

# PRODUCT RECALLS AND SAFETY

## UK GOVERNMENT RESPONSE TO WORKING GROUP RECOMMENDATIONS

Baker McKenzie partners John Leadley and Kate Corby, the only law firm members of the UK Government's Working Group on Product Recalls and Safety, give their view on the UK Government's response to their recommendations.

Almost 6 months to the day since our Working Group issued its first report and initial recommendations, the UK Government has finally published its response. The full details of that response can be found [here](#). The most eye catching development is the creation of a new, centralised Office for Product Safety and Standards.

We have summarised in the table below the 8 recommendations, the Government's response and our initial thoughts, but would be happy to talk to you about this in more detail:

	RECOMMENDATION	RESPONSE	COMMENTS
1	Centralised technical and scientific resource to support decision making and coordination of activity of Local Authorities and the businesses they regulate	<ul style="list-style-type: none"> <li>▪ Accepted in full</li> <li>▪ Office for Product Safety and Standards (the "OPSS") to be established to support work of Trading Standards – see <a href="#">here</a></li> <li>▪ Remit will be general (non-food) consumer products, excluding those for which there is already a national capability/regulator ie vehicles, medicines/medical devices and workplace equipment</li> <li>▪ Ambit will be to:                             <ul style="list-style-type: none"> <li>▪ provide incident management capability to coordinate response to national product safety incidents</li> <li>▪ work with local authorities and experts to swiftly identify emerging issues, coordinate across boundaries/on a national scale</li> <li>▪ provide an intelligence handling function to provide risk-profiling for teams working at ports of entry</li> <li>▪ provide consumer facing information and advice</li> <li>▪ provide specialist capacity to test products and assess safety risks, and provide broader technical and scientific expertise and advice</li> <li>▪ build an open dialogue with business to inform the approach to regulation and enforcement</li> </ul> </li> </ul>	While creation of a central product safety function should bring greater clarity and consistency to the product recall process, the devil will be in the detail. From what we understand, the OPSS will provide oversight and support to Trading Standards, rather than taking over full responsibility for this area of regulation and its capabilities will be developed over time, so we will have to wait and see what improvements it actually delivers in practice.
2	Consolidate guidance on product correction actions and recalls	<ul style="list-style-type: none"> <li>▪ Recommendation fully supported</li> <li>▪ Commissioned the British Standards Institute to work with a drafting committee to produce a Code of Practice</li> <li>▪ The two part Code will: (a) set out a code of good practice for businesses to ensure effective monitoring, assessment, notification and corrective of unsafe products; and (b) provide guidance to regulators as to how best to advise businesses in preparation of corrective action programmes, monitoring incidents and deciding upon and carrying out corrective actions</li> </ul>	We have been on the drafting committee and therefore fully involved in preparation of the Code of Practice. The draft has now been approved by the Government and is due to be published in February 2018.

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3	Consider establishing a hub to coordinate corrective actions at a central level	<ul style="list-style-type: none"> <li>Recommendation fully supported</li> <li>To be achieved through the OPSS (see item 1 above), with work being carried out in two phases: <ul style="list-style-type: none"> <li>Upgrade the content on the Government's product recall website – Spring 2018</li> <li>Building an extensive data hub – full public access by 2019</li> </ul> </li> </ul>	If able to be fully implemented with the necessary functionality, the proposals for this hub will offer real benefits to business and consumers alike.
4	Establish systematic and sustainable ways to capture and share data an intelligence	<ul style="list-style-type: none"> <li>Fully accepted</li> <li>The OPSS will have an intelligence capability to bring together data sources to inform understanding of risks at industry and product level</li> </ul>	The success of such a system will depend significantly on the quality and utility of the data collected
5	Manufacturers and retailers should develop technological solutions to product marking and identification	<ul style="list-style-type: none"> <li>Aimed at manufacturers and retailers, but the Government will undertake further analysis to identify issues and potential solutions in relation to indelible marking</li> </ul>	If a solution is able to be found which is effective and cost efficient, this could be beneficial
6	Encouragement of Primary Authority relationships	<ul style="list-style-type: none"> <li>Government actively encourages use of AMDEA's "Register My Appliance" website and is commissioning research into consumer behaviours in this area to try to understand the low rates of response to product recalls and how to change that behaviour</li> <li>Greater role should be played by retailers at point of sale</li> </ul>	The success of this initiative will depend, to a great degree, on local authorities having the resources and skills to carry out this role to the extent the Government intends
7	Registration of appliances and other electrical goods with manufacturers	<ul style="list-style-type: none"> <li>Government actively encourages use of AMDEA's "Register My Appliance" website and is commissioning research into consumer behaviours in this area to try to understand the low rates of response to product recalls and how to change that behaviour</li> <li>Greater role should be played by retailers at point of sale</li> </ul>	Increasing consumer awareness and response rates to crucial to the effectiveness of a corrective action, so any means of doing so should be welcomed
8	Establish an expert panel bringing together trade associations, consumer and enforcement representative overseen by BEIS	<ul style="list-style-type: none"> <li>Fully accepted</li> <li>Setting up technical and scientific panel to be chaired by BEIS' Chief Scientific Advisor</li> <li>Working Group actively considering how to move forward with a wider expert group</li> </ul>	We will seek to remain involved in the wider expert group, having found our participation in the Working Group to offer added value



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