

# Report to the Tyne and Wear Trading Standards Joint Committee

24 November 2016

## Update on the Safety of Children's Halloween Costumes

---

**Paul Dowling, Strategic Director, Communities and Environment, Gateshead Council**

---

### **Purpose of the report**

To update the Committee on the latest developments with the important issue of product safety related to children's Halloween costumes. A previous report was presented to Committee in November 2015.

### **The Safety Issue**

1. Members will remember the events of the 31 October 2014 when the eight-year-old daughter of TV personality Ms Claudia Winkleman was rushed to hospital after her Halloween costume caught alight.
2. The Strictly Come Dancing presenter issued a statement on behalf of her family, reminding the public about the perils of "candles, open fires and fireworks" ahead of Guy Fawkes Night in 2014.

### **The Legislation**

#### **Toys (Safety) Regulations 2011**

3. The Toys (Safety) Regulations 2011 ("the Regulations") impose requirements in relation to the safety of toys. The relevant EU Directive sets harmonised safety requirements for toys and minimum requirements for market surveillance, in order to ensure a high level of safety of toys with a view to ensuring the health and safety of children whilst guaranteeing the functioning of the internal market.
4. The main provisions of the Regulations are as follows:–

The main requirements are that toys must:

- satisfy the 'essential safety requirements' in the regulations
- be properly marked to ensure traceability
- bear the CE mark
- be accompanied by instructions for use, and warnings where necessary

Technical documentation and a description of the conformity assessment method used for each toy must be available.

The relevant national standard that can be utilised to assist in compliance with the safety of toys is British Standard EN 71. The relevant part safety standard with respect to Halloween costumes is set out in part 2 of BS EN71:

*“4.4 Toys intended to be entered by a child in play*

*These include, for example, cowboy suits, nurses’ outfits and long flowing capes not attached to headwear.*

*When tested in accordance with 5.4, the rate of spread of flame of the test sample shall not exceed 30 mm/s or the test sample shall self-extinguish.*

*If the rate of flame is between 10 mm/s and 30 mm/s, the appropriate parts of the toy and the packaging shall be permanently marked with the following warning: “Warning. Keep away from fire”.*

## **Nightwear Safety Regulations 1985**

5. The Nightwear (Safety) Regulations 1985 make it an offence to supply children's nightwear unless it has been treated so that it conforms, after washing, to the flammability performance requirements of British Standard (BS) 5722. The Regulations lay down labelling requirements so that purchasers can tell whether other nightwear - including adults' - does or does not meet the flammability requirements.

### **Children's nightwear**

- Children's nightwear means anything designed for wear by, and that would normally be worn by, a person under the age of 13 years, except:
- night dresses with a chest measurement of more than 91cm or a length of more than 122cm
- dressing gowns, bath robes and other similar garments with a chest measurement of more than 97cm or a sleeve measurement of more than 69cm
- Children's nightwear must comply with the flammability performance requirements of BS 5722, except the following items:
- garments for babies up to three months with a chest measurement of 53cm or less
- pyjamas
- cotton terry towelling bath robes

### **Other nightwear**

- Other nightwear (including adult nightwear), babies' garments, children's pyjamas and children's cotton terry towelling bath robes must be labelled so as to inform the purchaser whether the item does or does not meet the flammability requirements of BS 5722.
- If the item does not meet the requirements, it must have a label, printed in red, stating 'KEEP AWAY FROM FIRE'. If the item meets the requirements, it must have a label with one of the following:
- a statement in red text stating 'KEEP AWAY FROM FIRE'
- a statement in black text stating 'LOW FLAMMABILITY TO BS 5722'
- both statements in appropriate colours

## **BBC Watchdog**

6. On the 14 May 2015 the BBC aired a “Watchdog” programme highlighting the tragedy that befall Claudia Winkleman and her daughter. Ms Winkleman spoke for the first time about the tragic incident in 2014 where her daughter's fancy-dress costume went up in flames, leaving her badly burnt. In the “Watchdog” programme they investigated what makes fires of this kind so devastating and then called for the rules on safety testing to be changed.

## **Response from the Chief Fire Officers Association**

7. On the 14 May 2015, in a press release, the Chief Fire Officer’s Association (CFOA) called for children’s fancy dress clothing to meet the same safety standards as children’s nightclothes, and for further research into the labelling of adult clothing.
8. Currently, children’s fancy dress costumes are classified as toys, rather than clothes, and are not covered by the same safety regulations. There is no requirement for them to be fire proofed or fire retardant. Rather than introduce new legislation, the CFOA called for this classification to be changed, so fancy dress costumes are subject to the same safety standards as children’s nightclothes.
9. Former CFOA President, Paul Fuller, Chief Fire Officer at Bedfordshire Fire and Rescue service and a Trustee of the Children’s Burns Trust said:
  - *“The safety standard for children’s fancy dress can be as little as a ‘keep away from fire’ label. This is not good enough and is putting children’s lives at risk.*
  - *Fire safety for toys is based on the ability of children to drop a burning teddy bear or doll or to run away from a burning play tent or wigwam. You can’t drop a burning costume or run away from it.*
  - *People do not realise just how quickly a princess costume will catch fire and the fire spread. The design of costumes, with flowing robes, capes or petticoats means they could easily catch fire from a candle or flame and swiftly engulf a child in flames.*
  - *Burn injuries are difficult to treat and once a child’s skin has been burned it does not regain its flexibility and grow as the child does. This means a young burns survivor may have to endure years of painful surgery as they grow and develop”.*

## **Response from the Department of Business, Energy and Industrial Strategy**

10. BEIS together with the CFOA, the British Toy and Hobby Association (BTHA), the Royal Society for the Prevention of Accidents (RoSPA) and National Trading Standards came together to endorse a Halloween safety poster campaign featuring the “Scary But Safe” strapline. This poster has been distributed nationally to continue to promote the key safety messages.

11. The Business Minister Anna Soubry commissioned a sampling programme on the safety of Halloween costumes in October 2015 and which was co-ordinated on behalf of BEIS and the region by Newcastle City Council.
12. The Report was published in February 2016. The Technical Manager for the Test House was asked to provide comment on the collated results:
  - Of the 309 samples received, 248 disguises passed the flammability tests of EN71-2 applied by the Test House; a pass rate of 80%.
  - However of those that did not pass the test, 14 costumes had a result that was too close to the prescribed limit so that the uncertainty of measurement meant the Test House was unable to draw firm conclusions from the analysis and these were recorded as neither pass nor fail.
  - A total of 47 costumes were recorded as failing to comply with EN71-2, either as a result of the absence of suitable warning, or owing to the rate of spread of fire. 10 of the failures were due to the absence of warning, and 37 were due to rate of spread. These are differentiated between those as technical and unacceptable failures respectively.
13. Based on the comments provided by the Test House it would appear that compliance could be greatly improved through better checks on the manufacturing processes to ensure that net material is orientated correctly to ensure minimal rate of spread of flame.
14. Overall, the level of compliance was reasonably satisfactory, considering the sample size and breadth of the market that samples were taken from. Although it is fully accepted that any failure of this type of consumer product, related to the obvious dangers with the products, is not a situation that should be allowed to happen.
15. The report was presented by a Trading Standards Officer and a BEIS official at the European Union Toy Safety committee held in Brussels in May 2016.

### **Response from the British Standards Institute**

16. The British Standards Institute has held several joint meetings with experts on both the safety of toys and textiles to discuss all the issues. An expert panel has now been formed to take forward all the issues around the testing of dressing up costumes which will engage with European safety colleagues on the potential revision of the relevant toy safety standard.

### **Response from the British Retail Consortium**

17. Earlier this year the British Retail Consortium (BRC) announced its own Code of Practice, which goes beyond the current safety tests for toys and exceeds the safety tests on nightwear.
18. This test is voluntary but lots of retailers have signed up to it and now test their costumes to this standard. Nightwear must not burn quicker than 12mm

per second. The BRC test states costumes must not burn quicker than 10mm per second.

19. Fintan Hastings from the BRC stated that; *“The retail industry decided in order to meet expectations we'd test the costumes to a higher standard which is the nightwear standard. That was done last year - now this year we've developed a code of practice which goes beyond that and it basically states that a costumes needs to burn at a certain rate.*

### **Recommendation**

The Committee is asked to note the information.

---

Contact: David Ellerington, City of Newcastle Council on 01912116119 or email [david.c.ellerington@newcastle.gov.uk](mailto:david.c.ellerington@newcastle.gov.uk)

---