

Response to Stage 1 Consultation on the Food Hygiene Rating (Wales) Bill

Introduction:

This response is provided on behalf of the All Wales Food Safety Technical Panel which is a sub group of and reports to the Welsh Heads of Environmental Health.

Consultation Questions

General

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

Yes

The current voluntary scheme is having an impact. It is proving to be a useful tool in driving up food hygiene standards across Wales. Businesses generally are keen to achieve high ratings and the scheme provides a useful, easy to understand framework within which all businesses have the potential to achieve them. The experience of officers operating the scheme is that generally, those food businesses which did not previously afford food hygiene and safety matters the highest priority are now giving them greater priority than they did before the scheme was introduced.

However there are two major shortcomings associated with the current scheme. The first is that there is no requirement for businesses to display their ratings and the second is that participation in the scheme is voluntary on the part of local authorities. The impact of these shortcomings are that i) many businesses chose not to display their ratings on their premises thus denying the public the opportunity to make informed choices about where they eat and purchase food(recent Food Standards Agency research showed that only 31% of businesses were voluntarily displaying their rating and this fell to 6% for those businesses with the poorest ratings of 0, 1 or 2) and ii) whilst currently all 22 local authorities in Wales are participating in the voluntary Scheme it is a possible that future budgetary pressures will mean that the current situation is not sustainable. Putting the scheme on a statutory footing will assist in safeguarding local authority resources allocated to the food safety function in the future.

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

Yes

The Bill establishes a statutory requirement for food authorities to operate a food hygiene rating scheme and places a duty on food businesses to display their food hygiene ratings at their establishments ensuring consumers are provided with the information they need to make informed choices about where they eat or buy food.

The Bill provides safeguards for businesses by way of the right of appeal, the right of reply and the ability to request a revisit for the purpose of re-rating following improvements. A further safeguard for businesses is provided in section 13 whereby the Food Standards Agency will have a duty to monitor and audit the implementation and operation of the scheme. The Bill also addresses local authority concerns in relation to the costs of delivering the scheme by introducing the ability to charge for re-rating visits requested by businesses.

We are particularly pleased that our experience of delivering the current scheme has informed the development of the Bill. The amendments to the Bill as a result of consultation on the draft are welcomed without exception. The inclusion of business-to-business trade premises is particularly valuable and will assist in procurement decisions in both the public and private sector. The requirement in section 8 for persons requesting food hygiene rating information to be provided with it verbally is also welcomed as it not only ensures the visually impaired can access the information but those ordering takeaways can be provided with the information prior to placing their order.

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?

Yes

The provision in section 3 (2) whereby Welsh Ministers may by regulations provide for a food hygiene rating to be based on an assessment of the food hygiene standards of an establishment carried out prior to the commencement of the Act is particularly welcomed and will facilitate a smooth transition between the existing scheme and the new one.

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

The measures will ensure that ALL businesses display their rating - not merely those that chose to do so thus giving consumers the information they require to make better informed choices.

The scheme will provide an incentive for businesses to improve and our experience with the current scheme is that generally, businesses that achieve low ratings afford greater priority to improvements than was previously the case. The current scheme appears to be emerging as a useful tool in assisting larger, national businesses to identify failings at a local level.

The proposed measures will place the scheme on a statutory footing thereby raising the profile within Local Authorities and helping to ensure that it is adequately resourced.

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

A potential barrier to implementing the Bill would be a failure on the part of food authorities to resource the work required to deliver the scheme. By making participation mandatory for food authorities the Bill has sought to take account of this.

Powers to make subordinate legislation

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)?

These are supported.

Financial Implications

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

The additional burden to local authorities of carrying out re-visits for the purpose of re-rating food businesses has been acknowledged in the Bill which allows local authorities to make a charge for this service.

Other comments

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

Yes

Section 4(2) has the potential to cause confusion on the part of businesses. The current system used to rate a business is based on scores against 3 criteria - how hygienically the food is handled, the condition of the structure of the building and how the business manages and records what it does to ensure food is safe. In the Bill the same criteria are used but (c) management and (d) control procedures are specified separately. In order to reflect as closely as possible the current scheme it is recommended that (c) and (d) in the Bill are combined.

Section 8 of the Bill places a duty on the **operator** of a food business establishment to comply with a request by a person to be informed verbally of the food hygiene rating of the establishment. The operator is clearly defined in section 2 (5). It is felt that this requirement should be broadened to ensure information relating to the food hygiene rating can be obtained verbally from the food business when the operator is not available.

Section 2 (5) in relation to the definition of 'food business establishment' - it is recommended that the term '**in Wales**' is inserted so it reads 'or approved by a food authority **in Wales** by virtue of Article 4 of Regulation (EC) No 853/2004

Section 7 refers to a sticker. In the case of some food businesses where there may be more than one entrance or for example the premise is a drive-through the term sticker(s) may be more appropriate.