



TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE AGENDA

Thursday, 8 July 2021 at 10.00 am in the Council Chamber - Civic Centre

From the Chief Executive, Sheena Ramsey

Item Business

1 Appointment of Chair

The Committee is requested to appoint a Chair for the 2021/2022 Municipal Year.

2 Appointment of Vice-Chair

The Committee is requested to appoint a Vice-Chair for the 2021/22 Municipal Year.

3 Constitution of the Committee

The Committee is asked to note the Constitution of the Committee for the 2021/22 Municipal Year.

AUTHORITY	MEMBER	SUBSTITUTE
Gateshead Council	Councillor K Dodds	Councillor D Bradford
	Councillor T Graham	Councillor S Hawkins
	Councillor I Patterson	Councillor J McElroy
	Vacancy	
North Tyneside Council	Councillor S Graham	Councillor P Oliver
	Councillor J Hunter	Councillor L Bell
	Councillor J O'Shea	Councillor S Phillips
	Councillor T Mulvenna	Councillor P Richardson
Sunderland City Council	Councillor C Rowntree	Councillor P Gibson
	Councillor P Walker	Councillor D MacKnight
	Councillor J Fletcher	Councillor D Snowdon
	Councillor J Heron	Councillor M Walker
South Tyneside Council	Councillor S Dean	
	Councillor J Keegan	
	Councillor A Donaldson	
	Councillor N Dick	
	Councillor R Porthouse	
Newcastle City Council	Councillor L Hobson	Councillor A Lower

	Councillor L Wright	
	Councillor M Lawson	
	Councillor P Lovatt	

4 Apologies for Absence

5 Minutes (Pages 3 - 8)

The Joint Committee is asked to approve as a correct record the minutes of the previous meeting.

6 Provisional Outturn as at 31 March 2021 (Pages 9 - 12)

Report of the Strategic Director, Corporate Resources

7 Update on the Response to Rogue Door to Door Fish Sellers (Pages 13 - 14)

Report of the Service Director, Economy, Innovation and Growth

8 Update on the National Audit Officer Report: Protecting Consumers from Unsafe Products (Pages 15 - 22)

Report of the Service Director, Economy, Innovation and Growth

9 Update on the Results of a Regional Survey on Trading Standards Staffing

Report Withdrawn

10 Report and Statistical Return for the Quarter Ending June 2021 (Pages 23 - 26)

Report of the Service Director, Economy, Innovation and Growth

GATESHEAD METROPOLITAN BOROUGH COUNCIL

TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE MEETING

Thursday, 4 March 2021

PRESENT: Councillor K Dodds (Chair)

Councillor(s): Councillor J Fletcher, T Graham, I Patterson,
Councillor S Graham, S Dean, Councillor J Blackburn and
Councillor M Lawson

TW37 APOLOGIES FOR ABSENCE

Apologies for absence were received from:

Councillor M Foy – Gateshead Council
Councillor C Burdis – North Tyneside Council
Councillor T Dixon – South Tyneside Council
Councillor J Perry – South Tyneside Council

RESOLVED – That the apologies be noted.

TW38 MINUTES

RESOLVED - That the minutes of the meeting held on 17 September 2020 were agreed as a correct record subject to it being noted that Councillor Dean was in attendance.

TW39 REVENUE ESTIMATES 2021/22

The Committee received a report on the revenue estimates for 2021/22.

The budget set for 20/21 was £367,042, the project outturn for 20/21 is £325,855.
The budget set for 2021/22 is £375,972.

It is expected that there will be a trading surplus in 2020/21 due to a vacant post and reduced activity.

The salary estimates include a pay increase of 2.75% and it has also been assumed when setting the 2021/22 budget income levels will return to pre-covid figures. It is proposed that the contribution from partner authorities increase in line with the pay awards. It was also noted that any reserves will be held to provide a financial buffer to allow for the development of building.

RESOLVED - That the information contained within the report be noted.

TW40

REPORT AND STATISTICAL RETURN FOR THE PERIOD TO FEBRUARY 2021

The Committee received an update report on the work of Metrology Laboratory. The laboratory has continued its work during the Covid-19 Pandemic and has not lost any time or productivity. Social distancing was maintained and full risk assessments applied along with modified practices to achieve this aim. There were not the opportunities to work from home and all staff have been working through the pandemic at the laboratory which is a credit to their dedication and professionalism.

Submissions to the laboratory have not reduced in quantity in comparison to this time last year as a predominance of the laboratory's clients are in the pharmaceutical and food production industries. Submissions in January 2021 were up by 474 with a total of 918 submissions this year.

Aid and advice to industry has continued, there has been no EC verifications since 1 January 2021 following Brexit being finalised. The UK government has transferred us to an Approved Body for the purposes of attesting to UKCA requirements.

UKAS calibrations have continued and the laboratory has worked tirelessly during an extremely difficult period. The laboratory underwent its annual audit by UKAS in February 2021, this audit was conducted remotely and all materials sent to the auditing team in advance.

As with previous reports the laboratory has been appointed by Office of Product Safety and Standards at the product safety laboratory and sample hub for the North East, Yorkshire and Humberside regions and as such have been organising the testing of products on behalf of the Local Authorities that we represent.

The laboratory has also decided to restrict the amount of plastic inoled in providing the calibration and testing certificates to clients. The amount of paper used has also been reduced as auditing by UKAS has been conducted remotely so the paper trail is currently electronic and this will continue.

RESOLVED - That the information contained within the report be noted.

TW41

GOVERNMENT ANNOUNCEMENT: BUY-NOW-PAY-LATER PRODUCTS TO BE REGULATED

The Committee received a report on the Government announcement that Buy-Now-Pay-Later schemes are to be regulated.

A review was undertaken of the unsecured credit market, led by Christopher Woolard, this review has recommended that the interest free buy-now-pay-later be brought into FCA supervision.

Currently people can go into a shop and purchase an item / items on a buy now pay in three / six months, they can then go into another shop and do the same thing. These schemes aren't regulated and therefore credit checks are not carried out and could accrue a large amount of debt without realising how much they will owe. Following an independent review which found that whilst this was useful to manage

larger financial purchase it was causing some people to get into debt on an average of £1000. The new rules will require affordability checks and make sure customers are treated fairly to be undertaken and will also allow consumers who aren't happy to escalate any issues to the FSO.

RESOLVED - That the information contained within the report.

TW42 NEW NATIONAL REGULATOR FOR CONSTRUCTION PRODUCTS

The Committee were provided with a report to update on the Government announcement which took place on 19 January 2021 that a new national regulator to oversee the enforcement of the legislation related to construction products is to be established.

Residents will be protected through the establishment of a national regulator, which is suggested will ensure that materials used to build homes will be made safer.

The new regulator will have the power to remove any product from the market that presents a significant safety risk and prosecute any companies who flout the rules on product safety.

This follows recent testimony to the Grenfell Inquiry which shone a light on the alleged dishonest practice by some manufacturers of construction products including deliberate attempts to avoid the legislative requirements by allegedly not carrying out the requisite safety tests in the prescribed manner.

The regulator is seen as having strong enforcement powers including the ability to conduct its own product testing when investigating concerns. The announcement is seen as marking the next major step in the Government's overhaul of regulatory systems affecting construction.

The regulator will operate within the Office for Product Safety and Standards (OPSS) which will be expanded and given up to £10million in funding to establish the new function. It will work with the Building Safety Regulator and local authority Trading Standards services to encourage and enforce compliance.

The government has also commissioned an independent review to examine weaknesses in previous testing regimes for construction products, and to recommend how abuse of the testing system can be prevented.

RESOLVED - That the information presented in the report be noted.

TW43 TRADING STANDARDS AND COVID-19

The Committee received an update on the work of Trading Standards and Environmental Health during the Covid-19 pandemic.

Since March 2020 there have been and continue to be a number of rapid and far reaching changes in legislative regimes, which have been imposed by Central Government and as always local authorities have progressed through responding

and dealing with the pandemic. Basically there have and continued to be legislative changes which have been imposed, at often quite short notice for local authority officers to interpret then enforce.

The level and type of specific complaints/enquiries has changed throughout this period. Local Authority Regulatory Services have come together and continue to deal with complaints on specific businesses that should be closed either on permitted timing restrictions or because they have been placed within the legislation without any exemptions to be permitted to be open through to complaints/enquiries on those businesses that were permitted to be open at the time but were not following the guidance in terms of either managing staff and customers with the wearing of face masks if required and social distancing.

Local authorities throughout the legislative changes that have taken place, continue to utilise a range of enforcement tools in line with our Enforcement policies and national guidance. Joint visits by EHOs and TSOs with Northumbria Police Officers were also carried out and where appropriate the service of Prohibition Notices, Direction Notices or Fixed Penalty Notices given to businesses found not to be compliant.

Services continue to deal comprehensively with many thousands of complaints and intelligence about non-compliant businesses from consumers and businesses and where deemed appropriate the range of enforcement tools continue to be employed to ensure compliance in the over-riding interests of public health and safety.

It is important to remember that although a great deal of prioritisation has been given and continues to be given to this very important regulatory work, officers have continued to engage with the other important deliver of the wide range of services which is very much an expectation of consumers, businesses and members and also those Government agencies and organisations that we all report to.

A table has been established to categorise priorities as there has been a recognition that there is a need to support priorities, whilst statutory duties will need to continue to be met across all activities in some areas government has introduced changes to reduce burdens or streamline activity.

RESOLVED - That the information presented within the report be noted.

TW44 COVID-19 SCAMS

A report was presented to the Committee to provide an update on Covid scams which have been reported to Trading Standards.

Scammers and fraudsters have thrived during the pandemic due to having a captive audience. They are operated by criminals with the sole purpose of identifying and exploiting often vulnerable, elderly and mentally impaired people. Most scams will be an attempt to steal or trick someone into revealing personal information.

During the Covid 19 pandemic scammers have developed new scams to meet the new environment. Scam levels continue to rise and are being widely reported

across the UK. Over the course of the pandemic the physical and mental challenges we have faced can make some of us quite vulnerable.

Scammers have been posing as workers from the NHS Test and Trace service have made calls asking for payment for coronavirus tests. Those being called are told that they have been in contact with someone who has tested positive for Covid-19 and are then told they must purchase a test over the phone. Residents are then asked for bank details and the cost of the test being £500.

Residents across the country have reported being targeted by email fraudsters. The email, which purports to be from the NHS tells the recipient they have been selected to receive the coronavirus vaccine from the health service. It asks the recipient to click on a link inside the email which is part of a phishing scam. The link then takes you to another website which asks for financial details to pay for the vaccine.

There have also been doorstep scams, fake pet sales, fake grants, fake mask exemption badges and a tv licence scam.

RESOLVED - That the information contained within the report be noted.

TW45

PENROSE REPORT "POWER TO THE PEOPLE" - STRONGER CONSUMER CHOICE AND COMPETITION

The Committee received an update on the Government Publication on the 16 February 2021 of the Penrose Report entitled "Power to the People – Stronger Consumer Choice and Competition".

The report was commissioned by the Chancellor in September 2020, John Penrose MP was asked to write an independent report on how the UK's approach to competition and consumer issues could be improved in future following the impact of Coronavirus and Brexit.

The Report recognises that Local Authority and Trading Standards Services have an essential role in investigating and enforcing local scams and other consumer problems which are too small to warrant a full-scale investigation by CMA or a sector regulator.

The key recommendation is "We should create a new statutory duty for minimum standards in LATS, including powers to mount antitrust and consumer investigations, and provide ring-fenced resources so they can deliver them well. The new statutory duty should define the outcomes which have to be more local control and creativity. This will also allow LATS to decide whether and how to join forces with their neighbours to tackle regional scams and cartels in the same way as police forces pool resources in Regional Organised Crime Units at the moment".

RESOLVED – That the information contained within the report be noted.

Chair.....

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8th July 2021

Provisional Outturn as at 31 March 2021

Darren Collins, Strategic Director, Corporate Resources, Gateshead Council

Purpose of the report

1. To advise the Joint Committee of the provisional outturn for 2020/21, subject to the Audit of Gateshead Council's Accounts.

Background

2. From April 2015 onwards, the accounts of the Trading Standards Joint Committee are being reviewed as part of the Gateshead Council's Final Accounts process. Details are shown in Appendix 1.

Recommendation

3. The joint Committee is recommended to –
 - Be advised of the details contained in the provisional outturn report at Appendix 1.

Contact: Jeremy Craxford, Gateshead Council on 0191 433 2727

Appendix 1

	Budget 20/21	Outturn 20/21	Notes	Budget 21/22
	£	£		£
Income				
			<i>Actuals: 18/19 £138k, 19/20 £160k</i>	
Fees & Charges	139,173	115,453		143,173
S. 11 Stamping Fees	9,000	2,383		7,911
Levy on Constituent Authorities	218,869	218,869		224,888
Total Income	367,042	336,705		375,972
Expenditure				
<i>Employees</i>				
			<i>Vacant Technical Officer Post</i>	
Direct Pay	227,436	185,036		227,431
Indirect Pay	1,142	9		100
	<u>228,578</u>	<u>185,046</u>		<u>227,531</u>
<i>Premises</i>				
Repairs & Maintenance	7,570	9,942		21,900
Utilities	14,669	12,005		14,000
Rent	4,160	1,107		4,000
Rates	8,400	8,608		9,000
	<u>34,799</u>	<u>31,662</u>		<u>48,900</u>
<i>Transport</i>				
Car Allowances	400	401		500
Vehicle Running Costs	940	954		1,000
	<u>1,340</u>	<u>1,355</u>		<u>1,500</u>
<i>Supplies & Services</i>				
Furniture & Equipment	33,500	17,698		21,000
UKAS Fees	9,000	6,876		9,000
Telephones	0	904		0
Printing & Stationery	7,855	731		2,855
Insurance	5,160	10,604		10,160
Postage	800	842		2,000
Miscellaneous	7,212	1,435		14,228
	<u>63,527</u>	<u>39,089</u>		<u>59,243</u>
<i>Central Admin</i>				
Met Lab Central Admin	38,798	34,055		38,798
	<u>38,798</u>	<u>34,055</u>		<u>38,798</u>
Total Revenue Expenditure	367,042	291,207		375,972
Net Expenditure	0	-45,498		0

	Outturn 20/21	Notes	Budget 21/22
	£		£
Reserve at 31st of March 2020	-78,447		
<i>Transfer to Reserve</i>	-45,498		
Reserve at 31st March 2021	-123,945		
<u>Levy on Constituent Authorities</u>			
Gateshead Contributions	-39,663		-40,754
Sunderland	-54,579		-56,080
Newcastle	-55,504		-57,030
LACB South Tyneside	-29,344		-30,151
LACB North Tyneside	-39,779		-40,873
	<u>-218,869</u>		<u>-224,888</u>

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8 July 2021

**Update on the Response to Rogue Door to
Door Fish Sellers**

**Anneliese Hutchinson, Service Director, Economy, Innovation & Growth,
Gateshead Council**

Purpose of the report

1. To update the Committee on the regional response to the important issue of Rogue Door to Door Fish Sellers.

Context

2. One of the most identifiable issues related to doorstep crime for Trading Standards services/Environmental Health services and also the Police Services, is the illegal activities of certain rogue individuals, going door to door targeting the most vulnerable and selling quantities of fish.
3. When buying fish from door to door salesmen, the consumer very often has no way of knowing how the fish have been stored and whether they are safe to eat. These type of businesses commonly use non-refrigerated vans, and there may be issues with the labelling, quality, and descriptions of the fish.
4. It can also be difficult to know whether door to door traders are registered as a food business operator, which is a legal requirement, or if they are adhering to all food safety and hygiene regulations.
5. There are also concerns that the traders may pressurise residents to buy more than they actually need. The best place to buy fish is from a reputable fishmonger at an established shop or stall or even with a trader with a regular pre-arranged round.
6. Following concerns about these illegal activities both locally and indeed national the Regional Investigations Team hosted by Redcar & Cleveland BC and funded by the National Trading Standards Board continues to undertake a complex investigation into these illegal activities.
7. In November 2019 officers reported to Committee on the conviction of a number of individuals involved in these type of rogue business activities. As a further update:

Case Study

8. Three mobile fish sellers who defrauded and knowingly misled elderly and vulnerable consumers out of £325,000 have been jailed.

9. Matthew Dudding, 32, Paul Dudding, 60, and Daniel Whitley, 44, all from County Durham, used aggressive sales practices to pressure more than 100 elderly victims out of buying excessive quantities of poor-quality fish at exorbitant prices.
10. The fraudsters deliberately targeted vulnerable and older people living in the North of England and the Midlands, including people with serious health conditions, in the belief they were less likely to question the sale or complain.
11. Some victims felt threatened in their own home if they challenged the price of the fish or couldn't afford to pay.
12. A 90-year-old victim described feeling bullied and pressurised into purchasing a large volume of fish, after one of the fraudsters entered her home uninvited. Despite agreeing to pay £56.00, she was charged £156.00 without her knowledge. The experience has left her feeling vulnerable.
13. A significant amount of the produce sold by the trio was such poor quality that it was unfit for human consumption. With food safety management procedures were often ignored, including monitoring the temperature for storing fish. One victim became unwell with vomiting and sickness within a few hours of eating the fish supplied by the defendants.
14. On sentencing at Teesside Crown Court, Judge Jonathan Carroll said the crooks were *"like wolves descending on weak, vulnerable and elderly"*. He told the defendants there was a *"clear conclusion you are all crooks and fundamentally dishonest in how you behaved"*.
15. Matthew Dudding, who was the principal beneficiary of the fraud, pleaded guilty to fraudulent trading. He was sentenced to five years, 11 months, and two weeks in prison.
16. Paul Dudding and Daniel Whitley pleaded guilty to contravening professional diligence, contrary to consumer protection legislation. They were sentenced to 13 months each
17. Lord Toby Harris, Chair of National Trading Standards, said: *"Elderly and vulnerable customers were viewed as soft and easy targets by these unscrupulous fraudsters who have, over a number of years, demonstrated a callous attitude towards their victims. "Those who fell for the scam were left feeling angry and ashamed. In addition to the dishonest practices demonstrated by these criminals, some of their crimes took place during a period when clear social distancing requirements were in place due to the Covid-19 pandemic. Those requirements were flagrantly ignored by the defendants in order to make money, with little, if any regard to the risks to their victims"*.

Recommendation

20. The Committee is asked to note the information.

Contact: David Ellerington , City of Newcastle upon Tyne. Email david.c.ellerington@newcastle.gov.uk

8 July 2021

**Update on the National Audit Office Report:
Protecting Consumers from Unsafe Products**

**Anneliese Hutchinson, Service Director, Economy, Innovation & Growth,
Gateshead Council**

1. Purpose of the report

To provide Committee with an update on the publication on the 16 June 2021 of the National Audit Office report: "Protecting Consumers from Unsafe Products".

2. 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% the percentage of consumers who consider product safety when purchasing goods.

5 is the 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 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.

3. Summary

While most consumer goods consumers 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.

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.

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.

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.

4. Protecting consumers from unsafe products

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.

5. Scope of the report

The 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 the study, the NAO 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, the NAO do not expect the new arrangements to have achieved full maturity in all areas. Nevertheless, they have used this framework to assess progress in key areas and identify priorities going forward.

The 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.

6. Key findings

7. Preventing unsafe goods from being purchased

Safety requirements in the UK are widely considered to be appropriate for most products, and the OPSS is seen as 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 were 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.

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 generally 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 NAO take the view that 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

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

8. Responding to product safety problems

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

The NAO takes the view that 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. The NAO 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

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.

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 interviewed told the NAO of cases where the OPSS and local regulators were examining the same product or business at the same time, risking duplication of work. Other services 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.

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.

9. Adapting to new and changing risks

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.

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.

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

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

10. Conclusion

In 2018, the government reformed the product safety regime to strengthen it, including establishing the OPSS as a national regulator. The NAO believes that 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.

However, the NAO recognises that 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.

11. Recommendations

The NAO takes the view that 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.

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.
- 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.

12. Recommendation

The Committee is asked to note the information.

Appendix 1. <https://www.nao.org.uk/wp-content/uploads/2021/06/Protecting-consumers-from-unsafe-products-Summary.pdf> :

Contact: David Ellerington , City of Newcastle upon Tyne. Email david.c.ellerington@newcastle.gov.uk

8th July 2021

Report for period to June 2021

**Anneliese Hutchinson, Service Director, Economy, Innovation & Growth,
Gateshead Council**

Purpose of the Report

1. To inform the Committee of the work of the Joint Metrology Laboratory for the period and operational duties to present in these continuing difficult times of a pandemic.

Metrology Laboratory

Operational

2. The laboratory has continued to provide a service throughout the pandemic and has not lost any time or productivity. Social distancing has been maintained and full risk assessments applied along with modified practices to achieve this aim. There are no opportunities to work from home and all staff have been working. An Inspection was conducted by the Health and Safety Executive for our Covid procedures and there were no issues highlighted.
3. The submissions to the laboratory have not reduced in quantity in comparison with this time last year, as a predominance of the laboratory's clients are in the pharmaceutical and food production industries and need a continuity of service to maintain their production levels.

Aid and Advice to Industry

4. Local weighing machine repairers, chemical, food manufacturers, pharmaceutical and aeronautical companies continue to submit their test weights, scales and measures in for calibration and testing.
5. The laboratory does offer the facility to companies to hire some of our test weights and there have been a number of hires of several tonnes of weights over the last few months.
6. The Public Weighbridge is still being utilised by our clients and providing an essential service to hauliers and road haulage operators, it was recently calibrated and found to be within legal limits.

UKCA Verifications (formerly EC Verifications)

7. This transfer to UKCA was audited in line with the Local Authority Auditing Protocol before the deadline of March 31st 2021 and was successful but a

shortfall in Authorised Officers still needs to be addressed sooner rather than later, as at present there are only two in the Tyne and Wear Region.

UKAS Calibrations

8. The audit clearance audits have been cleared by UKAS and therefore our accreditation continues for another year.
9. The laboratory has taken part in more inter laboratory comparisons to ensure the quality of our work, last report we cited Iceland, this quarter we compared with Northern Ireland. Comparisons with non-automatic weighing instruments have occurred with one local UKAS company and one UKAS company in Wales, a further one is planned this month.

Product Safety

10. As was reported previously the laboratory has been appointed by Office of Product Safety and Standards as the product safety laboratory and sample hub for the North East, Yorkshire and Humberside regions the funding for this year has now been confirmed with a slight downward award from last year.
11. The laboratory has also been appointed by OPSS to participate in Construction Products testing as a sum of monies have been made available. We have £10K towards feasibility of conducting our own tests or outsourcing to other labs.
12. Cigarette testing, for Reduced Ignition Propensity testing which poses a risk to life and property due to fire is still being conducted with samples still coming in to the lab, alarmingly most submissions fail.

National Agenda

13. The laboratory has developed a new Advanced Metrology Module as part of the Chartered Trading Standards Institute's qualification framework, and discussions with Northern Ireland are ongoing with the delivery of that module as well as some other matters with regards to training its Weights and Measures Officers.
14. The T Level qualification developed by NCFE with major contributions by the laboratory goes live to the education sector from September.
15. The manager, as a Lead Officer for Metrology for the Chartered Trading Standards Institute, has been contributing to discussions surrounding another qualification review of the Trading Standards Qualification.

Environmental

16. The laboratory is continuing to restrict the amount of plastics involved in providing the calibration and testing certificates to clients and is on track to reduce the use of single use plastics to zero by the end of the year.
17. The amount of paper use by reason of printing has continually been reduced. There has been some resistance from some clients in accepting electronic

copies only and insist upon paper certificates. One option for consideration would be to introduce a charge for paper copies to persuade them against.

Recommendation

18. Committee is asked to note the information contained in this report.

Contact: Andrew Hayward, Gateshead Council on 0191 4784550 or
andrewhayward@gateshead.gov.uk

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