



# Fulfilment Houses in the UK



The following is a general overview and for simplicity considers a seller in China using a Fulfilment House (FH) in the UK.

A Fulfilment House (FH) typically refers to a company that offer to store, receive orders, package, and dispatch ordered items to end-consumers on behalf of sellers located outside the UK. In some cases, they also act as a returns address.

A seller in China ships large quantities of product to the UK business. Products are individually packaged and marked with stock codes (usually a bar code). Stock is then held in storage, locatable through stock management systems that in some cases are maintained by a 'parent company' in China.

Sellers often use accommodation addresses for VAT registration and to obtain an Economic Operator Registration Identification (EORI) number. The EORI number has to be given on the import documents.

The seller lists their products on-line, frequently through marketplaces such as eBay and Amazon, but also through their own web sites. When orders are received, the seller sends a list of addresses and product codes to the fulfilment house, products are picked from the warehouse, an address label attached, and they are posted. Delivery is often through established methods such as Royal Mail and courier companies, although some fulfilment houses use in-house distribution.

## Process in Brief:



FHs have no legal responsibility for the goods as they don't hold title on the goods (so don't supply as defined in Trading Standards legislation), and do not generally even know what products they are handling. Without a responsible person based in the UK or EU it is difficult for consumers to obtain redress and for Trading Standards services to take enforcement action for the supply of non-conforming products.

**Key fact: FHs have no legal responsibility for goods, and it is hard for consumers to get redress**

As the sellers are in China, they are out of Trading Standards reach; the best sanction available to Trading Standards where they are able to identify a product to be unsafe is to request the on-line marketplace to remove listings and seize remaining stock from the FH (if its location can be established) for destruction.

Experience has shown that on-line marketplaces are reluctant to remove listings that Trading Standards bring to their attention unless there is clear evidence of a breach. Even then, listings for products that appear to be the same are often not removed and it is Trading Standards' experience that sellers frequently re-list either using a different account or by using an alternative marketplace.

**Key fact: Online marketplaces can be reluctant to remove listings**

In the most serious cases where there's a real possibility of injury to consumers who have already purchased, Trading Standards can also request marketplace operators for customer lists to enable Trading Standards to send out warnings. The problem with such consumer notification is that the likelihood of obtaining a refund is slim, so many are reluctant to stop using the product.



It is possible that the [General Product Safety Regulations 2005](#) could be used to prosecute a FH as a distributor of the product ("distributor" means a professional in the supply chain whose activity does not affect the safety properties of a product), but only where the FH knows, or should have presumed, on the basis of the information in their possession and as a professional (Regulation 8 – Obligations of Distributors)

the product is unsafe. As the products are already packaged, with no details of content, and there's no duty to open and examine them, guilty knowledge is almost impossible to prove unless notified to the FH by a Market Surveillance Authority such as Trading Standards.

Proceedings against an FH using Part II of the [Consumer Protection Act 1987](#) to enforce specific sectoral legislation (such as the [Electrical Equipment \(Safety\) Regulations 2016](#)) presents legal difficulties because of the definition of supply in Section 46 of the Consumer Protection Act 1987 which to a great extent defines supply as being a sale.

Some FHs don't have access to records relating to clients, product types and stock data as the parent company in China hold such records and don't share them with the UK business. This results in pro-active inspections at FHs being somewhat random rather than targeted at high-risk products – the only way to establish what product a package contains is to open it and there are many thousands of packages to choose from.

Where Trading Standards are able to identify a particular product held by a FH as being non-compliant and arrange for its destruction, there may well be other sellers of the same product, using the same FH, but with no way of actually finding them.

Some shipments are inspected by Trading Standards Officers at ports of entry, including freight arriving at East Midlands Airport which is liable to inspection by officers of Offices of Leicestershire Trading Standards Service. Recognising that imports work benefits the UK as a whole and that local Trading Standards services would not have the resources to do it, funding was originally distributed by National Trading Standards. Trading Standards have been very successful



over the last few years – in 2021; 1616 shipments were examined at East Midlands Airport – 463 were found to be non-compliant and 324 were found to be unsafe. Three years ago, responsibility for distribution of funding for ports work was transferred to the Office for Product Safety and Standards (OPSS, part of BEIS). Unfortunately, the amount of funding provided for this work has recently been cut by OPSS (Leicestershire Trading Standards for funding for 2021 was £165,000 and this year funding was reduced to £120,000) and some border inspection teams have been defunded. Total net spend by local authorities on trading standards services in England dropped by 52% from 2009-2019, with these budget cuts over the last few years, there is no way of making up the shortfall and the number of shipments inspected will inevitably reduce. Whilst border inspections often pick up products destined for FHs, shipment selection is usually determined through an examination of import documents that don't always identify the ultimate destination of the goods.

**Key issue: regulations, information availability, supply chains and resources mean that unsafe products can reach consumers easily via FHs**

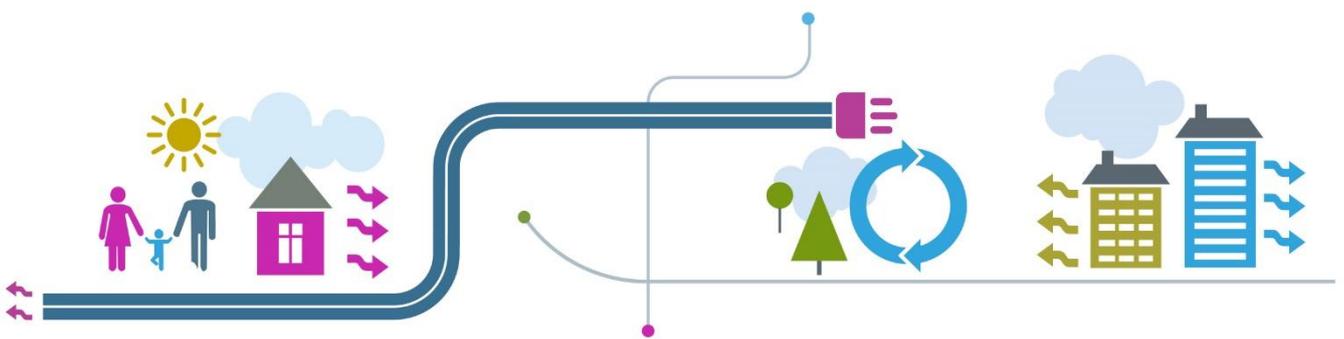
The European Union issued Regulation (EU) 2019/1020 of 20 June 2019 on market surveillance and compliance of products went some way to place responsibility on FH businesses, defining a fulfilment service provider and placing duties on them in the absence of other economic operators based in the EU. Unfortunately, as a consequence of leaving the EU, the UK haven't implemented this or any equivalent legislation at this time.

Key fact: other markets have legislation to make FHs more responsible

The UK does have the [Fulfilment House Due Diligence Scheme](#), introduced in 2018, which requires improved record keeping, but this is focussed on tax liability rather than product compliance.

Bottom line: The likelihood of non-compliance being detected is low and the enforcement options are inadequate

The bottom line is that huge quantities of non-compliant goods enter the UK destined for distribution by FHs, but the likelihood of non-compliance being detected is low and the enforcement options available to Trading Standards when they are detected are inadequate. The financial rewards to sellers are such that the loss of an occasional shipment can be written off as an 'occupational hazard' and is no deterrent. As sellers have minimal overheads and are largely immune to Market Surveillance Authorities usual enforcement tools, they are well placed to undercut legitimate businesses as well as putting consumers at risk.



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