

Which?

Consultation Response

Legislation Office
National Assembly for Wales
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Food Hygiene Rating (Wales) Bill

Which? appreciates the opportunity to submit comments on the Food Hygiene Rating (Wales) Bill to the Health and Social Care Committee. We have called for hygiene ratings to be available to consumers for many years and are very supportive of the Bill. In order for the scheme to work as effectively as possible, both in terms of enabling people to make informed choices about where they eat and raising the standards of food businesses, hygiene ratings need to be clearly visible on the premises as well as on local authority web-sites. The Bill will ensure that this is the case and will be an important step towards reducing food poisoning in Wales.

As suggested in the consultation letter, we have attached the comments that we made to the Welsh Government on the draft Bill. However, we have made additional comments below on the changes made to the Bill since its original draft which are outlined in Annex 2.

- We welcome the extension of the scheme to businesses that supply food to other businesses. This will help businesses ensure that they are buying from hygienic premises and will also help to raise standards in the businesses supplying them.
- We appreciate why the Bill will only apply to businesses that are registered in Wales and so will not cover transient businesses such as mobile traders registered outside Wales. It will, however, be important to monitor that this is not used as a loophole to avoid the scheme.
- It is positive that food authorities will be required to prepare a programme of inspections of food business establishments in their area which will determine whether an inspection is required and inspection frequency.
- We do still think that the requirement to retain the food hygiene certificate would be a useful measure to safeguard against any fraudulent practices.
- The appeal process proposed seems reasonable.
- We support greater clarity around the right to reply and re-rating inspection procedures,
- We welcome the provision to require businesses to verbally inform people of the hygiene rating of their establishment if requested. This will ensure that the scheme works effectively for people with impaired vision and that it is possible to find out the rating by telephone.

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Which? Submission to the Welsh Government On-line Consultation

Question 1: Do you have any comments on the first clause in the Bill (Welsh Food Hygiene Rating Scheme)?

Which? strongly supports this initiative by the Welsh Government to make it mandatory to have a hygiene ratings scheme and for businesses to display their ratings. Hygiene ratings enable consumers to make informed choices about where to eat and evidence from other countries shows that they drive up standards and reduce incidence of food poisoning. As the consultation document makes clear, provision of information about hygiene ratings on local authority web-sites alone does not help consumers who do not have access to the internet or those who decide to spontaneously eat out. While some businesses voluntarily display their hygiene ratings, many do not and it is likely to be the poorer performing businesses that do not display them. We have no specific comments on the first clause.

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?:

Yes. We think that it is fair to include ratings carried out prior to the commencement of the scheme provided that these are not out of date ie. they fit with the risk-based schedule of inspections.

Question 3: Do you agree that all food businesses supplying food directly to consumers should be included in the scope of the FHRs?:

The scheme should apply to all businesses that are required to register as food businesses.

Question 4: Are there any food business establishments that provide food directly to consumers that you think should be exempt from the FHRs?:

No. We are not aware of any if it is based on businesses required to register.

Question 5: Should those businesses involved in food business-to-business trade be included in the scope of the FHRs?:

Yes. The priority should be consumer-facing businesses, but there are benefits from greater transparency across the supply chain more broadly. This would benefit consumers by helping to raise standards in a wider range of food businesses. It would also ensure that businesses had a clearer understanding of the standard of hygiene of their suppliers which would also help to provide greater consumer protection.

Question 6: Do you have any comments on the appeals process including the timescales? Please provide details of how the appeals process could be strengthened.

The appeals process as described seems reasonable.



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?:

Some people may want more information that helps to explain the ratings in more detail. Providing a summary of the inspection report will be a useful way for consumers to understand how the ratings are given and to understand the differences between businesses.

Question 8: Do you think the operator should be required to display the FHRS sticker at their establishment in a place where consumers can see it easily?:

Yes. It is important that people can see the ratings clearly so that it can help inform their choice of where to eat. The rating should therefore be shown prominently at the point where people are likely to make the decision about whether to enter a restaurant or food business. This is therefore likely to be on or close to the main door of the business.

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?:

Yes.

Question 10: Do you think that the list of offences is reasonable?:

Yes.

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?:

Yes. This will help to ensure the validity of the rating sticker.

Question 12: Do you think the publication of the "right of reply" gives sufficient voice to the operator?:

Yes. The hygiene ratings scheme should be applied consistently. If a business operator disagrees with the rating they can appeal. A right to reply option therefore gives the operator an additional way of explaining how they intend to respond.

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?:

Yes. Allowing for re-ratings should act as a way of helping to raise standards. It will also mean that consumers have accurate information about the hygiene standards of the business.



Question 14: Do you agree that food authorities should be required to charge operators the reasonable cost of undertaking a re-rating inspection?:

Yes. There is a risk that allowing re-ratings could divert scarce local authority resources away from the businesses that require most attention to those that want to be re-rated. Allowing local authorities to charge the reasonable cost of undertaking a re-rating inspection should help to ensure that this is not the case.

Question 15: Should any food establishments be excluded from the charge for re-rating inspections?

We are not aware of any circumstances where this should be the case.

Question 16: Do you have any comments on the duties of the FSA? Are there any omissions? If so, please provide details:

We agree with the duties of the FSA described. We also agree that the scheme should be evaluated every three years.

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?:

Yes. This should be allowed if requested by the business.

Question 18: Is a level 3 fine (currently £1000) in relation to offences committed under the legislation appropriate?:

No. We do not consider that this is sufficient deterrent. A low rating could have a significant impact on a business's custom and so it is important that the fine is set at a level that will provide enough of a deterrent relative to the business that is likely to be lost.

Question 19: Do you think food authorities should have the ability to issue Fixed Penalty Notices?:

Yes. We consider that this would be a very useful way of helping to ensure compliance which will be a lot less resource intensive. It should not, however, be a substitute for the more formal prosecution route where this is required.

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?:

Yes.

Question 21: 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)?:

For the reasons already outlined, we consider that this will improve consumer protection and also ensure that local authorities are able to re-rate businesses when requested without



this impacting on the resources they have to tackle the most high-risk businesses within their area.

Which?
June 2012