
New Code offers product recall guidance

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Product recall principles set out in new Code

The first government-backed Code of Practice for product recall in the UK has been launched by the new Office for Product Safety and Standards.

All products placed on the market must be safe but as every manufacturer knows, issues can always arise. When this happens, ensuring consumer safety is paramount and companies need to know what action to take without delay.

The new Code provides practical guidance and recommendations so that businesses can ensure they are well-prepared and will be able to respond in a timely and effective manner should a product safety issue arise.

Enhancing consumer protection and helping businesses

The Office for Product Safety and Standards was established in January 2018, with the aim of enhancing consumer protection and helping business growth and confidence.

The Code of Practice, developed by the British Standards Institution, is the first major initiative for the new Office. The guidance is aimed at all producers, importers and distributors. By aiming to simplify regulation and by providing tools to support businesses, the Code is likely to be especially helpful to smaller businesses, but the principles are applicable whatever the size of the company.

The Code applies to all products that do not have their own sector-specific regulations and guidance such as medicines, medical devices and food products. It is not intended to create any conflicts with these existing safety regimes.

Compliance with the Code does not replace the need for businesses to meet all their legal obligations.

The Code for Businesses

The Code is divided into two parts, the first providing guidance for businesses and the second intended to guide regulators.

Part 1 provides guidance and recommendations so that companies can prepare for a recall or other corrective action; monitor the safety of their products; carry out investigations into any potential safety issue; establish mechanisms and review their preparations to ensure they meet and continue to meet their product safety obligations.

A major emphasis is placed upon the preparation of product safety incident plans (“PSIP”). A PSIP should include the entirety of the plans and detail required to take effective corrective action, including a recall. It is recommended that every UK producer, importer and distributor have a PSIP in place, with top level support required.

The elements of a PSIP are set out and while many companies may have similar plans in place already, the Code provides a comprehensive checklist. Input should be sought from across the business in preparing the PSIP. Detailed plans should set out how to monitor product risks, assess those risks, trace the products and the affected consumers, notify the authorities and communicate with stakeholders, others in the supply chain as well as the public.

A corrective action decision plan should identify who is to make such decisions, how to do so as objectively as possible and against what timeframe. The level of risk posed by the product must be assessed as part of this process.

As preparation is one of the Code's key messages, templates should be ready with the content of recall notices and other corrective action announcements, with communication channels mapped out in advance.

Training and testing of the plans and procedures are vital as well as regular review to ensure the PSIP will continue to operate effectively.

The Annexes to the Code include a description of risk assessment methodologies to enable objective decision-making procedures to be followed, with the risk, potential harm and likelihood of its incidence being taken into account. A PSIP assessment checklist and one for actions prior to launching corrective action are also included along with examples of what should be included within safety warning notices.

The Code for Regulators

The second part of the Code is intended for regulators, described as Market Surveillance Authorities ("MSAs"), including Trading Standards, and is designed to support them in meeting their responsibilities.

It details how they carry out their role by monitoring incidents and analysing data, supporting businesses in the preparation of their PSIPs and in their monitoring of incidents and their implementation of appropriate corrective action, as well as responding where businesses fail to take effective corrective action.

The Code also supports the Primary Authority arrangements businesses can enter into with Trading Standards. Businesses should use Part 2 and consider Primary Authority arrangements to understand better the regulators' approach to product safety and enforcement.

Action

While the Code may be of most help to small to medium-sized companies, all manufacturers, importers and distributors will want to review their own plans and procedures against these guidelines and recommendations.

The emphasis on advance planning and preparation is salutary for all companies, whatever their product sector, as is the need for clear and informative communication to all who might be affected by a product safety issue.

The need to ensure ongoing training, testing and review of all aspects of corrective action plans is also of application across the board.

Product safety in the UK is generally perceived to be taken seriously with issues being quickly acted upon by both producers and regulators. However, this Code is likely to see even higher levels of product safety being attained. This should benefit both the consumer and boost business and so the aims of the Office for Product Safety and Standards in this regard will be achieved.

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