



Office for Product
Safety & Standards

Product safety and construction risks – improving regulation and regulatory delivery

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Office for Product Safety and Standards

- OPSS is the UK's national product regulator, within the Department for Business and Trade (DBT).
- OPSS was created in January 2018. We are responsible for the regulation of most consumer goods excluding food, medicines, and vehicles.
- Our primary purpose is to protect people and places from product-related harm, ensuring consumers and businesses can buy and sell products with confidence.
- Our policy responsibilities cover product safety, legal metrology (weights and measures); construction products; standards and accreditation, hallmarking, and municipal activity including Primary Authority.



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Case study 1 – baby self feeding products

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Through intelligence, we identified an inherently dangerous product

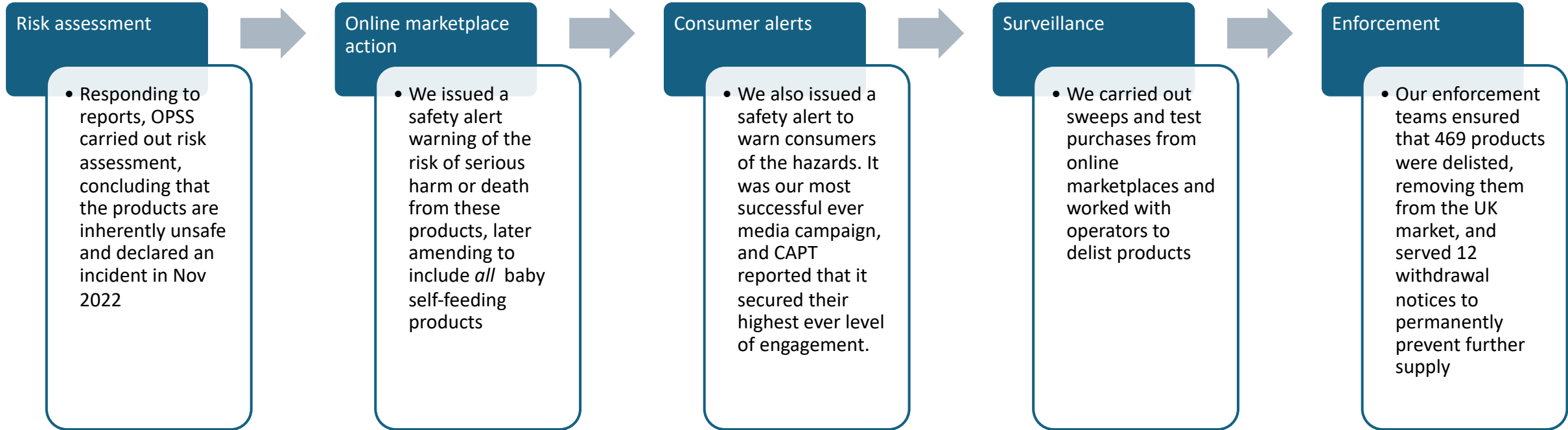


This 'baby self feeder' was found on sale exclusively through online marketplaces. It was designed to enable babies to bottle feed with little or no assistance from caregivers. The concept of self feeding products creates risk of serious harm or death from choking on the feed and aspiration pneumonia.

What is the public risk?

- Infant health
- Online distribution
- Non-domestic actors

We took action to ensure that it was successfully removed from the UK market



Challenges

- Lack of action taken by online marketplaces to prevent potentially unsafe and non-compliant products from being listed on their platform.
- Some online marketplaces opposed action being taken by OPSS on the basis of being classed as 'distributors' within the General Product Safety Regulations 2005.
- Online marketplaces are not a homogeneous group – differing product safety approaches (e.g. use of AI tools versus manual product sweeps) mean that some marketplaces are better placed to respond to safety notices and recalls than others.
- OPSS finding baby self-feeder products available on platforms post-withdrawal notice listed using different key terms/descriptions – sellers working around restrictions?

Lessons learnt

- The limitations of the existing product safety legal framework, and the need for modernised legislation with updated requirements for online marketplaces.
- Importance of OPSS building direct relationships with senior representatives of online marketplaces to enable early flagging of product safety concerns and request for action to be taken at an early stage.
- Importance of regulators working with online marketplaces to better understand their product safety processes to enable the sharing of best practice and new approaches to product safety.

Multi-strand approach



Evidence



Engagement



Enforcement



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Case study 2 – building insulation

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Grenfell - what is the public risk?

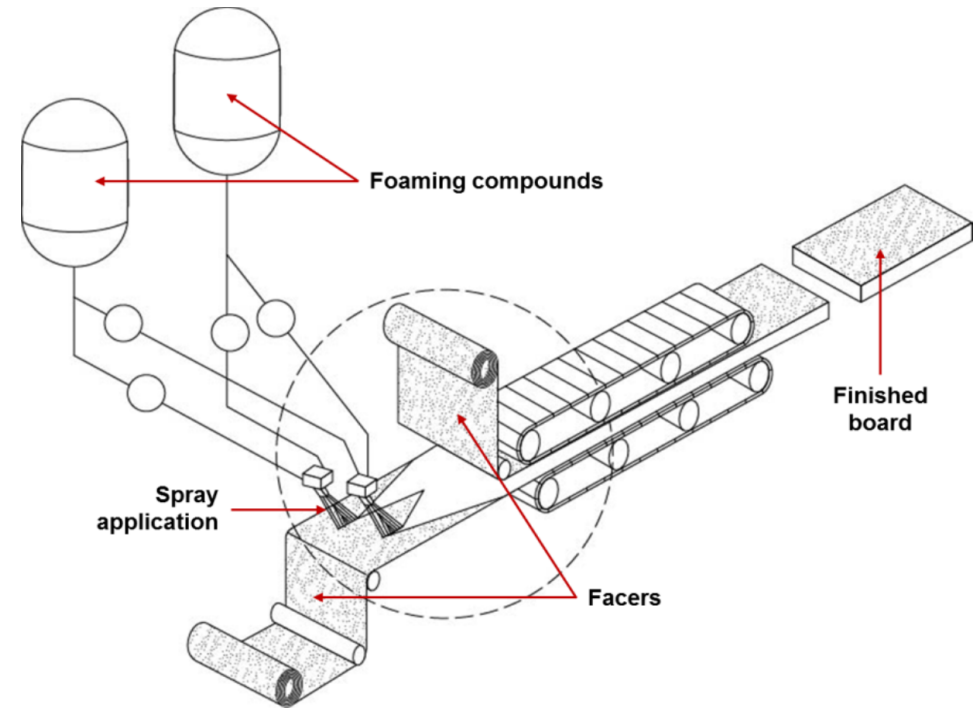
- 72 people died in the Grenfell Tower fire in 2017; the UK's greatest loss of life in a residential fire since the Second World War.
- The building's cladding system was supplied with inaccurate statements of fire performance, which was not resolved through testing.
- Testing was conducted on a small scale, which didn't reflect how the combination of materials and the method of installation would create a chimney effect in an actual fire, allowing flames to spread rapidly up the building's exterior.

Grenfell - what is the public risk?

- Loss of life, dignity and community
- Disregard for honesty – masquerading as “value engineering”
- Loss of confidence in the public realm because of regulatory and policy failure

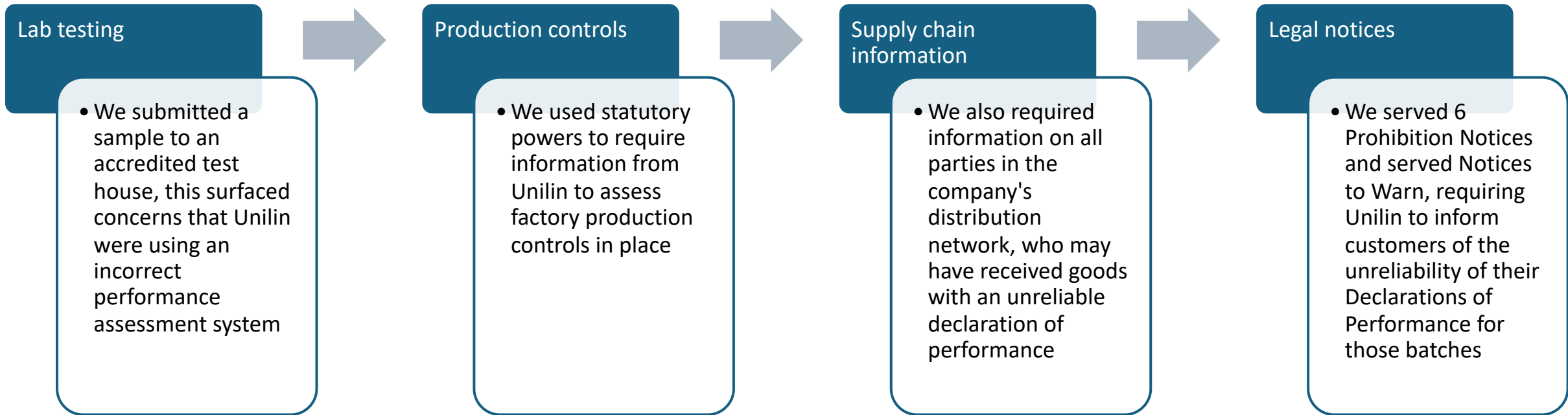
Regulation of construction products, 8 years on

- OPSS investigated the Safe-R range of phenolic foam insulation products manufactured by Unilin Insulation UK Ltd. As part of the investigation a sample of Unilin's product was submitted to an accredited test house to determine the fire classification of the product.
- The test house results raised concerns, and further enquiries revealed that Unilin were utilising an incorrect performance assessment system.



Phenolic insulation production

We took action to bring the product back into compliance



Challenges

- The range of affected products – what is the focus of the investigation ?
Unilin manufactured 6 different types of boards in a thicknesses from 25-200mm from the same process equipment.
- Testing Capability – the contracted test house had a technical failure and we withdrew all products and retested elsewhere, significantly impacting schedules.
- Variability of Test Results – Reaction to Fire test results vary considerably.
- Proportionate enforcement – delivering the right message was vital – the offence was that the Declaration of Performance was unreliable, in some, but not all cases, that could lead to increased risk in the built environment.

Lessons learnt

- It is important to develop specific understanding of testing practices per product. How manufacturers and Test Houses collaborate on routine testing can have an impact on routine results. Regulatory testing is not routine – and so we have seen different results.
- The importance of developing working relationships simultaneously at different levels within stakeholder organisations - Senior Management, Legal , Technical, Operational
- Establishing the risk posed by these type of products in the built environment is difficult, and will change in each application and often requires a joined-up response by more than one regulator.

Conclusion:

Regulatory delivery faces challenges in addressing public risk

- Credibility and diverse markets
- Complex, but apparently short supply chains
- Technological revolution – opportunities and challenges
- Big ambitions need big(ger) solutions

Notes

- **Baby self-feeders**

- OPSS was alerted to concerns from Lancashire County Council and the Child Accident Prevention Trust about baby self-feeding pillows and prop-feeders, being sold exclusively through online retailers. These products are designed to enable babies to bottle feed with little to no assistance from a caregiver.
- OPSS triaged the concerns and following a risk assessment concluded that the products were inherently unsafe, presenting a risk of serious harm or death and declared an incident in November 2022.
- We issued a safety alert in November 2022 to warn of the risk of serious harm or death from these products and amended this in December 2022 to include all baby self-feeding products.
- The alert instructed businesses to immediately remove these products from the market as they cannot comply with the safety requirements under the General Product Safety Regulations 2005.
- It also asked consumers to immediately stop using these products and dispose of them safely. We warned 28 online marketplaces and 3 social media platforms of the risks posed by these products and required that they stop any further supply.
- We undertook sweeps and test purchases from online marketplaces for similar products and worked with operators to delist products, issuing ten withdrawal notices. Our enforcement teams ensured that 469 products were delisted, removing them from the UK market and served 12 Withdrawal Notices to permanently prevent the supply of these products.
- In addition to our direct interaction with marketplaces OPSS issued a safety alert for baby self-feeder products to warn of the hazards of these products – a message we sought to amplify through our networks.
- The alert generated extensive media interest and was widely disseminated, by the Child Accident Prevention Trust (CAPT), the Royal Society for the Prevention of Accidents (RoSPA) and other children related trusts and associations.
- CAPT reported that they had 700,000 views for their post on Facebook with 27,000 responses to the post and 6,600 shares – this was their second highest reach ever and their highest ever recorded level of engagement. OPSS' social media posts on the matter have been our most successful to date – with almost 60,000 views on Twitter and 300,000 on Facebook.
- OPSS also used its networks with the Department for Health and Social Care (DHSC) and NHS contacts to disseminate the message directly to relevant networks including neo-natal services.

Notes

- **Case study: Insulation**

- Declarations of Performance for construction products are relied upon by architects and specifiers to ensure the products used in construction are fit for their intended purpose. It is essential that a declaration is accurate and can be trusted.
- OPSS investigated the Safe-R range of phenolic foam insulation products manufactured by Unilin Insulation UK Ltd. As part of the investigation a sample of Unilin's product was submitted to an accredited test house to determine the fire classification of the product.
- The test house results raised concerns, and further enquiries revealed that Unilin were utilising an incorrect performance assessment system.
- OPSS used statutory powers to require information from Unilin to assess the factory production controls in place, and to identify all parties in the company's distribution network that may have received goods with an unreliable Declaration of Performance.
- We served 6 Prohibition Notices, prohibiting the placing on the market of affected batches of material, and served Notices to Warn, requiring Unilin to inform customers of the unreliability of their Declarations of Performance for those batches.
- Unilin reclassified all the Safe-R product range to an appropriate lower standard.
- Unilin adhered to the terms of the notices and wrote to 122 customers warning them of the failings with the Declarations of Performance on the 28th March 202