

Lesley Griffiths AC / AM  
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref LF/LG/0204/12

David Melding AM  
Chair of the Constitutional and Legislative  
Affairs Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

18 June 2012

Dear David,

Thank you for your letter of 29 May, inviting me to give evidence to the Committee regarding the Food Hygiene Rating (Wales) Bill. I am pleased to accept your invitation to attend the Committee meeting on 2 July at 3:30.

I would like to provide the following information to assist the committee prior to our meeting as requested.

### 1. What impact do you consider the Bill will have?

The Food Hygiene Rating (Wales) Bill will establish a mandatory food hygiene rating scheme for Wales. The scheme provides for food authorities to inspect and produce food hygiene ratings for food business establishments in their area against criteria published by the Food Standards Agency. The Bill allows for a food business establishment to appeal against its food hygiene rating and comment on it. A food authority must inform the FSA of the food hygiene rating which is published on the FSA website. The food business establishment will inform the public of its food hygiene rating by displaying a sticker at their premises. The Bill introduces criminal offences punishable by a fine or fixed penalty notice and allows food businesses establishments to request a re-rating inspection in certain circumstances. The Bill also introduces powers and responsibilities of food authorities and the FSA, and responsibilities of operators of food business establishments. The Bill includes provision for those establishments that are involved in food business-to-business trade to be included in the scope of the scheme.

I consider that the proposals in the Bill will have a positive impact on the lives of people in Wales. I am very supportive of the introduction of a mandatory food hygiene rating scheme for Wales and believe that it will raise food hygiene standards in Wales and benefit consumers by allowing them to make informed choices of where to eat and shop for food. I consider that food businesses will raise their hygiene standards in a bid to maintain and attract more business.

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Chapter 3 of the Explanatory Memorandum sets out the purpose and intended effect of the Food Hygiene Rating (Wales) Bill. I draw your particular attention –

- paragraphs 17 to 20 with regard to who is affected by the Bill.
- paragraphs 21 to 23 with regard to the objectives in relation to the Bill.
- paragraph 26 with regard to the risks/hazards if the legislation is not made.

## **2. What powers are contained in the Bill allowing Welsh Ministers to make subordinate legislation?**

The Welsh Ministers have regulation making powers in the Bill. Regulations will provide details on the key issues of the form of the food hygiene rating sticker, the location and manner where the sticker should be displayed at different types of establishment and the categories of food business establishment that may be exempt from rating.

I carefully considered the Health and Social Care Committee's request to publish the draft regulations earlier than the anticipated completion of the Stage 2 proceedings. You will be aware from the timetable agreed with the Business Committee that this is expected to be in November 2012.

Whilst I am extremely sympathetic to the Committee's request, to bring forward the publication of a formal consultation on these regulations (which would be the necessary outcome of publishing the draft regulations) would divert resources away from other necessary work relating to this Bill and other legislative priorities within the Department for Health, Social Services and Children. I am also concerned that it may cause duplication of consultation if the relevant powers in the Bill change in any way at Stage 2 of the Assembly's consideration. I would not want confusion to arise for stakeholders, or for stakeholders to be overburdened in preparing consultation responses. We know that stakeholders are very keen to see this legislation work, and take a great deal of time and effort in their responses to consultation in this area.

However I am also very mindful of the Committee's remit to consider whether the Bill contains a reasonable balance between the powers on the face of the Bill and the powers conferred on Welsh Ministers to make regulations. In order to assist the Committee's deliberations I provided a detailed policy statement on my proposals for the content of the regulations. A copy is attached at Annex A.

This policy statement reflects the basis on which the development and preparation of draft regulations is being undertaken. It will also be used by my officials to work with stakeholders in the development of the drafting of the regulations prior to publication for consultation.

## **3. Why those matters are being dealt with by enabling powers rather than on the face of the Bill?**

The regulations will prescribe matters of detail that may change from time to time. It is therefore more appropriate to put these matters in regulations which can be updated as required in order to provide the flexibility needed to implement the scheme.

**4. Why the affirmative or negative resolution has been chosen to exercise the powers in each case?**

The paper at Annex A sets out the Bill's regulation making powers and their procedure. Negative resolution has generally been chosen for matters of detail that might require updating from time to time. Those powers requiring affirmative resolution are those which amend the scope of the Bill for example the power to exempt certain categories of business from rating. I confirm that no powers are exercisable by way of the 'super-affirmative procedure'.

**5. How will the powers contained in the proposed Bill change the powers currently held by Ministers?**

The Bill gives Welsh Ministers new powers to make provision for the production of food hygiene ratings of food business establishments; the display of information about food hygiene ratings; the enforcement of requirements to display information; and for connected purposes. The Bill will not change the existing powers of Welsh Ministers.

**6. How does the Government intend to implement these powers?**

The provisions in this Bill will be commenced by way of a commencement order. I may appoint different commencement dates for different purposes including different dates for different categories of food business establishment. The inclusion of food business-to-business trade in the scope of the scheme who have not been subject of the FSA voluntary scheme may require a different commencement date. I consider it appropriate that the guidance should be issued at the same time as the main provisions are commenced.

The Government anticipates that the Food Hygiene Rating (Wales) scheme will be in place in November 2013. The Bill imposes powers and responsibilities on food authorities and the Food Standards Agency and responsibilities on operators of food business establishments to implement the scheme. Regulation making powers are expected to be brought into force and be commenced to coincide with the commencement of the Bill's provisions.

I trust that the committee finds this paper helpful and I look forward to discussing this further on 2 July.

Regards  
Lesley

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