

Question 1

Do you have any comments on the first clause in the Bill (Welsh Food Hygiene Rating Scheme)?

Comments: **None**

Question 2

Do you agree that assessments of the food hygiene standards of an establishment carried out prior to the commencement of this Act can be used as the basis of a rating under the mandatory scheme? Please provide reasons for your answer. If you answered no, why not?

Yes, this proposal is supported to avoid the need for a new inspection taking place and allow faster migration of food businesses rated under the voluntary scheme to the new mandatory scheme.

Question 3

Do you agree that all food businesses supplying food directly to consumers should be included in the scope of the FHRS?

No, we would support the exemption of those premises indicated below, as under the existing voluntary scheme.

Please provide reasons for your answer.

Question 4

Are there any food business establishments that provide food directly to consumers that you think should be exempt from the FHRS (such as those that are “low risk”, sensitive and those operating from private addresses)? Please provide reasons for your answer. If you answered yes, please provide details of which food business establishments should be exempt?

Yes. We feel that exemptions should continue for:

- i) Low risk premises (such as newsagents selling pre-packed confectionary, visitor centres selling tins of biscuits or other wrapped food and leisure centres with only vending machines selling only drinks or confectionary). As indicated in the consultation document such premises would represent a very low risk to public health and would not generally be thought of as food businesses by consumers. The inclusion of such businesses would risk undermining the general credibility of the scheme.**

We do NOT consider that Crown Premises should be exempt as there is an expectation that they should achieve and maintain appropriate standards of

compliance, in line with other businesses and organisations. We cannot see how inclusion within the scheme and the display of a hygiene rating might compromise security.

Private addresses:

	Current position	Proposals for future?
Childminders	Exempt and sensitive – no information should be uploaded to the website about them – can opt in and obtain a certificate to show customers/potential customers	May be more appropriate for them to be included and required to display their rating within their premises when customers attend premises. Customers should have access to information on hygiene standards. Agree that it is not appropriate to post address of the child minder on website.
B&Bs	Included and displayed/posted on the website	No change proposed
Mobile Vehicles	Included and sticker displayed at point of sale. Posted on website either against registered address or trading address, if static.	No more appropriate change proposed
Home caterers	Included and rating posted on website but address details not included, only business name and rating	If customers call to domestic premises to collect/buy food the rating should be displayed. If no customers calling – no benefit in requiring them to display rating. Can see little point in posting the private address on the website, particularly if there is no public collection of food. It is the rating that should be more important to the customer.

Question 5

Should those businesses involved in food business-to-business trade be included in the scope of the FHRS? Please provide reasons for your answer.

Yes, we are strongly in support of businesses involved in food business-to-business trade being included within the scope.

The hygiene rating would provide valuable information to inform businesses, as purchasers, of the relative food hygiene performance of different suppliers that might compete for their business, and assist them in determine whether a potential supplier should be regarded as reputable. This might provide significant leverage in incentivising compliance across the manufacturing and wholesale sectors, where the risk of failure might be greatest (viz. the premises serving as the source of E.coli O157 in the 2005 outbreak in SE Wales).

It would also be easier for consumers and regulators to hold businesses and organisations to account in their selection of suppliers.

This will help to drive greater self-regulation across the industry.

Question 6

Do you have any comments on the appeals process including the timescales?

We are satisfied with the appeal process in general, however, have found the timescale for determining the appeal impractical at times. We consider it appropriate for appeals to be considered by a nominated officer to ensure fairness and consistency in the way ratings are applied. The prescription of such a short timescale for the determination of appeals makes it difficult to manage this in practice, having regard to other commitments and short term absences. We would support extending this period to 10 working days, or better still 15 working days, to take account of other commitments.

Please provide details of how the appeals process could be strengthened.
Comments:

The appeal process might be strengthened, and seen as being more robust, if appeals were considered by an external assessor. This role might be performed by nominated officers in other local authorities, or by the Food Standards Agency. As the majority of appeals are dealt with as a desk-top exercise, supplemented by discussions with inspecting officers, this should not be impracticable (having regard to the number of appeals anticipated). This should help to promote consistency in the application of scores across and not just within LAs.

Question 7

Do you think summary inspection reports (in addition to the Food Hygiene Rating Scores) should be routinely published on an FSA's website or otherwise made available?

On balance, no. In our view the hygiene rating should be sufficient as a performance benchmark for food hygiene management, and facilitate a sufficiently meaningful comparison of businesses.

If a summary of the full inspection report had to be published, in addition to the hygiene rating, this would create significant additional work for local authorities, as these reports would, we assume, need to be prepared as additional documents according to a template that helps to regularise the format and content of reports.

In addition, businesses might understandably be more sensitive about the wording of reports and this might result in further challenges/appeals.

While, in the interest of openness and transparency, we are comfortable providing full copies of existing inspection reports on request to anyone who wishes to see a copy, we would question the level of consumer interest generally.

Based on the current level of FOIA enquiries, the added work that would be created in having to routinely create and publish summary inspection reports is therefore likely to be disproportionate.

Would you make use of this additional information if made available to decide where to eat out or purchase food? Please provide reasons for your answers.

No. In our view the food hygiene rating would generally be sufficient, especially when displayed at the premises.

Question 8

Do you think the operator should be required to display the FHSR sticker at their establishment in a place where consumers can see it easily? Please provide reasons for your answer.

Yes. We think this requirement is important to maximise the impact of the scheme, improving access to the information for those unable/less likely to use the internet and that the information is available at each site.

Do you have any suggestions on where this location should be?

The sticker/s should, in general, be placed at the main public entrance/s to food premises, or part of the premises occupied and utilised as a food premises. Where practicable it should be visible prior to or otherwise at the point of access. This will allow consumers to make an informed decision prior to entering the establishment.

Question 9

Are the requirements in relation to the duty to remove out of date or invalid food hygiene rating stickers from display practical and reasonable? Please provide reasons for your answer.

Yes, on the understanding that out-of-date stickers remain valid for the business that they are issued to, up until the premises are reassessed.

Question 10

Do you think that the list of offences is reasonable?

Yes, the offences appear to cover everything necessary.

Are there any other offences that you think should be provided for? Please provide reasons for your answers.

No

Question 11

Should all operators be required to display the food hygiene rating certificate at the premises in addition to the food hygiene rating sticker? Please provide reasons for your answer.

No. This is not considered necessary if other requirements are met.

Question 12

Do you think the publication of the "right of reply" gives sufficient voice to the operator? Please provide reasons for your answer.

Yes. The right to reply on the FHS website is currently not very prominent. It could be easily overlooked. Businesses do not seem to be using the Right to Reply to any great extent, although they may do under the mandatory display requirements, particularly if they feel that they cannot afford to make a request for revisit for re-scoring.

However, to date only 1 business has used it in Pembrokeshire, out of approximately 1000 rated.

Question 13

Do you agree that operators that have actively taken steps to improve their food hygiene rating should be allowed to apply for a re-rating, rather than have to wait until their next planned inspection? Please provide reasons for your answer.

Yes, but subject to:

- **A suitable standstill period being retained.**
- **A requirement for follow-up revisits for rescoring to be unannounced (as for programmed inspections), subject to appropriate exemptions, to ensure as true a picture of normal operating conditions as possible.**
- **That a mechanism is established to allow local authorities to recover reasonable costs.**

While on the one hand we can see the merit in basing the rating on initial inspections only, as this will focus the minds of business on ensuring that standards are maintained at an appropriate level on a continuous basis, we also appreciate that the opportunity to improve on the initial rating at an early stage will encourage businesses to expedite necessary improvements.

Also, having made necessary improvements at an early stage, it would seem fair for this to be reflected through the hygiene rating, recognising that the score for confidence in management may take time to improve.

The standstill period, in addition to allowing improvements to be made and to bed down, will ensure that the lower initial performance of a business is recognised, if only for a shorter period, and help to reduce the risk of businesses merely responding knee-jerk style to inspections.

The introduction of cost recovery for revisits for rescoring will further serve to encourage continuous compliance, due to the financial cost associated with 'not getting it right first time'. It should also have a bearing on the number of requests that local authorities should have to deal with, especially from businesses that were already good or generally satisfactory, where there would be little to deter requests otherwise. From a food safety perspective, revisits for rescoring to premises that are broadly compliant could not be justified.

Question 14

Do you agree that food authorities should be required to charge operators the reasonable cost of undertaking a re-rating inspection? Please provide reasons for your answer.

Yes. See answer to question 13 above. However, we are mindful that this would disadvantage smaller businesses, where the costs would be most disproportionate to turnover, and those in rural locations, due to the additional mileage associated.

Question 15 Please tick

Should any food establishments be excluded from the charge for re-rating inspections? Please provide reasons for your answer. If you answered yes, which establishments do you think should be excluded?

On balance, no.

We do not consider it appropriate to exempt other local authority premises from these charges. While such charges would in practice merely result in money being moved from one part of the organisation to another, the prospect of the department responsible for ensuring food hygiene compliance having to fund any requests for rescoring from within their own managed budgets will further support the proactive management of food hygiene standards.

Also, if the charge was waived for premises in the voluntary sector, businesses would have nothing to lose in requesting revisits for rescoring, even where a score of 3 or 4 was awarded. This might lead to significant additional work for local authorities that could not be justified on food safety grounds. Arguably the score awarded to businesses in the voluntary sector might be viewed as less critical, as they are less likely to be operating in competition with others.

Question 16

Do you have any comments on the duties of the FSA? Are there any omissions? If so, please provide details.

We would like to see the FSA under a duty to maintain a national database of risk rating scores, and to develop a mobile application so that consumers can access the information easily using smart-phone technology.

Question 17

Do you think it is useful for a sticker to be displayed which informs customers that a food hygiene rating has not yet been issued to the food business establishment? Please provide reasons for your answer.

Yes, as this will indicate where an inspection is awaited, rather than suggesting a failure to display the risk rating score, and mean the public are less suspicious of premises in the interim.

Question 18

Is a level 3 fine (currently £1000) in relation to offences committed under the legislation appropriate? Please provide reasons for your answer. If you do not think £1000 is an appropriate level of fine, please provide details of what you think the fine should be.

Yes, on the understanding that prosecution would be reserved for the more serious cases or persistent offenders.

Question 19

Do you think food authorities should have the ability to issue Fixed Penalty Notices? Please provide reasons for your answer.

Yes, subject to LAs taking an educative and persuasive approach initially. The use of FPN will allow local authorities to deal quickly and easily with the failure to properly display food hygiene ratings, without the time and expense involved in bringing matters before the courts. The use of FPNs will mean that the provisions are far more likely to be enforced.

Question 20

Do you consider the discounted penalty (£150) for early payment (within 14 days) of a Fixed Penalty Notice provides an appropriate discount for early payment? Please provide reasons for your answer.

Yes, the discount would seem appropriate.

Question 21 Please tick

Do you agree with the preferred option in the Regulatory Impact Assessment (option 4 – Introduce the mandatory scheme with cost recovery for food hygiene re-rating inspections)? Please provide reasons for your answer. If you answered no, please provide further details.

Yes.

The introduction of a scheme that mandates the display of the food hygiene rating scores, will serve to maximise the intended outcomes of the scheme, making the information accessible to all (viz. the significant percentage of the population that are unable/do not utilise the internet, especially the elderly who a significant at risk group from a food safety perspective) and at a point where spontaneous decisions can be influenced.

The introduction of cost recovery for revisits for rescoring will further serve to encourage continuous compliance, due to the financial cost associated with 'not getting it right first time'. It should also have a bearing on the number of requests that local authorities should have to deal with, especially from businesses that were already good or generally satisfactory, and help ensure that the scheme remains viable alongside other competing LA demands.

Question 22

Do you agree with the estimated costs/benefits regarding the implementation of this Bill? Please provide reasons for your answer. If you answered no, please supply

evidence to support your views.

Yes, the costs and benefits seem reasonable, although we are unclear how the predicted number of requests for revisits for rescoring, if the scheme is made mandatory, has been determined.

Question 23

Do you have any comments on the expected costs to food businesses and food authorities?

We have no further comments.

Question 24

Please provide your comments on the impact that the introduction of a mandatory food hygiene rating scheme will have on: small businesses, the voluntary sector, equality, sustainable development, rural issues and the Welsh Language.

We are mindful that the proposed charges that will be applied where businesses choose to request a revisit for rescoring would disadvantage smaller businesses, where the costs would be disproportionate to turnover, and those in rural locations due to the additional mileage associated.

While we recognise that it is ultimately an option open to businesses, those who choose not pursue this option due to the disproportionate cost involved might be placed at a disadvantage when compared to bigger business competitors.

The impact on the voluntary sector when requesting revisits for rescoring is likely to be greater and therefore might prove more dissuasive. However, the score itself might be less significant from a competition stand-point.

We consider the scheme in general to support sustainable development by promoting businesses that are run in a sustainable manner, having regard to the health interests of the population, at the same time protecting them from the activities of less scrupulous operators who might otherwise look to gain commercial advantage by cutting corners in relation to hygiene controls, placing the health at the public at risk.

We do not consider the proposed scheme to present any issues in relation to equality or the Welsh Language.