



CHEMTrust

Protecting humans and wildlife
from harmful chemicals

Briefing

Local chemical regulation in the UK: fragmented and under-resourced

Introduction

We – and the wider environment – are exposed to many hundreds of man-made chemicals in our daily life, from everyday products including furniture, toys and clothes.

In the UK, this exposure is regulated through the world's most advanced system for controlling chemicals – the EU REACH (Registration, Evaluation, Authorisation and restriction of Chemicals) Regulation.

Before it was established, industry was able to use thousands of chemicals without evaluating their safety, resulting in justified concern about significant increases in cancers, endocrine disruptions and environmental harm. The European Commission estimated that there was insufficient information on hazards, uses and risk management of measures for 99% of chemicals available¹.

Since it came into force in 2007, the regulation has resulted in a continuously updated database that assesses safety risks and regulates tens of thousands of substances. It replaces dangerous chemicals with safer ones and makes manufacturers responsible for managing the risks. Furthermore, EU countries are able to share information on product safety using a rapid alert system for dangerous non-food consumer products known as RAPEX.

Other laws are linked to REACH, including the Toy Safety Regulation and Cosmetics Product Regulation, which restrict use of certain chemicals in these products.

Many overarching elements of the enforcement of REACH are managed centrally, with the Health and Safety Executive enforcing the registration of chemicals, and the Department for the Environment, Food and Rural Affairs responsible for developing and implementing the UK enforcement regime.

Local authority trading standards services hold responsibility for consumer protection. People across the UK buy millions of products daily, taking for granted that these goods are safe. An important aspect of product safety is preventing exposure to consumers from hazardous chemicals which risk damaging public health and the environment. They do this by testing products for compliance with REACH, the Toy Safety Regulation, and the Cosmetics Product Regulation.

However, local authority trading standards services have to enforce up to 263 different pieces of legislation, with little direction from government on how these should be prioritised, according to a report by spending watchdog the National Audit Office (NAO) in December 2016. It found that only around 7% of local authority trading standards departments were able to organise their service to reflect national priorities². Furthermore, the loss of resource and downsizing of local trading standards services have led to gaps in coverage at the local level.

¹ <http://www.hse.gov.uk/reach/resources/enforcementstrategy.pdf>

² <https://www.nao.org.uk/wp-content/uploads/2016/12/Protecting-consumers-from-scams-unfair-trading-and-unsafe-goods.pdf>

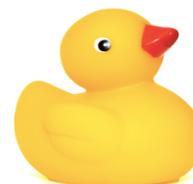
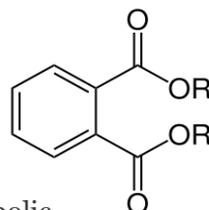
Case study: what is a hazardous chemical?

Testing by the London Borough of Enfield found the following:

1. Phthalates: A group of chemicals used to make hard plastics soft and flexible, many of them have their use restricted within the EU due to their harmful properties.

Phthalates are associated with a range of toxic effects, including disruption of the hormone system and metabolic diseases such as obesity.

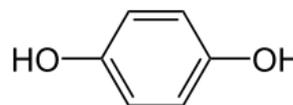
Enfield tested nine childcare products and toys and identified one sample that breached legal limits for phthalates. This case is currently progressing through the legal system.



2. Hydroquinone: This substance is banned under the EU Cosmetics Regulation due to concerns about carcinogenic properties, and damage it causes to the liver and nervous system.

Hydroquinone is also highly toxic to aquatic life.

Enfield tested 20 cosmetics products, of which 12 - over half - breached legal limits for hydroquinone. Several prosecutions relating to these products were brought, relating in fines and victim surcharges totalling more than £60,000.



3. Cadmium: This metal is restricted under REACH for many uses due to its health impacts; it is associated with hazards of serious concern. Fatal if inhaled, cadmium causes damage to organs and exposure in pregnancy can result in genetic defects to the unborn child.

Enfield council tested two samples of jewellery for cadmium, and found one to exceed legal limits.



How much chemical monitoring is conducted in the UK?

CHEM Trust sent Freedom of Information (FOI) requests to the top 100 councils by population in England, and all councils in the devolved nations (32 in Scotland, 22 in Wales, and 11 in Northern Ireland) to determine how much monitoring for hazardous chemicals they had conducted. We asked:

1. How much of each council's budget over the last five years was spent on monitoring for hazardous chemicals in consumer products?
2. How many sample products were analysed for hazardous chemicals by each council over the last five years, and how many breached legal limits?
3. How many prosecutions were made in the last five years by the council relating to hazardous chemicals in consumer products?

1. Budget

The budget spent by councils varied hugely across the UK, from £0 to £33,000. More than **one third (39%) of councils in the UK spent £0** on chemical monitoring over the last five years, see Figure 1. The average spend per year per council was £262. Councils in England spent more than those in the devolved nations, at £322 per year compared to £202 in Wales, £84 in Scotland and £83 in Northern Ireland.

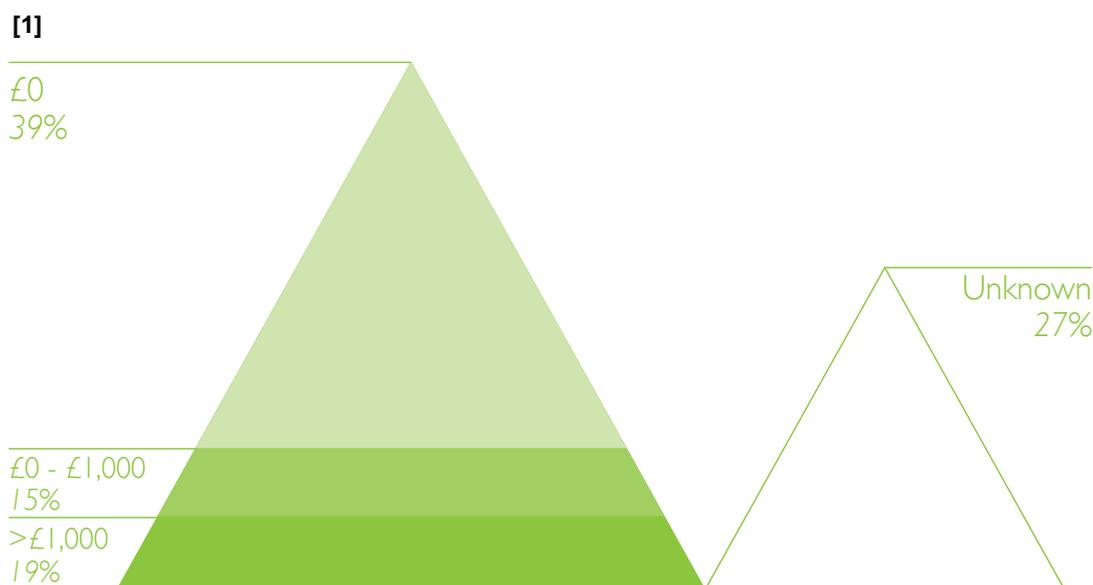


Figure 1: Breakdown of budgetary spend by councils across the UK on monitoring for hazardous chemicals, based on FOI data collated by CHEM Trust

2. Sampling

35% of councils analysed zero samples for hazardous chemicals over the past five years, while 31% analysed less than 10, and 23% over 10. In Northern Ireland, over half (55%) of councils did not analyse any samples for hazardous chemicals.

The total number of samples tested by UK councils over five years was 2,199, representing an average per council of 4.2 per year. Nearly a quarter of products tested (23%, or 495 products) were found to contain hazardous chemicals that were over legal limits. **Out of the 88 UK councils that tested products for chemicals, 52% (46 councils) found hazardous chemicals over legal limits.**

The amount of action by trading standards officers on hazardous chemicals varied widely between councils. The highest spend in the whole of the UK was in the London Borough of Enfield, which spent £33,917 on testing 18 products (see case study below). The capital as a whole spent £63,824 on testing 420 products. However, 13 London boroughs spent £0, including Bromley, Croydon, Hackney, Lambeth, Richmond and Sutton.

In **English councils outside London**, the highest spend was £15,733 by Birmingham City Council, which tested 147 products. Councils spending nothing include Bath and North East Somerset, Hull, Leicester, Newcastle, Portsmouth and York.

In **Wales**, the highest spending council was Rhondda Cynon Taf Council, which spent £4,854 testing 42 products. Welsh councils spent a total of £18,182 testing 416 products. However, 36% of Welsh councils spent £0 on testing, including Ceredigion, Caerphilly, Newport, Torfaen and Wrexham.

In **Scotland**, the highest spending council was Midlothian, which spent £2,000 testing five products. Scottish councils spent a total of £4,612 testing 621 products. However, at least 19% of Scottish councils spent £0 on testing, including Argyll and Bute and Highland councils.

In **Northern Ireland**, the highest spending council was Belfast City Council, which spent £3,000 on testing products. Over half (55%) spent £0, including Armagh City, Banbridge and Craigavon Borough Council and Mid Ulster District Council.

3. Prosecutions

Of councils that identified illegal breaches of hazardous chemicals, in only one third (37%) of councils did this lead to a prosecution. **Of total councils queried in the UK, 11% have undertaken prosecutions relating to breached limits** of hazardous chemicals found in products.

Best practice: London Borough of Enfield

With the highest spend of all councils queried in the project, the London Borough of Enfield spent over £30,000 on monitoring for hazardous chemicals in consumer products over the past five years. The council was able to test 36 samples in this period, of which 17 were paid for by funding from the Department for Business, Energy and Industrial Strategy (BEIS).

Of those tested, **half breached legal limits for hazardous chemicals**. These included pieces of jewellery containing cadmium, toys containing phthalates, and cosmetics containing hydroquinone and mercury. As a result of this testing, Enfield council was able to submit **eight RAPEX notifications warning EU Member States of these dangerous products**. Further, the council undertook six prosecutions relating to the breaches, resulting in fines and victim surcharges totalling more than £60,000.

Case study: The London Borough of Enfield



Spent **£33,917.48**
on monitoring for
hazardous chemicals



Analysed **36 samples**



Found **18** to have
breached legal limits



This led to **6 prosecutions**
and **8 RAPEX notifications**

How local authority budget cuts have impacted the regulation of chemicals in consumer products

Local authorities have seen an overall decrease in spending power of **23.5%** between 2010-11 and 2015-16, with government funding falling by **36%** over this period, according to government spending watchdog the National Audit Office (NAO).

This has directly impacted the ability of local authority trading standards departments to enforce regulations on hazardous chemicals in consumer products. **Budgets for trading standards services have fallen from £213m in 2009 to £105m in 2018, and the number of enforcement officers has dropped by 56% since 2009**, according to a local government health check report from Labour's shadow housing, communities and local government team in 2018³. Twenty services in England have reduced funding by over 60% since 2011, and some now have only a single qualified officer⁴.

The Trading Standards Institute, which represents trading standards professionals in the UK, conducted a survey in 2017 revealing that **43% of services reported that they cannot deal with consumer problems** in their area, with an **average spend per-head dropping to just £1.87**⁵.

³ <https://andrewgwynne.co.uk/wp-content/uploads/2018/08/HC-Trading-Standards.pdf>

⁴ www.nao.org.uk/wp-content/uploads/2016/12/Protecting-consumers-from-scams-unfair-trading-and-unsafe-goods.pdf

⁵ www.tradingstandards.uk/media/documents/news--policy/surveys/ctsi-workforce-survey-2017.pdf

In 2016, the Local Government Association (LGA) reviewed the ability of trading standards services in England to deal with significant council budget cuts and found that trading standards officers are struggling to deal with enforcement of environmental duties. A report of its findings concluded that the government ‘**must do more to acknowledge that capacity at local level is already fully stretched**’⁶.

In a previous report⁷ the LGA noted that ‘while councils are very reactive in relation to product safety, **there was much less (and in some places, no) proactive work taking place, with councils lacking the manpower to go and look around**’.

Craig McClue, head of policy at the Chartered Trading Standards Institute, said:

“Local trading standards services are tasked with a vast range of enforcement duties in many areas that are vital to protect the economic wellbeing and safety of UK consumers. These include tackling rogue traders, preventing scams and ensuring dangerous products that kill or injure consumers are stopped and removed from the market.

Regulating products with deadly chemicals is another area in the broad basket of competing priorities where services work hard to maintain protections. However, efficiencies have their own capacities, and numerous reports show local trading standards services have become too degraded to effectively carry out the many important duties placed upon them.

There is an urgent and growing need to invest and protect local services to make sure UK consumers are in-turn protected. This is especially true as we face an uncertain regulatory future outside the EU.”

Conclusion and Recommendations

These results reveal a postcode lottery for consumer health and environmental protection across the UK. Budgets spent on monitoring for hazardous chemicals vary widely, with more than a third of councils queried spending nothing. Where testing did occur, hazardous chemicals were identified in consumer products and prosecutions undertaken, but the amount of action taken by trading standards officers varied widely between councils.

It is clear that budget cuts have considerably hindered the ability of councils to proactively protect the public from exposure to hazardous chemicals in consumer products. This has reduced the potential for authorities to conduct proactive testing of consumer products with the potential to contain hazardous substances.

Greater consistency is required at a national level to alleviate the fragmentation of chemical regulation enforcement that exists currently. The UK Government created a new Office for Product Safety and Standards in January 2018, which could have an important role to play⁸.

⁶ www.local.gov.uk/sites/default/files/documents/lga-trading-standards-rev-b20.pdf

⁷ www.local.gov.uk/sites/default/files/documents/lga-trading-standards-rev-5f4.docx

⁸ <https://www.gov.uk/government/organisations/office-for-product-safety-and-standards>

CHEM Trust is calling for the following:

- △ Increased funding for trading standards services across the UK, both through local authority budgets and national funding from the Department for Business Energy and Industrial Strategy**
- △ Stronger collaboration between the Government and local councils in identifying priority areas of focus for consumer protection in local trading standards services**
- △ Development and publication of a comprehensive review of the UK's enforcement of chemical regulations, setting out an effective UK strategy for enforcing regulations on hazardous chemicals**

CHEM Trust's position on Brexit

It is vital that a post-Brexit Britain continues to have an effective system to protect people and the environment from hazardous chemicals, and CHEM Trust's analysis is that this is best achieved by the UK remaining within the EU's REACH system, which could be achieved within an EU-UK Free Trade Agreement (see www.chemtrust.org/brexit).

If the UK is not part of REACH, either because it is not part of a new EU-UK Free Trade Agreement or due to the UK exiting the EU with no-deal, then UK regulators will be barred from the detailed chemical information in the EU's REACH database and there is a real risk of rapid regulatory divergence post Brexit, as the UK has made no commitment to ban future chemicals of concern in parallel with the EU.