

# **Whirlpool**

## **The whole Tumble Dryer story without the Spin**

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# Whirlpool Tumble Dryers

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## Introduction

On 23 November 2015 Whirlpool issued a warning regarding 113 different models of tumble dryer due to risk of fire. This risk was caused by fluff coming into contact with a heating element. 750 fires involving Hotpoint, Indesit and Creda tumble dryers have been reported since 2004, including three injuries.

Models from Hotpoint, Indesit or Creda have been recalled by the firm Whirlpool, which now owns these companies. However, it was not a full recall which would have caused all machines to be replaced. Instead, the recall, such as it is, involves an engineer visit to each affected appliance. The machines affected were manufactured between April 2004 and September 2015.

Despite the potential risk, Whirlpool has claimed that the dryers are safe to use following precautions, such as not leaving the tumble dryer on when owners are asleep, not leaving the house when the dryer is on, cleaning the lint filter after every use, and ensuring proper venting.

Whirlpool [amended its advice](#) [1] in late February 2017 and told affected customers to unplug and not use the machine. It has still stopped short of a full recall.

The 5 million tumble dryers affected were manufactured but Whirlpool assumes that many of these will now be out of use due to their age. As at May 2017, 1.5 million consumers have registered as a result of the recall and of these, it has resolved more than 1.3 million cases by carrying out the necessary modifications.

## Peterborough Trading Standards

A Freedom of Information (FOI) request made by Helen Dewdney in April 2016 to PTS, asking for copies of correspondence between it and Whirlpool was denied.

After an internal appeal and an appeal with the ICO, PTS released information in Appendix A below.

Documents relating to the commencement of the corrective action and documents relating to the implementation and progress of the dryer campaign were not disclosed. PTS cited that information was confidential, not in the public domain and if disclosed would have a significant reputational impact on Whirlpool and would prejudice Whirlpool's commercial interests on a number of levels. It also stated that it was not in the public interest to disclose confidential information of this kind as it would prejudice Trading Standards' ability to:

(a) continue to work collaboratively with Whirlpool in the interests of consumer safety; and (b) work with Whirlpool (and other companies) in the future to ensure consumers' safety.

On the 19<sup>th</sup> October 2016 it responded to a number of Freedom of Information requests, as shown in Appendix A below.

## **Chartered Trading Standards Institute**

In a statement to Helen Dewdney on the 21<sup>st</sup> October 2016, Leon Livermore, CEO at The Chartered Trading Standards Institute which supports and represents trading standards professionals in the UK, said “whilst it appears there is no legal requirement to recall, Whirlpool should do the right thing and issue a proper recall and amend their advice.” The CTSI has reiterated this call numerous times.

Livermore went further, saying that the Institute has raised with colleagues in BEIS and is aware that the Minister has written to Whirlpool but believes that some issues are of such significance that they should not be left to local government to deal with and that it is “...no comment on the ability of local government but simply the fact that they are focussed on a limited geographic area – and central government should have intervened earlier. The whole recall system in this country needs reviewing – there are the recommendations from last year's review still to be implemented – and government needs to invest in expertise to properly deal with issues such as this.

## **Electrical First**

Electrical First campaigns on behalf of consumers and electrical trade professionals to improve safety regulation and ensure safety messages are appropriate. It believes that Whirlpool should make things clearer for the public by making this safety notice a recall. “This way consumers would have more clarity and Whirlpool's recall actions would be governed by Trading Standards”.

Electrical First lists the safety notice in the recall section of its website because it believes that consumers are more familiar with the word recall and may search for this term. On the page itself, it calls it a safety notice and provides information for contacting the manufacturer. However their advice differs from Whirlpool's. It is advising people not to use their tumble dryer under any circumstances as it is unsafe to do so until it has been declared safe by a Whirlpool engineer.

## London Fire Brigade

The London Fire Brigade (LFB) wanted Whirlpool to change their current advice so it was in line with their own (that anyone with one of these appliances should unplug it and stop using it immediately until it is either repaired by an engineer or replaced by a manufacturer). However Whirlpool did not do this until the end of February 2017 after an Enforcement notice was issued by Peterborough Trading Standards.

On 5th November 2014, a London Coroner recommended a series of measures designed to improve white goods' fire safety following the inquest into the death of Santosh Benjamin Muthiah, who lost his life following a fire which started in a fridge freezer. The fire originated in a BEKO product. that was subsequently recalled by BEKO. Her Majesty's Coroner for the Northern District of Greater London [made 57 recommendations](#)

The London Fire Brigade says that none of these 57 recommendations made at the time have been implemented. In a [press release](#) on the 4<sup>th</sup> November 2016 it launched a campaign for a minimum of:

- 1) Publicising recalls better to reduce confusion
- 2) A single publicly accessible register of product recalls
- 3) Including international recalls on the UK recall register
- 4) Publish risk assessments when a fault is identified
- 5) Greater regulation of secondhand appliances
- 6) Change the way fridges and freezer are manufactured
- 7) Mark all appliances with model and serial number
- 8) Include sleeping risk as a factor in risk assessments

Due to many fires being so destructive it is not always possible to find the model number on an appliance and some fire brigades do not have the resources to investigate fires. From the London Fire Brigade statistics it is possible to glean that from fires in London, where Hotpoint, Creda, Indesit and Swan tumble dryers have been involved in a fire, that:

Total fires involving these machines 2006 – Aug 2016: 399

Affected models: 67

Unknown models: 153

Unaffected models: 179

Not all affected models caused a fire through a fault, such as overloading the machine and some unknown models may have been faulty and may have been one of the affected models.

London Fire Brigade's first recorded fire involving an identified model was on the 25<sup>th</sup> February 2005. which was diagnosed as being due to build up of fluff and debris in the outlet.

A fire involving an affected tumble dryer that took hold on an 18 storey high rise block of flats and took 120 firefighters to bring under control on the 19<sup>th</sup> August 2016 in Shepherd's Bush resulted in more than 100 families being evacuated. LFB undertook a thorough investigation of the cause of the fire over 6 weeks and concluded that "all the physical evidence in the flat clearly indicated that the fire had started in the tumble dryer".

London Fire Brigade does not speak out against companies. If it sees any pattern with fires it works with companies to sort out issues. However, with Whirlpool it has regularly and consistently stated that it does not agree with Whirlpool's advice that the machines are fine to use if watched. It advises unplugging and not using the machine at all.

Putting out fires is the primary role for fire services and not all details are recorded across the country.

Andy Slaughter, MP for Hammersmith informed the House of Commons on the 26th April 2017 [2] that

"The Local Government Association has reported that firefighters are now attending three fires a day caused by tumble dryers. Figures I received from the London Fire Brigade ahead of this debate show that there have been 1,520 fires caused by tumble dryers and washing machines since 2009 in the London fire authority area alone. [where] tumble dryer fires increased by 24% between 2015 and 2016."

[House of Commons debate 26<sup>th</sup> April 2017 House of Commons Hansard]

London Fire Brigade has calculated that each domestic fire costs the economy an estimated £57,000, which takes into account a number of factors including damage caused and the cost of the fire service response. Over 120 fire fighters attended the fire in Shepherd's Bush.

## **Whirlpool's stance on the situation**

I requested an interview with Whirlpool's CEO, Maurizio Pettorino, but his PR company declined and a request to the MD, Lawrence Collis, was ignored. Although the PR company received a list of questions it would only send a statement on the 14<sup>th</sup> October 2016:

"The safety of consumers is our number one priority and we are committed to doing everything we can to ensure that the tumble dryer modification programme is carried out in a safe and timely manner." We urge everyone who owns an Indesit, Hotpoint or Creda dryer manufactured between April 2004 and September 2015 to check if their dryer is affected and then register for a free modification if it is. They can do this using the model checker on two bespoke websites we have created, <https://safety.hotpoint.eu/> and <https://safety.indesit.eu/>, or our dedicated freephone helpline on 0800 151 0905 for the UK or 1800 804320 for Ireland.

"Since becoming aware of the issue, Whirlpool has proactively engaged with Trading Standards with whom we have a statutory partnership under

the national Primary Partnership scheme administered by the Better Regulation Delivery Office. We shared with them all relevant information available. Trading Standards determined that corrective action was required. Since then, Whirlpool has remained in continual dialogue with Trading Standards, during which time the progress of the programme is regularly monitored and reviewed.

“The dryers subject to this modification programme were manufactured between April 2004 and September 2015 under the Hotpoint, Indesit, Creda, Swan and Proline brands. The total number of affected appliances manufactured during this period is 5.3 million. However, given the timeline involved, we believe that well over 1.5 million of these products will have been replaced or taken out of service.

“We have been contacting consumers directly by letter, email and telephone and set up dedicated freephone helplines and websites, as well as an online model checker for consumers to instantly find out if they have an affected appliance. So far, we have directly contacted more than 3.6 million individual customers. We are continuing our efforts to identify all owners of the affected models and contact them directly, issuing follow-up letters and calls urging consumers to register for a modification. In September we launched a renewed round of outreach sending letters to 2.4 million homes across the UK.

“The scale of this modification programme is considerable. We are continually looking into alternative options which will allow us to progress the programme at a faster pace and we are working hard to improve our response times.

“To this end, we continue to recruit extra engineers. Since the beginning of the modification programme we have increased our team of engineers by over 45% to more than 1,500 engineers. This unprecedented recruitment and training programme means we have the largest domestic service organisation in the country and we continue to grow our engineer team. To improve response times, we also more than doubled the number of call centre employees to nearly 1,000.

“Depending on a customer’s location, we are now able to resolve customer cases in as little as three weeks from the date of them registering their appliance with us for a modification. Consumers living in some areas may have to wait longer. For those customers already registered for a modification, in many instances, we have been able to bring forward the date of their engineer visits from those provided at the outset of the programme.

“In addition, in October, we launched a new e-mail booking system for customers that allows them to choose a date and time for their modification that suits them. The system will be rolled out across the UK to make it more convenient for consumers to have their dryers modified.

“At the time of writing, the number of customers who have registered their affected dryers with us is 1.35 million. Of these, more than 920,000 customer cases have now been resolved, leaving approximately 400,000

customers currently awaiting a modification. Due to the expansion of our engineer workforce, we are confident that we will have resolved the vast majority of those customers by the end of 2016.

“All consumers who own an affected dryer are eligible for a free-of-charge modification.

“Following feedback from consumers wishing to upgrade their products to a newer model, one of the options we are offering to consumers is a brand new dryer in exchange for a small contribution to the total cost. Consumers can choose between a vented dryer at £59.00 (RRP £219.00) and a condenser dryer at £99.00 (RRP £299.00). The old appliance is also removed and disposed of by Whirlpool as part of the arrangement.

“In rare and exceptional circumstances, Whirlpool may offer a free replacement as an additional option. This is offered at Whirlpool’s discretion with each situation considered on a case by case basis.

“Customers can continue to use their existing dryer while waiting for the modification. However, we require that consumers do not leave their dryers unattended during operation as an extra precaution (i.e. do not leave the house or leave the dryer on whilst asleep). Additionally, consumers should check and clean the filter after every cycle and ensure proper dryer venting, as directed in the original operating manual.”

The company did not answer some of my questions, in particular:

- 1) Credit card companies are now honouring Section 75 of the Consumer Credit Act 1974 and a ruling by the Financial Ombudsman confirms that they must do this. Therefore in the view of the Financial Ombudsman the machines are faulty and thus refunds (minus a relative cost for use) must be given. Are you compensating the credit card companies?
- 2) How many fires have there been due to tumble dryer fire since the 23rd November 2015?
- 3) It would appear that Whirlpool is refusing, unless challenged by consumers with their legal rights to give a refund (minus relative amount for use), but once people mention the Sale and Supply of Goods Act 1994 or Consumer Rights Act 2015 and threaten legal action they are given their refund.
- 4) Are you compensating people for time without being able to use their machine as they should be able? Are you only doing this when people assert their legal rights and request it?
- 5) When did Hotpoint/Indesit/Creda first know of this particular problem?
- 6) How many tumble dryer fires have been reported for Creda, Indesit and Hotpoint models from 2004 to 2015?
- 7) Did Hotpoint/Indesit/Creda fully declare the extent of the problem when Whirlpool acquired its 60% stake in Indesit in 2014?
- 8) Was this information reflected in the £603 million price which it paid?

Andy Slaughter stated in a debate on the House of Commons on the 26<sup>th</sup> April 2017 that when MPs have attempted to get Whirlpool representatives to come to this House to speak to Committees and all-party groups, they have refused to attend. [2]

## **Modification situation at January 2018**

In Whirlpool's statement of the 14<sup>th</sup> October 2016 it said "Due to the expansion of our engineer workforce, we are confident that we will have resolved the vast majority of those customers by the end of 2016."

Which? first undertook some research in November 2016 [3]. It found that one in five (22%) of the affected customers surveyed in April are still waiting for their machine to be repaired or replaced. A third (33%) of customers who had since had their dryer repaired or replaced, said they were dissatisfied with how the manufacturer had handled the situation.

Six in ten (62%) of those we surveyed for the first time in November 2016 who had decided to wait for a repair were concerned about using their tumble dryer.

One quarter (26%) of affected customers were told they would have to wait longer than six months for their tumble dryer to be repaired. One in five (22%) were told that the wait would be between three and six months.

The Which? investigation[3] also found that customers were given misinformation. On one occasion a mystery shopper was told that their machine was not affected despite providing the call centre with a model number Which? knew to be one of those affected. They were even told to throw any letters they received about the safety notice 'in the rubbish'. On three occasions, mystery shoppers were told to contact the shop they bought the machine from for a replacement.

According to information given by Whirlpool to Margot James MP for 26<sup>th</sup> April 2017, it has increased its engineer workforce by 50%, allowing it to resolve approximately 100,000 dryer cases per month. It has now exceeded the number of cases that it anticipated resolving. It has modified more than 1.5 million machines - almost 90% of the total number registered with the company. Whirlpool now employs the UK's largest technician workforce, at 1,700-strong, which is almost three times the size of the next largest one in the country. 10% of cases registered with Whirlpool are outstanding.

House of Commons Hansard

As of May 2017, Whirlpool said in a statement:

"Trading Standards confirmed, following an internal review by independent experts, that the modification programme remains the most effective way of resolving this issue. Since the launch of this campaign, safety has been our number one priority. We have consistently responded to the advice of Trading Standards and continue to do so. Trading Standards have now notified us that updated usage advice should be communicated to consumers and we are implementing this. Trading Standards have confirmed that our actions to date in this campaign have been undertaken diligently and responsibly."

Whirlpool will continue with its efforts to provide consumers with a free of charge modification as quickly as possible. The success of this programme depends on as many customers as possible registering with us for a modification. We are now very close to having provided resolutions for all those customers who have registered. To date, 1.5 million consumers have registered and of these, we have resolved more than 1.3 million cases. At the time of writing, all those consumers currently registered but who have not yet received a modification have been contacted to book an engineer visit in the coming weeks.

We are proud to have one of the highest consumer appliance registration rates and consumer databases in the industry. This meant that we were able to reach a very large number of consumers within a matter of weeks.

Since the beginning of the campaign, more than 3.8 million consumers have been directly contacted by letter. Over the past few months we have undertaken a renewed round of direct outreach, sending reminder letters to 2.4 million consumers across the UK who had previously been contacted but had not yet registered their dryers with us.

Despite this unprecedented outreach campaign, some consumers have not yet registered for the modification. There are also approximately 100,000 consumers who have registered but not responded to our repeated attempts to arrange a modification.

We urge everyone who owns an Indesit, Hotpoint, Creda, Swan or Proline dryer manufactured between April 2004 and September 2015 to check if theirs is affected and then register for a free modification if it is. Customers can do this using the model checker on bespoke websites we have created, <https://safety.indesit.eu/>, <https://safety.hotpoint.eu/>, and <https://safety-swan.eu>, or our dedicated freephone helpline on 0800 1510905 for the UK.

The vast majority of reported incidents in relation to this issue have been product failures resulting in no damage external to the machine. While there have been reports of product failures since the start of the campaign, the overall risk level remains low. In addition, increased awareness through a nationwide campaign such as this often leads to a rise in reports.

In addition, call wait times have also been dramatically reduced and the majority of calls are answered first time.”

On 08 December 2017 a Whirlpool spokesperson said

“We have now provided resolutions for 1.7 million consumers which is 99.9% of those actively registered on the programme and more than 50% of the number we estimate would ordinarily still be in service. This is significantly higher than the recognised industry average resolution rate of 10-20% for a corrective action of this nature.

On 16 January 2018 A spokesman for the company said:

"Whirlpool's extensive ongoing tumble dryer modification campaign has achieved a resolution rate more than three times the industry average for a product recall.

"We continue to urge consumers to contact us immediately if they believe they still own an affected appliance. We can assure consumers that if they contact us now, they can receive a resolution within one week."

## **What are your rights and what to do if you have an affected model?**

- 1) The affected tumble dryers were manufactured before October 1st 2015 and therefore, if bought prior to October 1st 2015 are covered by the Sale and Supply of Goods Act 1994. You are entitled to purchases that are fit for purpose and are of satisfactory quality. You should follow maintenance guidelines in the handbook, but you should be able to put the machine on like you would a washing machine and dishwasher when you are asleep or out of the house! The affected tumble dryers are therefore not fit for purpose and not of satisfactory quality. Any products bought after 1st October 2015 are covered by the Consumer Rights Act 2015.
- 2) Under the Sale and Supply of Goods Act 1994 or Consumer Rights Act 2015 you are entitled to a refund, repair or replacement. The company can legitimately charge you something towards a new machine as it can deduct an amount for use (after 6 months in the case of the CRA). You can argue how much this should be because if they are charging £99 for a replacement to a family of 4 who have used it for 3 years they should not be able to charge the same for a single person who has had the machine for a year! Some months have now gone by and you will only be entitled to a repair or replacement. The company says it will "modify" the appliance, so one assumes that this is the repair. Some people are getting a free replacement when they assert their legal rights and what they expect!
- 3) If you stop using the machine because you deem it unsafe (and if the engineer carries out modifications then there is your proof that it was!) you are entitled to your out-of-pocket expenses. So, if you go to the launderette for example, you are entitled to these costs plus cost of going there e.g. public transport/petrol.
- 4) If you think the time to wait is too long, or you have been kept waiting longer than they advised or you want to claim, then go straight to the top. Get the CEO's contact details from [ceoemail.com](http://ceoemail.com) and contact the CEO outlining the issues. You won't get a personal reply but it should help escalate the matter and get a quicker resolution as well as give him a flavour of what is happening on the ground.
- 5) The Consumer Protection Act 1987 states that if you are harmed by an unsafe product, you can sue the manufacturer. You can begin your court case up to three years from the date of the injury. In some cases, you can even sue up to ten years after the product was sold. If, for instance, you sustain a personal injury or damage to your property. The value of the damage incurred must be more than £275.
- 6) Your contract is normally with the company to whom you paid the money; however, as the manufacturer has admitted fault, your correspondence

should be with them as in this case the manufacturer is responsible, not the trader. But you could also contact the retailer and request a replacement or repair, you *may* find that a good retailer will also act on your behalf and get the engineer out to you quicker, or offer a refund. If you find the retailer unhelpful you can also go to the Furniture Ombudsman, if the retailer is a member.

- 7) The “General Product Safety Regulations 2005” dictate that manufacturers must make arrangements for the collection and/or return of the product for destruction from consumers who have purchased the product. A general duty is placed on producers and distributors to place on the market (or supply) only products that are safe in normal or reasonably foreseeable future use.
- 8) If you bought the dryer on your credit card, you can also use the Consumer Credit Act 1974 Section 75 as, according to the law, the credit card company is equally liable and it should give you a refund. However you can only use this with the retailer, not Whirlpool.

## **Insurance and legal action**

The biggest insurance companies have said that they will pay out on fires caused by tumble dryer faults. They will then in turn claim from the manufacturer, Whirlpool. However, it won't stop your premiums going up! Nor will it cover personal injury.

Many affected by fires have not been insured, though. In the case of the Shepherd's Bush fire many were uninsured. Tom Jervis, of solicitors Leigh Day, is acting for the Defreitas family (who lived in the flat where the fire started) and four other families living in the block whose homes suffered the worst damage. He is also looking at other related tumble dryer fires across the UK with victims and is preparing legal action against Whirlpool under the Consumer Protection Act 1987 – on the grounds that the affected machines are allegedly defective.

In the early hours of October 10th 2014 Bernard Hender, 19, and Doug McTavish, 39, died in a flat fire above a funeral director's office in Llanrwst. An investigation found the fire started in a tumble dryer. The model of tumble dryer in the flat had been involved in at least three other previous incidents, a pre-inquest hearing was told at a Conwy county court. A second pre-inquest hearing was told the appliance was a Whirlpool TVM570 model.

There were a number of adjournments to the inquest. The last was on the 21st April 2017 for further evidence to be heard.

Larry Latack, director of global product safety on behalf of Whirlpool UK Appliances Ltd, said in a statement at the second pre-inquest that three other incidents involved the same model between 2010 and May 2016. However, none of these had resulted in any injury.

On 31 October 2017 the Coroner's report was published. The coroner, David Lewis, said that the fire was caused “on the balance of probabilities” by an

electrical fault with the door switch on the dryer. Describing the evidence presented at the inquest by Whirlpool as “defensive and dismissive” he stated the company’s approach was an “obstacle” to finding steps to prevent future fires. He called on the company to take action to prevent future fires. Whirlpool had until 26 December 2017 to respond.

## Petitions

<https://petition.parliament.uk/petitions/169835> Call on the Government to urge Whirlpool UK to recall all faulty tumble dryers, created by Andy Slaughter reached 101,980 signatures at its closure on the 1<sup>st</sup> May 2017. The Government refused to debate giving its response as to why (see Appendix B for full details) with outlining what it had done so far regarding a working party.

## Government position

A series of Freedom of Information requests uncovered detailed correspondence between the MP Margot James, Minister for Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy, BEIS and Whirlpool.

12/09/2016 Letter from WP to MJ listing everything it has done

15/09/2016 Councillor Stephen Cowan Leader of Hammersmith and Fulham wrote to all residents after the Shepherds Bush regarding the fire. It stated Whirlpool’s advice but clearly stated that the LFB advised not using.

20/09/2016 WP letter to Iain Wright Chair of BEIS answering questions. Says. 1.3 million dryers registered. Cases taking 3 weeks to resolve, some are taking a little longer, booking into 2017. Since start of programme Increased engineers by 45% to 1,500, doubled call handlers to 1k, won’t comment on SB fire due to litigation.

23/09/2016 BEIS email to Whirlpool asking if he (CEO) still thinks his response to concerns is sufficient given circumstances of media and MPs scrutiny.

03/10/2016 MP to MJ Says that one month from registration people are getting the modifications but goes onto say booking into 2017. Some people 3 weeks other longer due to location. Has already met with 2 people from BEIS twice. Registered 1.3million appliances, over 885k modified. Adamant that despite mixed messages that their message is in line with the low risk

04/10/2016 WP to BEIS saying current solutions are correct in line with PTS advice

13/10/2016 MJ to MP writing regarding concerns re LFB findings and expect WP to go further in their communications about the programme

20/10/2016 WP to MJ saying low risk answering MJ concerns 730k modified. States no reports of serious injury in 12 years. 3.8 million contacted 1.4 million registered. Expanding territorial reach of engineers, launching new booking system, plus one thing redacted Although challenged on their product exchange

programme not being communicated widely enough it says big success and usually happen within 1-2 weeks. Despite mixed messages that their message is in line with the low risk.

27/10/2016 Meeting Maurizio Pettorino (CEO) and MJ. MJ requested WP install call-back facility. WP said their advice remains but they recognise LFB advice. Says joined up messaging now.

01/11/2016 *Working Group on Product Recalls and Safety*, MJ tasked group to come up with initial answers and proposed solutions to 6 issues with initial report on progress due before Christmas 2016.

04/11/2016 BEIS to WP Notifying WP of petitions and that Neil Gibbins will be chairing the group on recalls

04/11/2016 Whirlpool to BEIS with copy of letter to AS re letter about SB fire. Response mentions litigation so won't comment further Increasing engineers by 200 to reach 1700. In line with PTS advice.

04/11/2016 Whirlpool to MJ providing details of quality of repairs, quality of engineers and consumer helpline

15/11/2016 BEIS to WP questions and request for copy of letter sent consumers, no. of machines identified as requiring the modification following assessment and how this changes each month, no. of machines modified/replaced, indication of approx. wait times for someone registering product today, progress on the electronic appointment booking system

18/11/2016 WP to BEIS providing update

18/11/2016 WP to BEIS re temporary suspension of click and collect

23/11/2016 Andy Slaughter to WP Asking questions after SB fire

26/11/2016 WP to Which? Response to their commentary on 16/11, made a change but still believe is misleading that the models are still on sale.

07/12/2016 BEIS to WP requesting greater transparency and allow for the Minister to speak more authoritatively to those lobbying for change

08/12/2016 WP to BEIS saying that those registering for modification after Spt will be the first quarter of 2017 could be 3 weeks could be up to 12 depending on location etc. 1.5 million now registered, 1.1 resolved 100k new cases a month. Confident majority of cases resolved by end of q1 2017

14/12/2016 Working party met again. Report due date moved to "early February"

17/12/2016 BEIS to WP seeking clarity re guarantee, details on the experience a consumer registering for the first time receives, how long from registering to having access to the appointment chooser, average wait times from access to appointment chooser to actual appointment. Average wait times to better understand the extreme cases, clarity on consumers who registered some time ago and are still waiting.

Clarification that the click and collect option will return after Christmas

Definitive clarification on wait times for modifications/replacements

08/02/2017 Working party met again. BEIS said report now due March 2017.

13/03/2017 Working party met agreed draft report would be produced for the minister. As was agreed in the meeting of 08/02/17.

July 2017 full report produced although covering letter dated 30/03/2017 [4] Summary of recommendations Appendix D The report made a number of recommendations in line with the Faulds-Wood recommendations but stopped short of discussing an injury database. In the body of the report the disconnect between other organisations and the support given in the way of well resourced national regulators providing technical able support too, such as in the food, medicine and motor vehicle sectors. It does call on the minister to think about funding but it is not covered at all in the recommendations.

22/06/17 further to meeting to establish if further issues needed to be discussed or covered in the report in light of the Grenfell fire.

January 2018 the Government responded. Andrew Griffiths MP Minister for Small Business, Consumers and Corporate Responsibility supported the recommendations made by the Group. The Government accepted all the recommendations:

- The government has decided to create an Office for Product Safety and Standards (OPSS) that will, for the first time, give us dedicated expertise to lead on national product safety challenges.
- has commissioned The British Standards Institution which has convened a drafting committee to develop the text of a Publically Available Specification (PAS) on corrective action and recalls
- A key function of the new Office for Product Safety and Standards will be in establishing an incident management capability and developing and maintaining a comprehensive database of corrective actions and recall programmes for consumer goods.
- The Office for Product Safety and Standards will establish an intelligence capability that will bring together data sources and use the widest possible range of information and evidence to inform understanding of risks at industry and product level.
- encourages manufacturers, retailers and standard setting bodies to continue to work together and through standards setting bodies to develop technological solutions to product marking and identification.
- The Office for Product Safety and Standards will work with primary authorities and their partner businesses and co-ordinators to agree arrangements to provide additional support to the primary authority in its role supporting the business in complying and co-ordinating

regulation of the business, ensuring advice provided is robust taking into account the latest scientific and technical knowledge plus intelligence on the bigger picture.

- The government welcomes the 'Register my Appliance' initiative developed by the Association of Manufacturers of Domestic Electrical Appliances (AMDEA).
- The government will build on the work undertaken by the Working Group on Product Recalls and Safety, and consider that existing members of the Group should be invited to join the wider expert group. The government is also setting up a technical and scientific panel, to be chaired by the BEIS Chief Scientific Advisor to ensure we have access to the latest technical and scientific evidence and thinking.

### **Chair of the All Party Parliamentary Group on Home Electrical Safety**

On the 21<sup>st</sup> February 2017 Carolyn Harris Shadow Home Office Fire and Communities Minister said:

"I'm very much aware of the review that was undertaken by Lynn Faulds Wood,[5] and was disappointed that virtually none of the recommendations were taken forward. (See Appendix C for recommendations). The government cannot ignore the issue of product safety, and I know that the Minister has asked for the working group to report shortly. We look forward to this report. In the meantime, as Chair of the APPG Home Electrical Safety we will be concentrating on product safety in 2017/18 and seeing what can be done by Parliament to improve the product recall system. There has been major concern about tumble dryer fires, particularly following a fire in London at the end of last year. The product recall system in the UK is broken and this needs urgent attention before people are injured or lives are lost."

In the House of Commons debate on the 26th April 2017 [2] she said

"The Government must step in to ensure that protection and guidance for consumers is paramount. Whirlpool must take responsibility, and it must be made accountable, by facing us MPs or being answerable to Ministers, or in the law courts. It must be accountable now".

### **House of Commons Debate 26th April 2017 [2]**

Andy Slaughter. MP for Hammersmith and Fulham (covering Shepherd's Bush). made the following comments:

"..clearly the current Trading Standards regime does not work. That is why we need the Government to intervene and not simply say that this is a matter that can be resolved at local authority level.

Given that the Shepherds Court fire was more than eight months ago, I am disappointed that I have had to come back to the House today to raise the matter again, as I had hoped that by now both the Government and

Whirlpool would have taken action to remedy this situation. Unfortunately, however, there has been little progress: Whirlpool has not properly rectified the problem; and the Minister and the Government have not acted decisively. As a consequence, I believe lives are still at risk”.

“Peterborough trading standards has been acting as Whirlpool’s advisers, and the review would have looked into whether Peterborough trading standards acted lawfully in this capacity. Which? said at the time:

“We believe that the way Whirlpool has handled the tumble dryer safety issue is absolutely appalling and to add insult to injury Peterborough Trading Standards has failed to do its duty to protect consumers. We have decided to step in and take legal action because we want Peterborough Trading Standards to properly protect Whirlpool customers and carry out its role as an enforcer of product safety laws”.

“In February, Peterborough [TS] changed its mind and finally issued an enforcement notice. After resistance and presumably after it took legal advice, Whirlpool changed its advice to consumers, at last telling them to stop using the faulty machines.”

### **Commons Select Committee report 16 January 2018 [6]**

The committee noted that the cuts to Trading Standards was having an impact on consumer confidence and product safety. It also noted the “painfully slow” improvement regarding electrical product safety made by Government regarding the recommendations made in the Faulds-Wood Review published nearly two years ago.

The committee acknowledged circumstances such as Whirlpool’s capacity to deal with the issue and all the logistics. However, it questioned the time Whirlpool took to modify the machines and why there wasn’t a full product recall.

Of particular concern was the advice given by Peterborough Trading Standards and Whirlpool that consumers could continue to use the machines, even after fires had broken out. Moreover, Australian consumers were given different advice for a full year before the UK’s advice was updated. It felt that highlighted the efficacy of the Primary Authority relationship and Trading Standards ability to deal with nationwide issues.

Whirlpool did not provide a representative for the committee and provided incomplete answers and needed to provide clarification and more information regarding actions it was taking. The committee felt that the company did not care about regaining consumer trust.

The committee agreed with the coroner in the Llanwrst case above that Whirlpool regarding its inaction and attitude to the issues and its lack of risk assessment information provided. It also agreed with the coroner that there was considerable doubt regarding Whirlpool’s ability to learn lessons given the evidence it gave to the committee.

It made a number of recommendations including:

- By the end of February 2018 at the latest, the Government should publish a full response to the Faulds-Wood Review (not subsequent iterations).

- The development of a national product safety agency.
- Whirlpool to disclose full details of the fault and the risk assessment carried out on it in the Llanwrst dryer case.

## **BBC Watchdog Investigation**

25 April 2018 BBC Watchdog aired an update on the Whirlpool situation. It found that machines which had been modified were still catching fire. It also found that machines being provided at a discount price as a replacement model were also catching fire. Whirlpool refused to send a spokesperson to be on the programme and said that it had undertaken extensive testing and analysis and claimed that there have been no incidents.

Which? said that it had been looking at the issue and that when it took a modified machine in for testing it caught fire within two minutes of switching it on. This was due to the same issue of fluff on the element that had caused previous fires.

Whirlpool said that it could not verify Which?'s findings because they did not have access to the new details. However, Which?'s findings echoed those which Watchdog had given Whirlpool a week previously.

Which? reiterated on Watchdog that the Government has the power to insist on full recall but has so far refused to do so.

## References

[1] Whirlpool amends its advice

[https://safety.hotpoint.eu/index.jsp?lang=en\\_GB](https://safety.hotpoint.eu/index.jsp?lang=en_GB)

[2] House of Commons debate 26 April 2017

<https://hansard.parliament.uk/commons/2017-04-26/debates/36405B15-798E-4CF6-9C27-3EC0D3BC7D87/WhirlpoolProductSafetySystem>

[3] Which? investigation

<http://press.which.co.uk/whichpressreleases/one-year-on-whirlpool-still-failing-customers/>

[4] UK consumer product recall: An independent review by Lynn Faulds Wood

<https://www.gov.uk/government/publications/consumer-product-recall-review>

[5] Report to Margot James from the Working Group on Product Recalls and Safety

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630364/wg-prs-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/630364/wg-prs-report.pdf)

[6] Commons Select Committee Report 16 January 2018

<https://publications.parliament.uk/pa/cm201719/cmselect/cmbeis/503/50302.htm>

## **Appendix A - Documents relating to the commencement of the corrective action**

Peterborough Trading Standards stated that the information exchange from Whirlpool to Trading Standards, including Whirlpool's risk assessment and Trading Standards letters, was provided to, and discussed with, Trading Standards by Whirlpool on a strictly confidential basis and is not in the public domain.

"If this information were to be disclosed, it would have a significant reputational impact on Whirlpool and would prejudice Whirlpool's commercial interests on a number of levels.

Furthermore, it is not in the public interest to disclose confidential information of this kind as it would prejudice Trading Standards' ability to:

(a) continue to work collaboratively with Whirlpool in the interests of consumer safety; and (b) work with Whirlpool (and other companies) in the future to ensure consumers' safety.

For example, if this information were to be disclosed in the event that Whirlpool did identify a potential safety concern in the future it may be deterred from voluntarily disclosing the existence of that safety concern to Trading Standards for its consideration. This may lead to delays in bringing issues to the attention of Trading Standards or discourage full and frank discussion of the issues. Whirlpool expects that this would also have a knock-on effect to other companies' willingness to disclose the existence of any potential safety issues / high sensitive information, given the obvious risks to their profits and potential advantages given to their competitors. These negative impacts could directly impact the ability of Trading Standards to vigorously protect consumer safety.

### Documents relating to the implementation and progress of the dryer campaign

Information exchange between Whirlpool and Trading Standards in respect of the implementation and progress of the campaign, including emails discussing the safety warning communicated to consumers. Information relating to this issue was provided to, and discussed with, Trading Standards by Whirlpool on a strictly confidential basis and is not in the public domain. If this information were to be disclosed, it would have a significant reputational impact on Whirlpool and would prejudice Whirlpool's commercial interests on a number of fronts.

In particular, disclosure of this information would have a very real prospect of affecting the proper and efficient management of the dryer campaign. Some documentation has a highly technical content and if provided without full context, could have the potential to be misleading and therefore cause consumers unnecessary alarm. Further, it is not in the public interest to disclose confidential information of this kind as it would prejudice Trading Standards' ability to:

(a) continue to work collaboratively with Whirlpool in the interests of consumer safety; and (b) work with Whirlpool (and other companies) in the future to ensure consumers' safety."

On the 19<sup>th</sup> October 2016 it responded to a number of Freedom of Information requests,

1) *Why is Peterborough Trading Standards not taking action against Whirlpool to ensure that it replaces all machines affected by the recall?*

“Peterborough’s Trading Standards relationship with Whirlpool is one of a Primary Authority Partnership. A partnership is a scheme established by the Regulatory Enforcement and Sanctions Act 2008. The scheme itself is overseen by the Better Regulation Delivery Office (BRDO) on behalf of the Department for Business, Energy and Industrial Strategy.

Holding an authority partnership is not a requirement it is voluntary on the part of the business concerned, and signifies their commitment to work with regulators to achieve compliance.

In such circumstances, as set out on the Better Regulation Delivery Office (BRDO)’s website, part of the Government’s Business Regulation, our advice is designed to help the business meet its legal obligations by:

Helping it to understand what needs to be done to achieve and maintain compliance. Setting out a way of achieving and maintaining compliance; or Providing confirmation that the method of compliance chosen by the business is practicable, timely and acceptable.

Under Regulation 9 of the General Product Safety Regulations 2005 (GPSR) where the producer knows that a product they have placed on the market is incompatible with the general safety requirement they are required to notify an enforcement authority confirming the action taken to prevent the risk to the consumer. In addition they are required to provide details of member states where the product has been supplied to consumers outside of the United Kingdom.

All that was required of Whirlpool at that time was to advise Trading Standards of those matters required of them under regulation 9 which they did.

Following discussions with and advice from Trading Standards, Whirlpool decided to go beyond what they were legally obliged to do at that time and developed their modification and replacement programme. In addition they provided further information, this only legally required under regulation 9 (3) in the event of a serious risk.

Whirlpool used the data available including that given to them by third parties such as the fire service, and utilised the recognised European risk assessment model to determine the risk. Use of the correct model has been verified. The risk determined was low.

There has been some confusion regarding why the dryers were not recalled. The above regulations provide a specific meaning for a recall this being:

means and measures aimed at achieving the return of a dangerous product that has already been supplied or made available to consumers

In this case Whirlpool adopted a solution consistent with their assessment of the

risk level, this not meeting the definition for a recall. Other companies have also in the past used various solutions other than 'recalls' where the risk presented is low. In addition due to the size and nature of dryers there are practical advantages of a programme which can modify machines in situ.

Had Whirlpool not taken action consistent with their obligations under the GPSR, then any Trading Standards service, Government Minister, or Secretary of State with evidence of such would be able exercise powers, and sanctions under the regulations.

In practical terms there are insufficient new machines produced on the European market each year to replace all the dryers. The modification and replacement programme was designed by the company to provide the quickest resolution to the matter."

*2) According to a recent BBC article "It is understood that, legally, the trading standards department would not be able to order a recall owing to the small number of fires in proportion to the total number of "at risk" machines." how many fires have there been as a consequence of faulty dryers and how many will there need to be before Trading Standards order the recall?*

"Whirlpool are required to assess the safety of their products which they have done using the risk model accepted across Europe for this purpose. This model established in legislative frameworks by Government along with the GPSR in the United Kingdom. The regulations implement an EU directive.

As the risk assessment determined using the appropriate risk model was low, the actions taken by the company are not inconsistent with their obligations under the regulations and as such the above bodies have no legal grounds to take action.

Whirlpool are responsible for the safety of their products and any corrective action to address safety issues. The data requested regarding fires is held by Whirlpool. It is the detail of the data put into the risk model that will determine the risk level and consequently inform what action would be proportionate to address it, an arbitrary figure on fires to trigger a recall cannot be given.

*3) If someone dies in one of these fires (as there will inevitably be more fires) will the situation change?*

Whirlpool are responsible for the safety of their products and any corrective action to address safety issues. Whirlpool have been advised to reassess the safety of the dryers in light of new information coming to light using the recognised European risk assessment model which is the appropriate model to use for determining product safety risks.

The company are required to take a proportionate response to the level of risk, therefore if the risk level which is currently low increases Whirlpool would have to review their current stance and modify it appropriately in line with their legal responsibilities under the above regulations. In the case of an increased risk level should the company not voluntarily take appropriate measures to address it in order to meet their legal requirements they leave themselves vulnerable to legal action.

To date the company have taken steps proportionate to the assessed risk and their legal obligations though it is acknowledged that there are calls for them to do more. The company are constantly looking for other solutions available, though have decided at this point to continue with their current programme.”

4) *What is the average wait for an engineer to repair or replace the dryers and do you think that this is acceptable?*

“We do not hold that data. We have though advised Whirlpool that they need to ensure they proactively reduce the timescale for affected appliances to be fixed. The timescale will however vary due to factors including the existing capacity for engineers and technicians to carry out repairs, and replacement stock.

We will continue to be in regular contact with the company to check the progress of their programme. The company have resolved 885,000 appliances to date, and are resolving 100,000 appliances a month, this being significantly higher than when their programme was launched, and is due to the additional resources they have recruited. The current programme will have resolved the 1.3 million appliances registered for a resolution by the end of February 2017.”

5) *It would appear from my research that Whirlpool is not compensating customers for the time that they are without a machine unless they assert their legal rights. Why is Trading Standards not ensuring that Whirlpool compensate customers within the law for their out of pocket expenses to which they are legally entitled?*

“Trading Standards Services are empowered to enforce various pieces of criminal legislation such as the GPSR, not consumer civil law which governs consumer transactions. A number of years ago following a Government Consumer Landscape Review, councils stopped providing consumer advice services, the function transferring initially to Consumer Direct and more recently Citizens Advice. Due to the removal of the service, expertise on civil law has been lost from the council.

Whirlpool do have their own legal team from which to seek legal advice on this matter, it is not something we are able to comment on further.”

6) *Credit card companies are now honouring Section 75 of the Consumer Credit Act 1974 and a ruling by the Financial Ombudsman confirms that they must do this. Therefore in the view of the Financial Ombudsman the machines are faulty and thus refunds (minus a relative cost for use) must be given. So if the FO has seen in favour of the consumer that the item is faulty and therefore refunds should be given why is Trading Standards not enforcing this and ensuring that Whirlpool provide refunds instead of repairs where people want them?*

“As per the response to question 6 above our relationship under the Primary Authority Partnership has been to provide advice on interpretation of the GPSR. Safety of consumers is paramount in this matter and that will remain the focus of the service, ensuring the company receive advice so that they act in accordance with their criminal law obligations. We are unable to comment on the points you raise above.”

7) *Under FOI please provide details of how much Whirlpool pays the council for advice.*

“Under the Primary Authority Partnership arrangements resulting from the Regulatory Enforcement and Sanctions Act 2008, the council is only able to charge on a cost recovery basis, a profit cannot be made out of the Service. The fees are determined on an annual basis towards the end of the financial year, the hourly rate charged being £62.”

When Whirlpool changed its advice Peterborough Trading Standards were asked further FOIs:

1) *Please can you tell me why Whirlpool has changed its advice from being able to use affected tumble dryers to not using them at all and to unplug it?*

“Peterborough City Council Trading Standards department’s issued a notice requiring Whirlpool to change their advice. The decision to issue the notice follows an internal review involving independent experts. This led us to conclude that due to an escalation in the number of incidents related to the specific fault, further action was needed to protect consumers. Whirlpool has accepted this notice and is taking the appropriate action. The contents of the internal review are deemed confidential under Section 41 - Information provided in confidence of the Freedom of Information Act 2000, please see full exemption in question 2.”

2) *Please provide copies of all correspondence between Whirlpool and Peterborough Trading Standards since the start of advising on the issue.*

“Peterborough City Council have previously responded to a request similar to this. This response can be found at the link below:

<https://pcc.secure.force.com/SitePublishedDetailStyled?id=CRN1603092783>”

3) *Please can you tell me how much Whirlpool has paid Peterborough Trading Standards for advice in each of the last five years?*

“The sums received to date by Peterborough Trading Standards for advice provided under our Primary Authority Partnership to Indesit/Whirlpool are listed below. Please note that Whirlpool did not fully acquire Indesit until October 2015. The charges for advice are on a cost recovery basis.

Year	Invoiced
2011/12	£13,450.00
2012/13	£9,900.00
2013/14	£9,900.00
2014/15	£2,800.00
2015/16	£9,325.00
Total	£45,375.00”

*4) Please can you provide a statement regarding the change in advice and Peterborough's involvement in that change?*

“Peterborough Trading Standards has issued an enforcement notice to Whirlpool instructing them to change current consumer advice in relation to faulty tumble dryers. This notice means that the company must inform consumers that these machines should be unplugged and not used until they have been modified.

We ask everyone who owns an Indesit, Hotpoint, Creda, Swan or Proline dryer manufactured between April 2004 and September 2015 to check if theirs is affected and then register for a free modification if it is.”

When asked when Whirlpool was given the Enforcement Notice to provide a change in advice, Peterborough Council stated that it was issued on the 16th January 2017, though the company had 21 days in law to consider whether to appeal it. The company took advantage of the appeal period, then appealed against the Notice to the court. Before a hearing took place the appeal was then withdrawn by the company. The company changed their website on the 22nd February 2017, this being the initiation of compliance with the Notice.

Whirlpool took the maximum amount of time possible before it changed the advice regarding unplugging the machines and not using them.

## **Appendix B - Government response to Call on the Government to urge Whirlpool UK to recall all faulty tumble dryers**

The Government has set up a Working Group to look at options to improve Product Recalls and Safety, and is in close contact with the enforcing authority working with Whirlpool to rectify this issue.

The Government places significant importance on the issue of product safety and considers that the safety of consumers should be the number one priority for manufacturers. Consumers can reasonably expect clear advice on how to safely use products in their home, and prompt and effective action should be taken if a safety issue is identified.

The Government recognises the efforts Whirlpool has made to rectify the problem with its affected tumble dryers. Of the 1.5 million affected appliances that consumers have registered with the manufacturer, 1.3m appliances have been modified or replaced and Whirlpool are resolving approximately 100,000 cases a month. However, the Government recognises that there remain many unregistered appliances in use across the UK.

Margot James, Minister for Small Business, Consumers and Corporate Responsibility has written to Whirlpool and met representatives of the company, urging them to progress their programme of replacement and repair, and to improve communications with consumers on this issue. The Minister has, in particular, raised concerns about reaching out to those consumers with an affected machine who have not yet signed up for a repair or replacement.

Product safety legislation in the UK is enforced by Local Authority Trading Standards departments. The Government is in close contact with Peterborough City Council Trading Standards department who, as the lead regulator in this matter, have access to the most relevant information to provide a full assessment of the risk posed by the affected machines. Peterborough Trading Standards have taken enforcement action, issuing Whirlpool with a 'notice to warn' that requires the company to warn consumers not to use the affected appliances until they have been modified. The two organisations are currently working together to ensure compliance.

More generally, in October last year, the Government announced the establishment of a new Working Group on Product Recalls and Safety to look at further options to improve the safety of white goods and the recalls system. The Working Group aims to build on the good work of the Recall Review Steering Group, which was established following the Lynne Faulds-Wood review into product recalls.

The Working Group brings together key stakeholders from a range of trade associations, product safety experts, the fire service and trading standards professionals. The Chair is Neil Gibbins – former Deputy Chief Fire Officer for Devon and Somerset - who has a long and proven track record in fire safety and has worked with the Government and other stakeholders on the Regulators Excellence Forum.

The Group has been tasked to develop credible recommendations to ensure that the system works well for everyone. In particular, the Minister has asked the Group to consider and develop options around:

- the causes of fire in white goods and the steps we can take to reduce them;
- ways to improve the capture and use of data relating to faulty electrical goods;
- the value of marking white goods to preserve their identification through fire;
- registration of electrical products at the point of sale;
- a code of practice for product recalls including the peer review of risk assessments;
- improving the information available to consumers and the role of consumer education.

The Working Group passed its initial recommendations for propriety action for the Government to the Minister in July 2017. The five recommendations were:

- greater co-ordination of product safety recalls and enforcement at the national level;
- developing Primary Authority Partnerships as a means of increasing access to helpful, practical advice for businesses and ensuring effective relationships between businesses and their lead regulating body;
- developing a Code of Practice on managing effective correction action including recalls;
- government support for AMDEA's 'Register my Appliance' as a means to ensure consumers are informed of relevant safety issues for products they have bought;
- undertaking research into consumer behaviour to understand how best to encourage consumers to engage with a corrective action when a problem is identified with a product.

## Appendix C - Faulds-Wood Review summary of recommendations

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/509125/ind-16-4-consumer-product-recall-review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/509125/ind-16-4-consumer-product-recall-review.pdf)

My Recommendations follow the logic of the current system as viewed by stakeholders and other interested parties – with the rationale behind them. The Review covers everyday consumer products – from toys to make up, from domestic appliances to vehicles and the recommendations should be seen in that context:

- 1. There is a need for the creation of an official national product safety agency or ‘centre of excellence’ to show leadership and coordinate the system, promoting, protecting, informing and empowering business and consumers**

This is my central recommendation, linking to the majority of the others, creating a coherent system which I believe will bring trust and an effective recall system with enhanced safety outcomes. Stakeholders showed a strong consensus for a coordinating agency, with the necessary resources and competence, endorsed by central government.

There are examples of this kind of ‘national product safety agency’ in other countries; at home there is also the UK’s Food Standards Agency. We should learn from these examples when developing this ‘centre of excellence’.

- 2. There should be an official trusted website - for business and the public – for everyone - with the central product safety agency its guardian**

Stakeholders called for a new central government-backed website that will offer clear interactive, interrogative up-to-date information about unsafe products and recalls. This again exists in other comparable countries and is a vital ingredient of leadership & gaining the trust of business and consumers. Confusingly at present many websites offer information on recalls in the UK and Europe, some with dubious information and even more dubious advertising.

This is arguably unfair to good business because effective recalls, product changes and improvements, progress with innovation and design, safety issues etc are not reported and not credited to companies which should receive a benefit from behaving properly. Problems are also not removed from websites once solved etc. The official website I am recommending will directly address these issues, with clear government backing and the product safety agency its guardian.

- 3. There is an urgent need to improve funding, training, resources and procedures for Market Surveillance - the enforcement authorities whose job it is to make the system work effectively**

Stakeholders consider the lack of adequate market surveillance to be a major problem in the UK, possibly the biggest problem. Trading Standards are at present the main Market Surveillance Authorities (MSAs) for consumer products.

Their job includes preventing unsafe products from entering the country, sampling and removing products already on the market, dealing with recalls, plus offering business advice.

Local Authority Councils, which mainly fund Trading Standards, have suffered austerity cutbacks. Trading Standards have been seriously affected locally, with staffing levels cut by 50%, budgets by 40%, with more cuts to come.

As a result there are few – if any - resources in parts of the country for market surveillance. Some Councils are understandably reluctant to get involved in recalls as, if a supplier goes into liquidation or disappears, local taxes may end up carrying the cost of a recall.

MSAs in third countries (USA, Canada, Australia) have funding from central government – and industry pays towards the cost of recalls.

In the UK MSAs responsible for other activities, like the Health & Safety Executive (HSE) for products used in the workplace, are central government funded and paid for managing recalls.

There is an urgent need to examine - nationally and regionally - how market surveillance of consumer goods should be organised and funded as, at present, the lack of nationally coordinated market surveillance means the UK could be at risk of not fulfilling its EU market surveillance responsibilities.

#### **4. Alternative funding solutions to improve the recall system should be explored, solutions which could bring enormous benefits to good business and the insurance industry**

I believe we should think creatively about how to fund improvements as outlined in these Recommendations. One model already exists. Data controllers in every business & organisation handling personal data pay a nominal sum (£35) for annual registration & associated benefits to the Information Commissioner's Office. Millions of pounds a year are raised to fund the service which is deemed to be working well across Europe at extremely low cost.

It is surely in the interest of businesses supplying products in the UK to consider funding a similar system, paying a modest fee to bring beneficial improvements to a system which is currently losing them trade? It could also help with the traceability of suppliers of products into the European Union.

I am also exploring with the insurance industry beneficial opportunities for helping to fund part of the system as outlined in Recommendation 7.

#### **5. Business could lead Europe with more reliable, detailed guidance on product recall (templates, British Standards etc.) – guidance under consideration for the European General Product Safety Directive**

My next recommendation would greatly help business with step-by-step guidance on “what does good look like” in a product recall, including clear definitions of “corrective actions” for recalls and checklists, who to contact, again widely requested by stakeholders.

Business often has no need, nor knowledge, of the system until they become involved in a recall. Standards or templates, developed by industry, British Standards Institution (BSI) and other stakeholders, could set out how to assess the safety of a product, how to conduct a recall, including consideration of levels of risk, conducting a proper risk assessment, life span of products and the documentation required to complete etc.

Language use needs defining too – e.g. terminology like “immediately” and “know” for reporting of recalls should be reviewed as too open to interpretation; also “over-heating” and “thermal event” to describe a ‘fire’, even those involving considerable damage. Manufacturers, retailers, TSOs and fire services state that they regularly do not hear about fires which have caused damage as the result of a consumer product, making tracking unsafe products difficult across the country. Guidance should be national, European and globally facing.

Christel Shaldemose MEP, rapporteur on product safety to the European Parliament, is extremely interested in my guidance suggestion. Current Prosafe guidance in Europe and the International Standard for product recall are useful pointers but more detailed leadership from the UK would be welcomed.

**6. There is an urgent need for a ‘mapping’ of organisations involved in product recall and better data & information sharing to prevent injury, damage and death**

I was surprised to find how little data & information sharing exists between the different professions involved in potentially unsafe consumer products. So my Recommendations include ‘mapping’ better ways of working together.

Where links do exist, they can sometimes be prohibitively expensive in the current climate. Data privacy laws can be inadequately understood and commercial confidentiality a barrier for investigations. Data protection concerns should not prevent the sharing of personal data if needed to avoid injury or death but there is some evidence that – at present – it does.

Interoperability guidance and piloting ways of working together are overdue. There should be a focus on how systems used in different organisations can be made technically compatible, using non-proprietary, standardised data formats.

**7. There is a need to re-introduce a national Injury database with wider benefits beyond providing information & evidence for the recall system**

Good data on injuries and accidents, according to stakeholders, is vital for an effective product recall system – as well as benefiting the wider use of NHS resources and future injury prevention strategies in general.

For recalls it would enable better prioritising of enforcement activities and decision-making for appropriate corrective actions. It would also make it harder for unscrupulous manufacturers and importers to conceal product safety issues.

The UK could show a lead in Europe by creating a state of the art injury database, already thought vital by the US CPSC and other comparable countries. 8 UK consumer product recall review

Any new system would also need to be interoperable with the official website and the information systems of other authorities, as noted in Recommendation 6.

Fresh funding could be explored through the ICO-style suggestion above, plus beneficial funds generated by the insurance industry with possibilities including public liability insurance and/or a 'penny' levy on insurance policies. The Swedish Folksam mutual insurance company is world renowned for having used data on everyday accidents to provide preventative solutions which have benefited people and businesses globally.

Is the British insurance industry missing an opportunity to interrogate its data resources to improve our lives?

**8. There is a need to improve consumer interest and involvement in the recall process – to research evidence-based ways to reach consumers and influence their behaviour**

Consumers' trust in handing over their personal data is low. They worry about how their details will be used and at present they do not see filling in cards for new purchases, nor registering, as a safety bonus which outweighs the possible disadvantages.

In a recent survey 51% of industry professionals said they would not give their personal details, so how can we expect consumers to be more trusting? Once trust is lost, evidence shows it is hard to recover.

There is no magic wand.

The system which I have outlined – led from the top by a national product safety agency – could immediately promote trust. The agency would be charged with examining what works in other countries (like the US CPSC), and monitor how rapidly changing consumer behaviour can be detrimental to good business. They could implement evidence-based change. The organisational skills of the people chosen to lead a national product safety agency will be key to improving the system.

## Appendix D - Summary of Recommendations of Working Party report to Margot James

From

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630364/wgprs-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630364/wgprs-report.pdf)

- Centralised technical and scientific resource capability to support decision making and co-ordination of activities in 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 wider 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 business, 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 business 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, marketing and traceability of products and other issues as they arise.