

Introduction

The Health & Social Care Committee of the NAFW is consulting on the Food Hygiene Rating (Wales) Bill. A corporate response on behalf of Conwy County Borough Council to this consultation is given below.

General

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

Yes. Whilst the current voluntary scheme has generally been accepted and well received by many businesses, there is evidence that many of those businesses rated as a 0 (Urgent improvement necessary), 1 (Major improvement necessary) or 2 (Improvement necessary) are failing to display their Food Hygiene Rating stickers.

This is denying one of the main aims of the scheme which is to enable consumers to make better informed choices about where to eat or shop for food.

There is also evidence from similar schemes in operation elsewhere in the world that display by businesses of their hygiene rating reduces food related hospitalisations and increases food hygiene standards. Operating a statutory scheme requiring the display of food hygiene ratings at business premises in Wales is likely therefore to have significant public health and economic benefit.

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

The Bill does deliver the stated objectives, however, using the Food Standards Agency Food Law Code of Practice as a basis for the required inspection programme (Clause 2), means that low risk (E rated) premises may not be covered by the scheme for some time (if at all), as such premises may be subject to a programme of alternative enforcement strategies or interventions (rather than a full inspection under the scheme) every 3 years.

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 need to change?

At the present, routine scheduled Food Safety inspections in the main are carried out unannounced. Under the current voluntary scheme, revisits requested by food businesses are not carried out by the Food Authority until 3 months has elapsed from the revisit request or after a further 3 months. This means that any potentially short lived improvements in standards made by a business must be maintained for a maximum of 6 months, when the revisit would then have been carried out by the Food Authority. This also allows revisit inspection resources to be deployed on a longer term planned basis and to ensure that improvements in standards made have been sustained, rather than being short lived.

Changing the statutory scheme (in Clause 11) to requiring revisits to be undertaken within 3 months of request by a food business denies the above 2 benefits, putting pressure on local authority resources. It also cedes to food businesses an element of control in the regulation of food businesses and the way Food Authorities work.

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

On top of the measures already undertaken by local authorities within existing resources to implement the voluntary scheme, with the statutory scheme there is an increased administrative burden on local authorities, for example:

- preparing inspection programme (and probably publishing this);
- dealing with a likely increase in appeals;
- responding to and administering an increase in revisit requests and working out suitable (and presumably varying) charges for revisits which will need to be invoiced;
- Dealing with an increase in now multiple right to reply comments from food businesses;
- Providing information on the scheme to new businesses;
- Being subject to audit from the Food Standards Agency in their operation of the scheme;
- Internal monitoring and review of how the scheme is being operated to ensure fairness and consistency;
- Enforcement of the now statutory scheme (e.g. fixed penalty notices and prosecution of offences);
- The need to consider in more detail how low risk food premises are regulated. To create a level playing field for all businesses (regardless of risk) it may be beneficial for all businesses to be subject to an official control at the frequencies specified in the FSA Food Law Code of Practice. This would need appropriately resourcing.

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

Resources. Only partially in respect of revisits, which should in any case be a fixed fee to create a level playing field and for efficiency of administration. This fee should be £150 per revisit.

Additional resources to cover the additional duties imposed by the statutory scheme, to include those detailed in 4 above, need to be obtained.

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)?

Acceptable, however these may be subject to challenge from cross border businesses based in England but trading in Wales, who will need to operate within 2 different regulatory frameworks.

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

This is partly covered in the answers above, however, given the extra duties imposed by the statutory scheme, this would probably equate to around 1 additional suitably qualified member of staff.

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

It is appropriate to include businesses that supply food to other businesses within the scope of the scheme (currently exempt from the voluntary scheme).