

Derbyshire County Council

Meeting with Cabinet Member, Health and Communities

11 February 2014

Report of the Strategic Director, Health and Communities

TRADING STANDARDS SURVEY INTO FIRE SAFETY OF UPHOLSTERED FURNITURE AND MATTRESSES

1 Purpose of the report:

To inform the Cabinet Member, Health and Communities of work conducted by the Trading Standards Division into the safety of upholstered furniture and foam mattresses.

2 Information and analysis:

- 2.1 Many of the businesses that the trading standards division has regular contact with to advise on compliance issues are manufacturers of upholstered furniture as there is a vibrant upholstered furniture manufacturing sector in Derbyshire. Following the tragic fire at Woolworths in Manchester in 1979, stringent furniture safety legislation was brought in to ensure that upholstered furniture on sale in the UK is fire resistant (the Furniture and Furnishings (Fire) (Safety) Regulations 1988 as amended). These regulations enact the provisions of the relevant UK safety standard which require furniture to comply with certain flammability tests. These are intended either to ensure that upholstered furniture does not set alight, or that any flame as a result of exposure to an ignition source (eg match or cigarette) is extinguished within a particular timeframe. In most cases, both the outer fabric and the foam inner of furniture must together be fire resistant.
- 2.2 There are over 50 upholstered furniture manufacturers and importers in Derbyshire. These range in size from large-scale manufacturers and importers supplying major retail chains to bespoke manufacturers catering for the individual requirements of customers and designers across the country. Derbyshire's upholstered furniture manufacturers and importers are classed as 'high risk' for safety and consequently we visit the majority on an annual or bi-annual basis. During these visits, we check quality systems, labelling and traceability. Particular emphasis is placed on the need for the businesses to maintain records confirming that the filling and cover materials they use comply with the flammability requirements. This is partly addressed by 'declarations' from the suppliers on delivery notes / invoices that the relevant materials are compliant but we also recommend to our companies that they confirm this by obtaining test reports from the suppliers on a regular basis.
- 2.3 The Division also regularly submits products on sale in the county for testing against relevant safety standards to ensure that goods on sale are compliant.

Upholstered furniture has featured prominently because of the significance of this sector in Derbyshire and because of the potential harm to consumers if furniture was found to be unsafe. The table below details the number of samples submitted for testing and the number of failures. As the material (fabric) used is the 'first line of defence' it is subject to an individual test as well as a test of the composite product – ie fabric and filling together.

Year	Description of Samples	No. of Samples	Failures	Fabric Fails	Filling Fails
09-10	Upholstered Furniture	10	4	1	3 [2 indicative*]
10-11	Upholstered Furniture	10	6	6	0
11-12	Upholstered Furniture	10	6	4	2 [1 indicative]
11-12	Flame retardant fabric samples	20	6	6	none sampled
12-13	Upholstered furniture	10	6	5	1 [indicative]
Totals		60	28	22	6

*Indicative failure indicates that there was insufficient filling to carry out a full test in accordance with the British Standard.

- 2.4 The number and percentage of failures (47%) is clearly of concern and each instance is investigated to establish the supply chain and identify the importer and/or importer into the European Community. Primary responsibility for compliance rests with the manufacturer (or importer if manufactured outside of the UK). During the course of our investigations a particular area of concern has emerged. Part of the manufacturing process involves furniture manufacturers sending the fabric to be used in the manufacturing process to a third party to carry out a fire retardant treatment. This involves applying a fire retardant chemical to the fabric, either by impregnation or by 'back-coating'. Unfortunately it would appear that in some circumstances this process has resulted in an inadequate or inconsistent application thus rendering the furniture non-compliant with the relevant safety tests.
- 2.5 During 2012 samples of fabric that were to be used in the manufacturing process were obtained direct from local furniture manufacturers and submitted for testing. Whilst all of the samples passed the cigarette test, it was concerning to find that 6 of the 20 samples (30%) failed to meet the requirements of the butane flame (match) test. Four of the six failed samples were reported as producing 'escalating combustion which required forcible extinction' within 60-100 seconds of removal of the butane flame source.

- 2.6 Failed furniture samples taken in 2011-12 have resulted in two recent prosecutions. Both cover fabrics from a Byron corner unit, purchased from a local retailer (for £300) and manufactured by a Stourbridge, were found to fail the flammability requirements. Both fabrics had been back-coated but the manufacturer was unable to prove where the fabrics had originated and so was prosecuted for the offence at Derby Magistrates Court in November 2012. The company was fined £2,500 with costs of £2,028.
- 2.7 Two samples of upholstered furniture, originating in China, were purchased from a Northampton company from their store in Long Eaton, Derbyshire. The filling material in the rear cushion of a 2-seater PU Sofa (sold for £159.99) and the cover material on a pair of PU Dining Chairs (sold for £59.95) were both found to fail the flammability requirements. Both products had been imported from China but, despite the size of the company, they had commissioned no independent testing. The Deputy District Judge who heard the case in December 2012 was quite scathing in her comments, stating that, in these recession-hit times, people rely on cheap items but must know that health and safety have not been compromised. She went on to say that this was a large company with a large turnover and there was just a verbal agreement with the manufacturers that safety testing would be carried out. Fining the company the maximum penalty of £5,000 on each offence plus costs of £2,062, she commented that it was unbelievable that this was not backed up by independent testing by the company.
- 2.8 In relation to the fabric samples taken in 2011-2012, our enquiries revealed that one of the back-coating companies had recently been prosecuted by Northamptonshire Trading Standards for similar issues. This prosecution, under the General Product Safety Regulations 2005, led to an overhaul of the company's quality control systems and our investigation revealed that the three samples we had obtained were back-coated some months earlier – before the company's enhanced processes had taken effect. Consequently, we dealt with the case by means of a caution.
- 2.9 In relation to the other UK based back-coating company, our investigation revealed discrepancies in the test results. Following the initial failure, further samples of the fabric were tested at different laboratories; some of these tests produced pass results and some repeated the fail result. These results made it impossible to put the matter before the courts but the discrepancies have been brought to the attention of UKAS, which is the body responsible for accrediting test houses.
- 2.10 As a result of the 2012-2013 sampling programme, one of the companies previously prosecuted was again prosecuted in October 2013 at Derby Magistrates Court. On this occasion for the importation of a fabric tub chair, the cover fabric of which was found to fail the flammability requirements. Whilst the company appeared to have taken some steps to ensure compliance, the test reports produced could not be adequately tied in to the product concerned. The company entered a guilty plea and was fined £3,000 with costs of £1330.99.

2.11 A recent BBC programme aired in January this year (Fake Britain, broadcast on 14th January 2014) has also sought to highlight the problem of unsafe upholstered furniture on sale in the UK. Ten test purchases of upholstered furniture were made in conjunction with Leicestershire Trading Standards Service from high street stores. Products bought from furniture chains including Harveys, SCS, Argos and Homebase, as well as online from Amazon and Tesco Direct, failed to meet these standards, and were therefore shown as illegal. Eight out of the ten samples taken were found to fail the safety standard. Although it is no longer available on iPlayer, the programme can be seen on YouTube and an article about the programme is available from a trade magazine (see links below).

http://www.youtube.com/watch?v=LccNPAbfp_8

<http://www.furniturenews.net/news/articles/2014/01/1675215348-furniture-retailers-implicated-bbcs-fire-regulation-investigation>

2.12 The Division is current participating in a national survey of intelligence about unsafe furniture commissioned by the National Trading Standards Board and will continue to monitor and test products on sale in Derbyshire.

3 Other considerations:

In preparing this report the relevance of the following factors has been considered; financial, legal, prevention of crime and disorder, equality of opportunity; and environmental, health, human resources, property and transport considerations.

4 Background papers:

Safety of Consumer Products - CabCo Report dated 9th May 2011

5 Key Decision:

No

6 Call-in:

Is it required that call-in be waived for any decision on this report?

No

7 Strategic Director's recommendation:

That the Cabinet Member, Health and Communities note the report.

David Lowe
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Health and Communities