

Health and Social Care Committee  
Food Hygiene Rating (Wales) Bill  
FHR 2 – Chartered Institute of Environmental Health Wales

The Chartered Institute of Environmental Health (CIEH) is please to provide this evidence to the Welsh Government Health and Social Services Committee to inform its scrutiny of the Food Hygiene Rating Scheme Bill currently before it, and trusts that our comments will be of assistance.

We will address the questions asked in the order of raising before adding any further comments we consider may assist the Committee.

1 Is there a need for a Bill to introduce a statutory food hygiene rating scheme in Wales? Please explain your answer.

In the view of the CIEH it is necessary for the Food Hygiene Rating Scheme (FHRS) to be statutory for it to operate successfully. Whilst the FHRS operating on voluntary basis has had some impact it has not been completely successful in achieving the ambitions for the scheme.

To operate successfully for consumers the FHRS needs all food premises selling food to the public to participate so that potential customers can make an informed decision about where to purchase food by comparing the ratings of all of the food premises they are considering visiting. To operate successfully for food business operators those operators gaining a high score should see some commercial advantage over those with a poor score, in that customers would favour premises displaying a higher score over those displaying a lower score. This in turn would be a driver for lower scoring premises to improve their standards and thereby improve their hygiene rating, and in doing so reduce any potential risk to consumers.

As noted we do consider that the voluntary scheme has been successful in part, however a number of things have contributed to it not been completely successful. They are

- a. The fact that where premises have received a low rating when inspected they have elected not to display their low score. Failing to display a rating means that the consumer is not informed about conditions prevailing in the premises and further that the business is not at the commercial disadvantage that it should be when compared to similar premises in its immediate locality displaying a high rating.
- b. Where premises receive and chose not to display a rating the consumer is unable to determine whether the premises has not been inspected for rating purposes and therefore does not have a rating to display, or whether the premises has a rating but has elected not to display it. In either event the consumer does not have the benefit of the rating to assist them in making purchasing choices.
- c. We have anecdotal evidence that some of the larger retailers in Wales have made policy decision not to display the ratings that they have received for their premises irrespective of the ratings awarded. We are advised that this is due to them appreciating that should premises

receive a low rating customers will not chose to purchase food from them, **and whilst they would be content to display a 'good' rating they do not wish to compromise their position by displaying a 'bad' one. Rather than make a decision such as 'We will not display scores of Rating 3 or below' which would be viewed as a cynical manipulation of the scheme they have chosen instead not to display scores on any of their premises.** As discussed in (b) such a stance is not helpful to consumers and undermines the purpose of the scheme.

It is our view that it is necessary, if the FHRs is to operate successfully for it to have its basis in statute so that all of those premises that are in the scheme are obliged to display their FHR. Anything less than this has the effect of undermining the scheme.

2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.

The CIEH believes that the Bill, as drafted does deliver the stated objectives as set out in the Explanatory Memorandum.

**The Welsh Government's objectives as set out in the Programme for Government** in September 2011 seek to prevent poor health and reduce health inequalities. The FHRs as set out in the Bill should have the effect of driving up hygiene standards through business -v- business competition and in doing so should contribute to a reduction in the risk of food poisoning by embedding higher hygiene standards.

By extending the FHRs to cover schools, hospitals and nursing homes the Bill also addresses inequalities in that it extends the regime to those premises which supply food to consumers who have little or no choice about where the food they eat comes from, and puts them on the same footing as customers who are free to chose by making the same information, and by extension the same protection available to them.

The Bill addresses the inequality that exists between the statutory regulator, who has information about hygiene standards that existed at the time of an inspection and the customer and potential consumer of the food made in the premises by making that information available to the consumer in an easily understood and readily accessible way.

It further addresses the commercial inequality that exists between good and complaint businesses and poor or noncompliant businesses by ensuing that those that operate to good standards have visible recognition of this that should be to the commercial advantage of the business.

3. Are the sections of the Bill appropriate in terms of introducing a statutory food hygiene rating scheme in Wales? If not, how does the Bill to need to change?

**The CIEH has had a high level of engagement both with the ‘Scores on the Doors’ Scheme and then the FHRS when operated as a voluntary scheme in Wales and further has engaged with the steering group working with Welsh Government officials in the drawing up of the Bill. We believe that the sections of the Bill introducing the FHRS on a statutory basis are appropriate and that there is no need for them to be changed.**

4. How will the proposed Measure change what organisations do currently and what impact will such changes have, if any?

Clearly there will be a new duty imposed on food authorities to inspect the food businesses in their administrative areas for the purposes of rating them in accordance with the scheme, and in some cases to entertain and determine appeals against the rating awarded and to carry out re-inspections of the premises should the same be required. The initial inspection should not have a major impact since it is already a requirement under existing food hygiene legislation that premises are inspected, however the requirement to consider and determine appeals and to carry out re-rating inspections where appropriate will be an additional burden on food authorities. Whilst CIEH notes that there will be an impact from this additional level of engagement we are not in a position to comment about what impact this will have on food authorities.

It will be necessary for the FSA Wales to display all of the ratings awarded to each premises on their web site, however this should not have a significant impact as the ratings that are currently awarded as part of the voluntary scheme are uploaded onto that web site.

5. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

The potential barriers to implementing the provisions of the Bill are as discussed in our response to Q1, notably the failure of businesses to display their ratings so that the public can see what rating the business has been awarded. In the view of the CIEH this issue is adequately addressed in Sec 9(1) of the Bill.

With the requirement to display the FHR we can see the potential for business owners to either display a false rating or deliberately seek to confuse customers by amending or defacing a Rating such that it cannot easily be read or understood. We are of the view that the provisions of section 9(3) of the Bill adequately address this potential issue.

6. What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation? (i.e. statutory instruments, including regulations, orders and directions)

In the view of the CIEH the powers contained in the Bill for Welsh Ministers to make subordinate legislation is a sensible and pragmatic step and will allow for any necessary amendments or additions to the legislation to be made quickly and easily. This will ensure that the legislation will remain relevant, credible and fit for purpose in the long term and that it can be tailored as and when circumstances require.

#### 7. What are your views on the financial implications of the Bill?

We support the provisions the Bill that allow for food authorities to recover the reasonable costs of rerating a premises, and feel that it is fair and equitable that businesses wishing to be re-rated should bear at least part of the additional cost of this service.

We understand that small businesses may see the cost of rerating as an additional burden however we note that it is incumbent on food businesses operators to run their businesses in a safe and hygienic manner and that re-rating will only be required by those who wish to obtain some commercial advantage from increasing the rating they have been awarded, and such being the case they should be required to pay for that advantage.

In our view the proposed Bill as a piece of public health legislation will raise food hygiene standards and reduce the risk of food poisoning to people living in Wales and to visitors to Wales cost of implementing and running the scheme is by far outweighed by the benefits to public health that will flow from it.

#### 8. Are there any other comments you wish to make about specific sections of the Bill?

No.

The CIEH strongly supports the aspirations of the Food Hygiene Rating Scheme Bill and urges the Welsh Government to adopt its provisions in the interest of public health, consumer safety and fair business practice.

We would be happy to expand upon or clarify any of the foregoing responses should it be considered that this would be helpful.

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