accurately to the appropriate contact in the manufacturer or importer.

Arrangements for the systematic capture of product safety information from health care professionals would be useful if this can be achieved without imposing undue administrative burden and Department of Health actions in this area are noted.

The Medicines and Health Care Regulatory Agency has a simple button on its website enabling anyone within the system from medical professionals through to consumers to report potential issues. A similar reporting mechanism is available on the Food Standards Agency and DVSA websites. The US Consumer Product Safety Commission operates a similar reporting mechanism for consumer product safety.

Primary Authority provides a means to both improve the flow of information between the public sector and the business, but also for there to be more transparency between the business and the Primary Authority on monitoring arrangements and product performance. This is dealt with later in the report.

#### **Recommendations:**

- **Systematic and sustainable ways to capture and share data and intelligence should be established and agreed by relevant parties – this should make use of existing systems used by Trading Standards and the Fire Service.**
- **An expert panel should be established bringing together trade associations, consumer and enforcement representatives and BEIS to encourage better sharing of data and expertise.**

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<sup>11</sup> <https://www.cpsc.gov/Business--Manufacturing/Recall-Guidance/Duty-to-Report-to-the-CPSC-Your-Rights-and-Responsibilities/>

### **3.4 The value of marking white goods to preserve their identification through fire**

A survey of 16 Fire and Rescue Services conducted by the Chief Fire Officers Association (CFOA) - Fire Investigation Steering Group Community in July 2015 reported an average of 25.7% of white goods were unable to be identified after fires that were confined to the appliance. This was 30% if the fire spread beyond the appliance and statistics from four fire services indicated a 49% failure to identify if the fire had spread beyond the room of origin<sup>12</sup>.

In such circumstances, data that could prove useful in early identification of faulty products is lost. However, it should be borne in mind that normally if a product is faulty there would be data available from a broad range of sources to highlight any potential problem and assist with identification. For example, even where marking of an individual appliance has been destroyed by fire, traceability through warranty, sales information and consumer knowledge would often remain possible.

It is noted that some white electrical appliances are marked with engraved markings but their durability under fire conditions is unknown. However the question is a much wider one than for just white electrical goods.

There is a balance to be struck between cost of marking and the very low likelihood of the marking actually needing to resist fire.

This is an issue that is worth consideration as UK, European and International standards are being revised and developed for higher risk product categories. BSI as members of the Working Group has committed to remain mindful of this as relevant consumer product standards come up for revision.

Given the global nature of white goods and other manufacturing and supply dialogue between BEIS and equivalent functions in other EU and OECD member states may be required to drive action on this.

#### **Recommendations:**

- **Manufacturers and retailers should continue to work together and through standards setting bodies to develop technological solutions to product marking and identification.**

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<sup>12</sup> London Fire Brigade, note to Working group chair

### 3.5 Registration of electrical products at the point of sale

It is rare for products to be subject to corrective action or recall. Information published by ROSPA indicates that there were 229 product corrective actions including recalls in year commencing November 2009.

A balance needs to be struck between the administrative costs involved in potentially registering a vast number of white goods and other consumer products being sold each day versus the benefits of being able to easily trace them in the highly unlikely event of corrective action or recall being required.

The industry funded 'Register my Appliance' scheme developed by AMDEA encourages consumers to register all of their electrical appliances. It covers most of the major brands and models of white goods supplied over the last 12 years. The scheme is not only a manufacturing industry first in the UK but world leading.

'Register my Appliance' does, however, depend on action by the consumer and whilst the web site is easily navigable, there appears potential to use technology to simplify how data is captured. The scheme still also relies on consumers to keep their address and/or contact information up-to-date.

Other registration schemes aiming to achieve a similar result have recently emerged including that operated by a 'Retail Ombudsman' and a 'White Goods Trade Association' increasing the range of sources from which information is potentially available. It is vital that consumer information collected is available to the manufacturer should a need for corrective action arise and that consumers are notified of any corrective action in a timely manner.

For white goods, there is an additional complication that the particular item allocated to a consumer may not be known at point of purchase. For example, where an item is ordered in store or over the internet and delivered direct to the consumer (sometimes from a third party supplier), the order details will not include the unique identifier of the actual item to be delivered. Given that data must be available detailing where each individual appliance has been delivered, there does appear potential for manufacturers and importers to do more to better capture this data.

Identifying potential faults that may lead to corrective action earlier in the supply process and taking prompt action reduces the risk to the consumer and makes it easier to track down products.

Some UK consumers change accommodation on a regular basis often taking their stock of domestic appliances with them or moving into accommodation with installed appliances meaning that even if data is captured at point of sale or on delivery it is likely to become out of date.

In addition, consumer concerns about data privacy and security may make consumers resistant to registering appliances particularly if they feel this may lead to marketing approaches. The AMDEA model makes it clear that the information provided should not be used for marketing purposes.

There is potential for products themselves (for example, products that are internet-connected) to remind consumers of the need for corrective action and where appropriate, to disable the product's use if such action is not taken within a certain period, depending on the corrective action required.

Consistent marking of products to enable easier data input by the consumer may improve the take up of such registration schemes but a better understanding of why consumers do and do not take part is required.

The Working Group has begun to explore through behavioural insights research how consumers could be encouraged to register their electrical appliances and other consumer goods with their manufacturers and importers.

**Recommendations:**

- **The registration of appliances and other consumer goods with manufacturers by consumers should be encouraged to make corrective actions (including recalls) more effective.**
- **Research is required to understand barriers to registration.**
- **Organisations supporting vulnerable consumers may be able to play a key role in supporting registration of appliances.**



### 3.6 Improving the information available to consumers and the role of consumer education

Information about corrective actions is made available to consumers through a wide range of means, such as notices displayed in retail outlets, media advertisements, social media, trading standards and other specialist web sites.

Recall information for particular product areas is also included in a range of Government web sites including those of the Food Standards Agency<sup>13</sup>, Driver and Vehicle Standards Agency<sup>14</sup>, Medicines and Healthcare Regulatory Agency<sup>15</sup>.

It is clear that in the consumer goods area, approaches to the presentation and dissemination of corrective action information vary. For example, some businesses use social media while others do not. Furthermore, not all safety related corrective action notices include the word 'safety', and the level of detail about the actual nature of the hazard is variable.

A more standardised template approach, such as that driven by the Food Standards Agency in the food sector would seem helpful.

The Lynne Faulds-Wood Review in 2016 recommended setting up an official trusted website on recalls for business and the public. The Working Group encouraged the Department to quickly establish an interim solution, providing links to significant sources of information on product recalls and corrective action, which is available at <https://www.gov.uk/guidance/product-safety-product-recalls>.

However, there is certainly scope to develop this further.

An up-to-date and comprehensive single access point would also make it easier for those selling and exchanging second hand goods to check if goods had been subject to a corrective action and if required modifications had been completed prior to sale.

A single point of access could also provide the opportunity of introducing a reporting mechanism for consumer product safety issues. The Medicines and Healthcare Regulatory Agency has a button on its recall website enabling anyone to report potential medicines safety issues. The Food Standards Agency has a similar mechanism which links back to the local authority enforcement department for the postcode of the trader concerned. The US Consumer Product Safety Commission has recently introduced a similar mechanism for Consumer Product Safety issues.

The Working Group is strongly of the view that corrective action messages and other published information must be a direct call to action and not seen by the consumer as optional and as such should not include risk information such as in 'one in ten thousand cases xyz has happened'.

The aim of a corrective action is to eliminate risk by removing products from the market place, or arranging a service call to carry out a repair.

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<sup>13</sup> <https://www.food.gov.uk/>

<sup>14</sup> <https://www.gov.uk/government/collections/vehicle-defects-and-recalls-guides>

<sup>15</sup> <https://www.gov.uk/government/organisations/medicines-and-healthcare-products-regulatory-agency>

Inevitably corrective action programmes are unlikely to be 100% successful. Even in the case of motor vehicles where there is full traceability success rates may reach only 90% and without full traceability despite major campaigns a majority of product can remain untraced. It is therefore vital that issues are identified as early as possible and prompt corrective action programmes implemented.

Research is required to understand why response rates are less than ideal:

*Do consumers see corrective action messages, not relate them to goods they have, decide that the risk is too low to act? Could social media and other ways to distributing public information be more effective, how most appropriately to contact customers that are not regular internet users.<sup>16</sup>*

Without such knowledge it is difficult to recommend improvements to current practice.

The particular expertise held by Government in the developing science of behavioural insights and Government's cross cutting interest in how consumers react to information would seem to make Government well placed to undertake or commission this activity.

#### **Recommendations:**

- **Research is required to understand barriers to registration.**
- **Organisations supporting vulnerable consumers may be able to play a key role in supporting registration of appliances.**
- **Consideration should also be given to the development a single portal for consumer information on product corrective actions and recalls.**

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<sup>16</sup> ONS Statistics Net access Households and Individuals 2016

### **3.7 A Code of Practice for corrective action and product recalls including the peer review of risk assessments**

Members of the Working Group, through the breadth of their expertise, are aware of the arrangements that operate in several other important sectors including food, motor vehicles, medicines and medical devices to support and supervise corrective actions when required in those sectors.

The closest parallel to consumer product safety is food safety and standards. Both areas are subject in the main to enforcement at local level by local authorities. The stark difference that currently exists is that food businesses and local authorities have the direct, hands on support of the Food Standards Agency in both making appropriate decisions and in supporting local authority actions where required.

The Food Standards Agency employs a team of 18 dedicated solely to providing 24/7 front line support to businesses and local authorities in respect of product withdrawal and recall. This team is able to call upon the very substantial technical expertise across the Food Standards Agency for technical support.

The Food Standards Agency agrees the format, content and publication of business recall notices and publishes its own information on product recalls. The Food Standards Agency in England and Wales is able to issue notices requiring local authority inspectors to visit premises to check that products are removed from sale.

It is difficult to see that a local authority with limited expertise and resource would be able, without ready access to expert technical support and resource, to engage effectively with a major white goods manufacturer or importer and hold them properly to account over the details of risk assessment and corrective action decisions without a national support mechanism.

Even large manufacturing and importing businesses are unlikely to need to deal with potential corrective action situations that frequently, as products are subject to rigorous testing before they are placed on the market in the first place. ROSPA identified 229 recalls as having been issued in the year 2009-10.

While there is guidance from the European Commission covering monitoring of products in the market place, sharing of information with enforcement bodies, risk assessment and how to implement and monitor corrective actions, this is generic, and the Working Group felt that, particularly as the UK is leaving the EU, it would assist both businesses and regulators in dealing with product safety and corrective action situations when they arise if the UK drew up its own guidance on such matters.

The rationale for establishing this guidance as a Code of Practice would be to promote consistency and transparency in the manner in which safety related corrective actions are managed.

Risks to industry (and indirectly the public) may be reduced if companies can understand and demonstrate they are following agreed good practice.

In development of the code due regard will be required for the content of sector specific codes of practice that are currently adopted by regulators and business sectors to ensure the code recognises and potentially builds on but does not conflict with sector specific codes.

For transparency, a single code, possibly in two parts, would ideally cover both business and regulator support activities.

Harnessing the expertise of BSI of working with industry and regulatory bodies to develop an authoritative and publically available standard would, in the view of the Working Group, be the most appropriate and practical solution.

Areas around which the Code could usefully provide clarity may include the following:

- Definitions and concepts for corrective actions, including product repair and product recall;
- How to carry out risk assessment of the need/type of corrective action;
- General principles for undertaking a corrective action;
- Process and procedures, including record keeping;
- Managing a corrective action event;
- Specific reference to industry sector considerations;
- Templates for product recall notices and communications.

The Code should, for example, set out the circumstances in which a use and repair option would and would not be appropriate.

The Code should provide detail on how a Primary Authority partnership should work to support product safety and include such things as a checklist of indicators of product performance for businesses to work through with their Primary Authority partner.

It is anticipated that training programmes for businesses and their primary authority would be put in place to support uptake and application of the code.

#### **Recommendations:**

- **There is a need to consolidate guidance on product corrective actions and recalls.**
- **A detailed Code of Practice should be developed with input from all relevant stakeholders; this should be informed by behavioural insights research.**
- **This should set out expected good practice with regard to product safety corrective actions (including recalls).**
- **To ensure that the Code of Practice gains wide acceptance, the UK national standards body, the British Standards Institution should lead this work with the support of your officials and members of the Working Group.**
- **Full consideration should be given to establishing a hub to co-ordinate product safety corrective actions at a central level, similar to that operated by the Food Standards Agency.**

## 4. Progress to Date

### A – Code of Practice

**Develop a UK Code of Practice on evaluating product safety and managing effective corrective actions (including recalls) that can be applied generally to consumer products.**

The Working Group took the view that the expertise of BSI of working with industry to develop authoritative standards would provide the best route to ensure a robust and inclusive process leading to a code of technical credibility and wide acceptance in the market place.

In response to Working Group discussions, BSI has drawn up a detailed proposal for development of a Code of Practice on product corrective action (including recall).

This has been broken down into two phases – an initial scoping exercise and the development of a full Publically Available Specification (PAS) / Code of Practice.

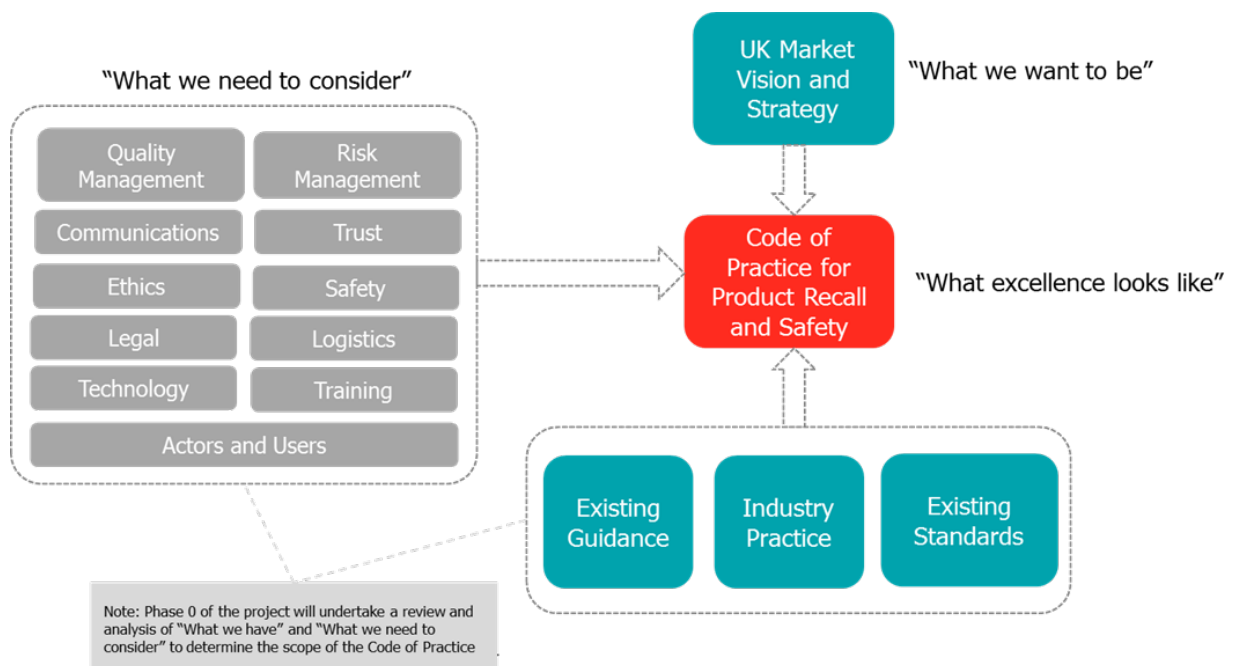
The proposal describes the development of a BSI PAS providing the organizational responsibilities for the management and process for post-sale product safety.

The objective is to develop new guidance for corrective actions that:

- distils and builds on best practice from current approaches
- addresses identified deficiencies and
- provides for a cross-sector dialogue between industry and regulators

The specification would focus on the process and procedures and the roles and responsibilities associated with product corrective action.

The concept for the project is shown in Figure 1 below.



Under the proposal, BSI would work with BEIS as Sponsor and a Steering Group - including Working Group members - to develop, produce and publish the PAS.

BSI would research existing standards and procedures for product corrective actions (including recalls) and work with the Working Group to deliver a scope and outline contents for a PAS.

Whilst the initial phase the aim would be to pin down the scope of the specification.

Indicatively the PAS would cover the following topics:

- Definitions and concepts for product corrective actions, including product repair and product recall
- Indicative criteria for determining the need for a corrective action and assessing the appropriate type of corrective action
- General principles for undertaking a product corrective action
- Roles and responsibilities of key actors
- Process and procedures, including record keeping
- Managing a corrective action event.
- Specific reference to industry sector considerations
- Examples of product recall notices and communications

In development of the proposed code care will be necessary in adopting learning from existing sector specific Codes of Practice without unnecessarily undermining or conflicting with them. The indicative timeline for this project is 9 months from project initiation to project completion.

## **B – Primary Authority and ‘Supporting Regulator’**

**Develop and promote Primary Authority (with BEIS as the supporting Government department) as the key support mechanism on product safety and corrective actions for those involved in the manufacture and import of ‘white electrical goods’ and other consumer goods sectors.**

Participation in a Primary Authority relationship is voluntary and is dependent for its success on the development of positive, trusting and supportive relationships between businesses and their local authority partners.

There are around 16,000 ‘Primary Authority’ partnerships, yet only a small number of manufacturers and importers of white goods currently participate in Primary Authority. Most operate ad-hoc arrangements with the local authority in which they are based.

Relevant Working Group members including AMDEA, the British Retail Consortium, (BRC) the Chartered Institute of Trading Standards (CTSI) and the Association of Chief Trading Standards Officers (ACTSO) has been exploring how to encourage uptake of Primary Authority by AMDEA and its members and more widely.

The sub group has discussed potential barriers and concerns both from local authorities and business perspectives and possible routes to encourage take up, bearing in mind that participation is a choice.

Developing a clear framework as to how Primary Authority partnerships will operate to support product safety and also the potential for AMDEA to show leadership in entering a partnership on behalf of the sector is being explored.

BEIS has agreed to run an event open to all consumer products manufacturers, importers and retailers, to promote the role of Primary Authorities with BEIS as a supporting regulator in supporting product safety.

CTSI and ACTSO members of the subgroup consider that 1:1 approaches by local authorities to individual businesses might also be effective.

## **C – Registration of appliances and traceability**

**Actively encourage consumers to register appliances with their manufacturers and explore options to make registration easier to achieve, including for vulnerable consumers.**

The Association of Manufacturers of Domestic Electrical Appliances (AMDEA) has been asked to detail the support requirements they need from other organisations to further promote the scheme.

The Working Group sees potential for the development of similar schemes for other product areas.

The Minister and BEIS team has supported a promotional day to promote the benefits of registration and the Minister has issued a press release in support.

The potential for Fire and Rescue Services, Chartered Trading Standards Institute and Association of Chief Trading Standards Officers and residential social landlords to assist vulnerable consumers with sign up to registration schemes is being actively considered.

The potential for insurance companies to promote uptake when sending out payment reminders and policies is being explored by AMDEA.

The potential for technological solutions to make product registration easier by use of mobile phone apps and clearer and consistent marking of products is being explored.

The increasing range of internet linked products able to remind consumers and disable use of product if not returned for corrective actions is noted.



## **D – Behavioural Insights**

**Support research into consumer behaviour to better understand how citizens receive and respond to messages about corrective actions to improve their effectiveness.**

A number of Working Group members have been working with the BEIS Behavioural Insights Team to develop a research project on consumer reaction to corrective action and recall communications.

The project involves testing consumer reaction and behavioural intentions to example consumer messages. The test materials are being informed by good practice and successful examples identified by the Working Group, and behavioural insights gained from the results of an academic literature review undertaken by BEIS.

Findings from the research will be fed into the work to develop the Code of Practice.

Members are also considering what the next priorities for behavioural insights research should be. For example, whether recall messages relating to an entirely different type of goods e.g. a toy or a cosmetic should be tested to see if lower value/shorter life span products need different types of messaging or whether the priority should be to look at a different point in the process i.e. use behavioural insights and nudge theory to increase registration of goods.

The team remain in touch with the OECD Product Safety Steering group who has shown considerable interest in the activities of the Working Group on behavioural insights.

## Annex A

### Membership of Working Group

- Neil Gibbins, Chief Executive Officer of the Institution of Fire Engineers (and Former Deputy Chief Fire Officer, Devon and Somerset) (Chair)
- David Bolton, Product safety expert, British Retail Consortium (BRC)
- Steve Brunige, Head of Government Relations, British Standards Institution (BSI)
- Philip Buckle, Chief Executive, Electrical Safety First, (ESF)
- Kate Corby & John Leadley, Partners, Baker & McKenzie LLP
- Roland Earle, Chief Executive, British Toy and Hobby Association (BTHA)
- Douglas Herbison, Chief Executive, Association of Manufacturers of Domestic Appliances (AMDEA)
- Leon Livermore, Chief Executive, Chartered Trading Standards Institute (CTSI)
- Jonathan O'Neil, Chief Executive, the Fire Protection Association (FPA)
- Guy Pratt, Association of Chief Trading Standards Officers (ACTSO)
- Charlie Pugsley, Chief Fire Officers' Association (CFOA)
- Professor G. J. Rodgers, Brunel University
- Mark Shepherd, Assistant Director, Association of British Insurers (ABI)
- Errol Taylor, Deputy Chief Executive, Royal Society for the Prevention of Accidents (ROSPA)
- Daniel VandenBurg, Citizens Advice (CA)
- Melanie Wiseman, Senior Legal adviser, Society of Motor Manufacturers and Traders (SMMT)