

## Health and Social Care Committee

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Meeting Venue:  
**Committee Room 3 – Senedd**

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Meeting date:  
**12 July 2012**

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Meeting time:  
**10:00**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



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### Agenda

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#### **1. Introductions, apologies and substitutions (10:00)**

#### **2. Consideration of a motion notified to the Committee in accordance with Standing Order 17.44 (10.00 – 10.05)**

**Elin Jones AM (Ceredigion)**

To propose that the Health and Social Care Committee:

Allocates time at its next meeting on 18 July 2012 to scrutinise the Health Minister, her officials and, if available, Professor Marcus Longley, on the recently published correspondence between Welsh Government officials and Professor Longley.

#### **3. Inquiry into the implementation of the NSF for diabetes in Wales and its future direction – Consideration of terms of reference (10:05 – 10:15)** (Pages 1 – 6)

HSC(4)–21–12 paper 1

#### **4. Food Hygiene Rating (Wales) Bill: Stage 1 – Evidence Session 2 (10:15 – 11:15)** (Pages 7 – 20)

**Food Standards Agency Cymru**

Steve Wearne – Director, Food Standards Agency Cymru

HSC(4)–21–12(p2)

## **Consumer Focus Wales**

Liz Withers – Head of Policy, Consumer Focus Wales  
HSC(4)-21-12(p3)

## **5. Food Hygiene Rating (Wales) Bill: Stage 1 – Evidence Session 2 (11:15 – 12:15) (Pages 21 – 23)**

### **Welsh Local Government Association and Directors of Public Protection**

Simon Wilkinson – Policy Officer – Regulatory Services, Welsh Local Government Association

Graham Perry – Monmouthshire County Council/Directors of Public Protection Wales  
HSC(4)-21-12(p4)

## **6. Papers to Note (12:15) (Pages 24 – 29)**

HSC(4)-21-12(p5) – Letter from Chair to Minister for Health and Social Services on Food Hygiene Rating (Wales) Bill dated 31 May 2012

HSC(4)-21-12(p6) – Letter from Minister for Health and Social Services to Chair on Food Hygiene Rating (Wales) Bill dated 18 June 2012

HSC(4)-21-12(p7) – Letter from Chair to Minister for Health and Social Services on Food Hygiene Rating (Wales) Bill dated 21 June 2012

Committee Reference: HSC(4)-21-12

## Health and Social Care Committee

### HSC(4)-21-12 paper 1

### Inquiry into the implementation of the NSF for diabetes in Wales and its future direction - Suggested Terms of Reference

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#### Introduction

The Committee agreed at its meeting on 20 June 2012 to launch an inquiry to examine the progress made on implementing the *National Service Framework for Diabetes in Wales* across the local health boards and its adequacy and effectiveness in preventing and treating diabetes in Wales. The Committee will also consider potential future actions which are required to drive this agenda forward.

The purpose of this paper is to present the Committee with some background information, suggested terms of reference and suggested witnesses.

This briefing has been produced by the Research Service for use by the Health and Social Care Committee.

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Research  
Service

## Background information

### *National Service Framework (NSF)*

The NSF programme was established to improve services by setting national standards to drive up service quality and tackle variations in care. Each NSF sets national standards, identifies the interventions and actions that will help meet those standards and the milestones against which NHS performance will be measured.<sup>1</sup>

### *NSF for Diabetes*

In March 2003 the Welsh Government published *A National Service Framework for Diabetes in Wales – Delivery Strategy*, a 10 year plan designed to ‘tackle the increasing prevalence of the condition, improve services and maximise outcomes for those diagnosed with diabetes’.<sup>2</sup> It sets out milestones, performance management arrangements, the actions to be taken by local health boards (LHBs) and social care systems and the underpinning programmes to support local delivery. In 2008, LHBs were asked to produce action plans mapping the activity and setting targets leading to full compliance with the NSF standards by March 2013.

## Diabetes and its prevalence in Wales

Diabetes mellitus, often referred to simply as diabetes, is a chronic disease found in two major forms: type 1 and type 2. There are more than 160,000 diagnosed diabetes sufferers in Wales, affecting all age groups, with an estimated 66,000 more people that have the condition but have not yet been diagnosed. If not properly treated, diabetes can lead to heart disease, stroke, blindness, kidney failure and foot ulceration leading to amputation.<sup>3</sup>

- Type 1 is the rarer of the two diabetes forms; in Wales approximately 15 per cent of people diagnosed with diabetes suffer from type 1. It is characterised by the destruction of the insulin producing  $\beta$ -cells of the pancreas by the body’s own immune system.  $\beta$ -cell destruction results in an inability of the pancreas to produce insulin, allowing glucose to build up in the blood. It mostly develops in children, young people, and young adults.
- Approximately 85 per cent of people with diabetes have type 2. Symptoms develop when the body does not respond properly to the presence of insulin (insulin resistance), and is sometimes combined with a deficiency in absolute insulin levels. It is most

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<sup>1</sup> Welsh Government, [National Service Framework for Diabetes \(Wales\) Standards](#) [accessed 03 July 2012]

<sup>2</sup> Welsh Government, [National Service Framework for Diabetes in Wales – Delivery Strategy](#), March 2003 [accessed 29 June 2012]

<sup>3</sup> Diabetes UK, [Diabetes in the UK 2010: Key statistics on diabetes](#), March 2010 [accessed 02 July 2012]

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commonly diagnosed in adults over the age of 40 years (although it is increasingly found in children and young adults).<sup>4</sup>

### *Causes and treatment*

- The cause of type 1 diabetes is not currently known, although there are most likely hereditary genetic factors involved.<sup>5</sup> Sufferers require daily injections of insulin, failure to do so may result in hyperglycaemia (too much blood sugar), leading to diabetic ketoacidosis and potentially life-threatening complications.
- Exact causes of type 2 diabetes are not yet fully understood, although poor nutrition and being over-weight are known risk factors.<sup>6</sup> Symptoms are often less marked than those of type 1. As a result, the disease may not be diagnosed until several years after onset, once complications have already arisen.<sup>7</sup> For many people diagnosed with type 2 diabetes, the first approach to treatment is the establishment of positive lifestyle changes. However, type 2 diabetes usually gets worse over time, and diet and exercise may become insufficient to control blood glucose.<sup>8</sup> Hyperglycaemia can be reversed by a variety of measures and medications that improve insulin sensitivity, or reduce glucose production in the liver.

### **Guidance**

- In July 2004 the National Institute for Health and Clinical Excellence (NICE) published *Type 1 diabetes: diagnosis and management of type 1 diabetes in children, young people and adults*<sup>9</sup> giving guidance on a variety of aspects concerned with management of type 1 diabetes.
- In May 2007 the Welsh Government published *Designed for the Management of Type 1 Diabetes in Children and Young People in Wales: Consensus Guidelines*<sup>10</sup>, outlining the care that should be provided for children and young people with Type 1 diabetes.
- In March 2008 NICE published clinical guidance on *Diabetes in pregnancy*<sup>11</sup> which provides information on the management of diabetes and its complications from pre-conception to the postnatal period.

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<sup>4</sup> Diabetes UK, [\*Diabetes in Wales\*](#) [accessed 03 July 2012]

<sup>5</sup> Huber A et al., (2008), [\*Joint Genetic Susceptibility to Type 1 Diabetes and Autoimmune Thyroiditis: From Epidemiology to Mechanisms\*](#), *Endocrine Reviews*, 29 (6), 697-725.

<sup>6</sup> Diabetes UK, [\*Causes and risk factors\*](#) [accessed 02 June 2012]

<sup>7</sup> World Health Organization, [\*Diabetes: Fact sheet no. 312\*](#), August 2011 [Accessed 02 July 2012]

<sup>8</sup> NHS Choices, [\*Diabetes, type -2\*](#) [accessed 02 July 2012]

<sup>9</sup> National Institute for Health and Clinical Excellence, [\*Type 1 diabetes: diagnosis and management of type 1 diabetes in children, young people and adults\*](#), July 2004 [accessed 03 July 2012]

<sup>10</sup> Welsh Government, [\*Designed for the Management of Type 1 Diabetes in Children and Young People in Wales: Consensus Guidelines\*](#), May 2007 [accessed 03 July 2012]

<sup>11</sup> National Institute for Health and Clinical Excellence, [\*Diabetes in pregnancy\*](#), March 2008 [accessed 03 July 2012]



Committee Reference: HSC(4)-21-12

- In October 2008 the Welsh Government published *Designed for the Management of Adults with Diabetes Mellitus across Wales: Consensus Guidelines*<sup>12</sup>, in order to support the implementation of the Diabetes NSF Wales quality requirements.
- In 2008 the Royal College of Physicians published *Type 2 Diabetes*<sup>13</sup> providing national clinical guidance for the management of type 2 diabetes in primary and secondary care.
- In March 2011 NICE published *Quality Standards Programme – Diabetes in adults*<sup>14</sup> providing advice on the clinical management of diabetes in adults excluding children, young people and pregnant women.
- In 2012 the Health and Social Care Information Centre published *National Diabetes Audit 2010-2011 – Report 1: Care Processes and Treatment Targets*<sup>15</sup> providing information on diabetes prevalence, epidemiology, and care in England and Wales.
- In 2012 the Health and Social Care Information Centre published *National Diabetes Inpatient Audit 2011*<sup>16</sup> providing information about the quality of care of inpatients with diabetes in England and Wales.

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<sup>12</sup> Welsh Government *Designed for the Management of Adults in Diabetes Mellitus across Wales: Consensus Guidelines*, October 2008 [accessed 03 July 2012]

<sup>13</sup> Royal College of Physicians *Type 2 Diabetes*, 2008 [accessed 03 July 2012]

<sup>14</sup> National Institute for Health and Clinical Excellence *Quality standard topic: Diabetes in adults*, March 2011 [accessed 03 July 2012]

<sup>15</sup> Health and Social Care Information Centre *National Diabetes Audit 2010-2011 – Report 1: Care Process and Treatment Targets*, 2012 [accessed 03 July 2012]

<sup>16</sup> Health and Social Care Information Centre *National Diabetes Inpatient Audit 2011*, 2012 [accessed 03 July 2012]



Committee Reference: HSC(4)-21-12

### **Suggested Terms of Reference**

To examine the progress made on implementing the *National Service Framework for Diabetes in Wales* across the local health boards and its adequacy and effectiveness in preventing and treating diabetes in Wales.

The Committee will also consider potential future actions which are required to drive this agenda forward.



Committee Reference: HSC(4)-21-12

## Witnesses

It is suggested that the Committee takes evidence from the following:

- Public sector bodies e.g. Minister for Health and Social Services and/or the Chief Medical Officer, LHB Diabetes Planning and Delivery Groups, Diabetes Retinopathy Screening Service Wales, Public Health Wales;
- Professional bodies e.g. Royal College of Nursing Wales, British Medical Association, Community Pharmacy Wales;
- Third sector organisations e.g. Diabetes UK Cymru, Diabetes Peer Support, Juvenile Diabetes Research Foundation, Diabetes Research Network Wales

Members might also wish to seek written evidence from interested parties in addition to the general call for evidence.



## CONSULTATION ON THE FOOD HYGIENE RATING (WALES) BILL

### WRITTEN EVIDENCE FROM THE FOOD STANDARDS AGENCY TO THE HEALTH AND SOCIAL CARE COMMITTEE OF THE NATIONAL ASSEMBLY FOR WALES AT STAGE 1 OF ITS SCRUTINY

#### Executive summary

Similar mandatory schemes that operate in other countries have demonstrated benefits in terms of improved food hygiene standards in food businesses, and reduced levels of serious foodborne illness. There are significant grounds to believe that these benefits cannot be fully realised by the current voluntary scheme.

#### Introduction

The Food Standards Agency (FSA) is a UK non-ministerial government department responsible for protecting public health in relation to food. We advise all four UK administrations and work closely with local authorities across the UK to ensure requirements of food safety regulations are met.

The Food Hygiene Rating Scheme (FHRS), which currently operates in Wales, England and Northern Ireland, was developed by the FSA as a voluntary scheme in the first instance, with the objective of ensuring that consumers have the information and understanding they need to make informed choices about where they eat. A similar scheme, the Food Hygiene Information Scheme, operates in Scotland.

The scheme provides consumers with easily understandable information on the hygiene standards of food business so they can make better informed choices about where they eat out or shop for food. A rating is given to each food premises that sells or provides food to consumers, as part of the programmed inspection by local authority food law enforcement officers. A sticker and certificate is provided to the food business recording the rating given. The food business may display the sticker and/or certificate at the premises. Such display is currently voluntary, although all ratings are published online at [www.food.gov.uk/ratings](http://www.food.gov.uk/ratings).

The FHRS was launched by local authorities in Wales in October 2010, and is being implemented by all 22 local authorities. There are over 20,000 ratings of Welsh food businesses available on the UK national website so far, representing two-thirds of all establishments selling food direct to consumers in Wales.

FSA officials have worked closely with the Welsh Government on the Food Hygiene Rating (Wales) Bill, one of the effects of which would be to make mandatory the display by food businesses in Wales of their food hygiene rating.

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

Yes.

The publication of food hygiene ratings is an effective public health measure. Ratings schemes similar to the FHRS operate in other countries and have been evaluated. In Denmark, there has been an increase in the proportion of businesses with good food hygiene from 70% to 86% since a scheme launched in 2002; in California there was a 13% drop in hospitalisations due to food-borne disease after a scheme was introduced. Both the scheme in Denmark and that in California incorporated mandatory display of ratings in food premises.

There will inevitably be a gap between voluntary and mandatory schemes in terms of the availability of information to consumers at the point they make a purchase decision:

- although all ratings are available online, 33% of households in Wales do not have a home internet connection, and 73% of people aged 65 or over do not use the internet;
- many consumers will make spontaneous decisions on where to eat, yet only 6% of a sample of food businesses in Wales with a food hygiene rating of 0, 1 or 2 (below generally satisfactory) display the ratings in their premises voluntarily, compared with 66% of those businesses with the highest rating of 5.

We know that consumers favour mandatory display on food hygiene ratings by food establishments. An FSA survey in 2008 found that 95% of the public wanted to see mandatory display. Food industry respondents to a formal consultation later that same year did not agree.

For the above reasons, the Board of the FSA agreed at its open meeting in May 2012 that a mandatory approach to display of ratings would strengthen the FHRS and increase its potential to improve public health protection by increasing accessibility of the information to consumers, particularly in respect of lower-rated premises.

The FSA fully supports the ambition of the Welsh Government to provide a statutory basis for food hygiene ratings in Wales. The FSA will work with other Government Departments and stakeholders in England, Scotland and Northern Ireland to assess the potential impact of introducing parallel legislation once local authority adoption of schemes is universal in those countries, as it already is in Wales.

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

The Bill will not change the current system of inspections, or the frequencies at which inspections are undertaken by food authorities. A programme of inspections is a requirement of EU food law, and local authorities will continue to inspect business according to risk.

The Bill proposes a statutory duty on Welsh local authorities to participate in the scheme, replacing the current voluntary arrangements under which all Welsh local authorities operates the FHRS. Such a duty would ensure future consistency in the operation of the scheme across Wales, to the benefits of both consumers and food businesses. The statutory duties that are proposed for Welsh local authorities and for the FSA will help protect the future of the scheme and the anticipated public health benefits.

The most fundamental change is that food businesses in Wales will now be required by law to display their food hygiene rating prominently in their premises.

The current voluntary scheme covers businesses supplying food direct to consumers. It therefore applies to places where consumers eat out, including restaurants, takeaways, cafés, hotels, pubs, schools, hospitals and residential care homes. It also applies to places where consumers shop for food, such as supermarkets, bakeries, and delicatessens. The Bill proposes that the scope of the statutory scheme is extended to include business-to-business trade. The FSA recognises that consumers have a legitimate interest in the food hygiene standards of businesses that supply the places where they buy food – for example the premises that supply food to schools or care homes where their children or vulnerable relatives might eat. The Board of the FSA therefore agreed at its open meeting in November 2011 to consult widely on extending the scope of the current voluntary FHRS to include business-to-business trade. The first stage of this broad consultation, which is using consumer forum methodology to explore consumer views, is currently underway.

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

Two of the potential barriers to implementation and successful delivery of a statutory food hygiene rating scheme that is effective in protecting public health are:

- a lack of consistency in the application of the scheme by local authorities;
- poor awareness of the scheme amongst food businesses and consumers.

In order to tackle the first of these, the FSA has provided support to every Welsh local authority, including grant funding and materials to support local authority engagement with food businesses, throughout the process of adoption and

implementation of the current voluntary scheme on which the statutory scheme is based. The FSA also continues to provide a programme of training for local authority officers to support a consistent approach across Wales.

In order to raise awareness amongst food businesses, the FSA ran a publicity campaign between January and March 2010, including leaflets, posters, trade publication and radio advertising and promotion on the Agency's website. The aim of the campaign was to prepare businesses and to help them to achieve higher ratings when the national rating scheme was implemented in Wales later in 2010.

The FSA has also run two campaigns to promote the scheme to consumers in Wales. The first wave of publicity took place in March 2011 with the message "*Food hygiene is getting easier to spot*". The campaign included posters in telephone kiosks, radio advertisements and press advertorials. The second wave of publicity was in February 2012 with the message "*Food hygiene is now easier to spot*". In that wave, posters were displayed at bus stops and there were adverts and advertorials in publications across Wales. 48% of respondents in a survey of Welsh consumers reported being aware of the scheme after the 2012 campaign compared to only 36% after the 2011 campaign.

The Bill proposes new statutory duties on the FSA, including the promotion of the statutory scheme and provision of support to local authorities. The FSA notes that these duties would underpin our continuing work in this area, and welcomes them.

**What are your views on the powers in the Bill for Welsh Ministers to make subordinate legislation?**

The Bill makes provision for Welsh Ministers to provide, by means of regulations, for a statutory food hygiene rating "to be based on an assessment of the food hygiene standards of an establishment carried out prior to... commencement". The FSA strongly supports this provision. Without such a provision, there would be no means of applying the requirements for display to assessments made under the voluntary scheme – which already number in excess of 20,000 in Wales.

**What are your views on the financial implications of the Bill?**

The food hygiene rating given to a business is a reflection of how well it met the requirements of food law, when it was inspected by local authority officer. The rating given under the statutory scheme, as under the current voluntary scheme it would supersede, would be an assessment of legal compliance. The highest rating would be awarded to a food business that is fully compliant with food hygiene legislation. There are therefore no financial or other barriers for food businesses in Wales to achieving the highest rating, other than the cost of complying with existing food hygiene law.

# Health and Social Care Committee

## Food Hygiene Rating (Wales) Bill

### FHR 17 – Consumer Focus Wales (CFW)

#### About us

Consumer Focus Wales is the independent statutory organisation campaigning for a fair deal for consumers. We are the voice of the consumer and work to secure a fair deal on their behalf. In campaigning on behalf of consumers we aim to influence change and shape policy to better reflect their needs. We do this in an informed way owing to the evidence we gather through research and our unique knowledge of consumer issues.

We have a duty to be the voice of vulnerable consumers, particularly those on low incomes, people with disabilities, people living in rural areas and older people. In addition, we also seek to identify where other consumers may be disproportionately disadvantaged by a particular consumer issue or policy.

#### Overview

Consumer Focus Wales welcomes the opportunity to submit evidence to the Health and Social Care Committee to inform their consideration of the Food Hygiene Rating (Wales) Bill. We strongly support the proposals as outlined by the Welsh Government in the draft Bill and accompanying consultation. We have campaigned on the issue of mandatory display on food hygiene ratings for some time now in order to provide better information to consumers and to help them make more informed decisions about where they chose to eat. We believe these proposals provide a real opportunity to drive up standards in premises serving food and reduce foodborne illness. There is also strong consumer support for this proposal; in fact 94 per cent of people in Wales think it should be compulsory for food businesses to display their food hygiene rating score<sup>1</sup>.

We specifically welcome the provision within the Bill for Welsh Ministers to issue guidance to support the implementation of the Bill. We believe this is key in order that local authorities understand how this mandatory scheme will operate differently from the current Food Standards Agency (FSA) voluntary scheme. We would however highlight areas of concern that we feel need to be addressed within the draft Bill. Namely:

- We believe that clause 3 and resulting regulations should include provision for businesses to request additional stickers (restricted for their own use) where they have multiple entrances or have mobile units serving food to the public e.g. a catering van visiting offices.
- We disagree with the current proposed timelines for appeal within clause 5, believing that these are too long and will mean an necessary delay in consumers having access to ratings
- We also believe that in terms of the display of a rating, the presumption should be that a food business should display a rating immediately *unless* they chose to appeal (currently the provision is that they have 21 days to display)
- We believe that clause 7 should include a requirement for premises serving food display their Food Hygiene Rating Scheme (FHRS) on their promotional material.
- We have concerns about the delays to uploading of ratings onto the Food Hygiene Ratings Scheme website (clause 6).

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<sup>1</sup> Consumer Focus Wales commissioned Opinion Research Services (ORS) to undertake this work as part of their telephone omnibus survey. A total of 1,002 telephone interviews were conducted with a representative sample of adults aged 16 and over between 11<sup>th</sup> October and 17<sup>th</sup> October 2011

We are also disappointed to see that a requirement to provide further information about the reasons behind a score proactively to consumers through the FSA's Food Hygiene Rating Scheme website is missing; we feel this is important omission from the Bill.

The detail of our response, including our key concerns, are outlined below:

### **Clause 3- Food Hygiene Ratings**

We believe that clause 3 and resulting regulations should allow businesses to request additional stickers (restricted for their own use of course) where they have multiple entrances or have mobile units serving food to the public e.g. a catering van visiting offices.

In terms of what is communicated on a sticker, we believe that consideration should also be given to how new media will affect and can support, greater consumer engagement and empowerment through the scheme. For instance, FHRS stickers could have personalised QR Codes which will enable a consumer to scan the code and visit the relevant link to the FHRS website and find out more about the reasons behind a score or find an alternative premises locally. We hope resulting regulations will allow for this.

#### **Recommendation:**

Clause 3 should be amended to allow for:

- Food businesses to request additional stickers where they have multiple establishments or entrances

### **Clause 5- Right of appeal**

We are concerned that as a result of the consultation process on the Bill that the Welsh Government have decided to extend the appeal period for businesses to submit an appeal to a food authority against a rating (now 21 days) and also the time for a food authority to consider an appeal (now 21 days). We do not believe that adequate consideration has been given to the implications of these extensions.

Firstly we would point out that changes to these appeal periods (from the voluntary scheme) would have a knock on effect on when a new rating would be displayed and available to consumers. Specifically, if a food authority has 14 days to send out a notice, then a business has 21 days to appeal once they have received that notice. Following which a food authority has 21 days to consider that appeal. If all of these time periods were observed, this would mean that a new rating in this situation would not be displayed for 56 days.

Whilst we appreciate concerns were raised at consultation around the impact of holidays or either food operators or food authority representatives with responsibility for these issues needing time to respond, we feel that 21 days is excessive for the reasons noted above, the implication of which is significant delay to the consumer being able to view the new rating.

We felt the current timelines (under the voluntary scheme) of 7 days were reasonable and proportionate. However appreciating the concerns raised, perhaps extending this to 10 days (instead of 21 days) might be more appropriate.

#### **Recommendation**

The clause should be amended to reflect the following changes:

- (3) An appeal must be made within 10 days from the data of receipt of notification

- (6) A food authority must determine the appeal and notify the operator of the establishment of its decision within 10 days from the date the appeal was received

### **Clause 6: Notification and publication of food hygiene ratings**

Consumer Focus Wales would like to draw attention to the issue of time delay in notification and publication of food hygiene ratings within the mandatory scheme. The explanatory memorandum notes that the '*local authority informs the FSA of the food hygiene rating that it has awarded*' which enables the FSA to publish the ratings of all food business and for these to be made publically available on the FSA website. Furthermore the Bill itself notes that the FSA must be notified '*within the relevant period*' (sub clause 1).

The relevant period for the local authority to communicate the rating to the FSA noted within the Bill is 49 days from notifying the food business operator (assuming there is no appeal). This in practice means 63 days (some two months) after the initial food hygiene inspection (because the local authority has 14 days to notify the operator in the first place) to notify the FSA. .

Following which, the Bill requires the FSA to publish the rating on its website within 28 days of its receipt (3). **This means in practise that for any standard food hygiene inspection, the rating of that inspection is not required to be published on the FSA's Food Hygiene Ratings Scheme website for 91 days (approx 3 months) from the date of inspection (where there is no appeal from the food business operator).**

In the case of an appeal, as noted in the section detailing issues surrounding clause 5, currently the Bill allows for up to 56 days to elapse before a rating is displayed on the premises. But in the case of the FSA website, the Bill notes that the relevant period for the food authority to notify the FSA is 28 days after the determination of the appeal (sub clause 4b), following which the FSA would have 28 days to publish.

**This means that if a food business operator appeals, not only will the rating not be displayed at a premises for up to 56 days but the corresponding rating will not be visible to consumers for up to 112 days (approx 4 months).** It could be that this time lag before publication in the case of appeal is due to a lack of clarity in the Bill, however either way this is unacceptable and we ask that the Committee considers recommending not only are the appeal periods reduced (as discussed above) but also that these significant delays to publication of the rating on the food hygiene ratings website be reduced.

We are extremely concerned about these potential delays to publication of the food hygiene rating on the FSA's food hygiene ratings scheme website have been allowed for on the face of the Bill. Whilst we appreciate these are maximum periods, we do not consider these to be appropriate, given that both food operators and the FSA should be working to make ratings available to consumers at the earliest opportunity.

We also strongly believe that the rating on the FSA's website should correlate with the sticker on display at the food business as closely as possible, without doing so the scheme risks confusing consumers. We also believe that allowing for the incorporation of such delays within the system put the new scheme at real risk of not delivering for consumers.

We believe that the food authority should be able to upload (suppressed until the end of the appeal period) the proposed rating for the business at the same time as completing paperwork on the inspection itself. We then believe that the FSA should be able to publish this rating immediately at the end of the appeal period.

We would suggest therefore that the Bill is changed to reflect this by reducing the relevant period (sub clause 4) for the food authority to the following:

- a) if there is no appeal against the food hygiene rating, 10 days from the receipt by an operator of a food business establishment of notification of the food hygiene rating
- b) if an appeal is made, at the earliest opportunity after the determination of the appeal, to a maximum of 10 days

Given our understanding of the software systems used, we believe that ratings can be suppressed until they are able to be made publically available. Therefore a rating should be able to be uploaded when the paperwork is being prepared and sent out to the food business operator prior to any appeal. If there is no appeal then this would be published, if there was an appeal the rating would continue to be suppressed until this had been determined. Following which either the initial rating could be published or a new rating uploaded.

We also suggest that the Bill is changed to reflect a reduced time period for the FSA to publish within. We suggest it may be pertinent to not make this dependent on receipt of the information from the local authority, but instead place responsibility on the FSA to ensure that they publish by the end of the appeal period, or if an appeal is lodged, immediately after the determination of that appeal.

#### Additional issues

We also strongly believe that consumers should have greater access to information about the reasons behind a food hygiene rating score and that this information should be available to consumers through the FSA FHRS website, as well as alternative arrangements for those consumers who do not have access to the internet.

Currently consumers only have access to information about the reasons behind a rating through a Freedom of Information (FOI) request for a copy of the inspection report to the relevant local authority<sup>2</sup>. In our recent research, 92% of people in Wales told us they thought they should be able to access this information more easily than through an FOI request. 85% of these people think they should be able to access this information through the FSA's FHRS website.

At present, although people are entitled to request food hygiene inspection reports, in practise this is very difficult (as outlined in our 2011 report<sup>3</sup>) as often local authorities will not release inspection reports where they say there is the possibility of future prosecution. We agree to withholding reports if a prosecution is imminent, but most local authorities in Wales carry out only a handful of prosecutions each year. Despite this, we have found that some local authorities in Wales are operating an extremely cautious approach towards releasing reports.

In researching our 2011 report, we made requests to 11 authorities in Wales to ask for inspection reports for food businesses scoring two and below. Nearly one in four of all the reports we requested were withheld<sup>4</sup>, these included schools, nurseries, care homes and residential homes, as well as high risk businesses such as butchers selling raw and cooked meat.

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<sup>2</sup> With the exception of Staffordshire and Norwich which do make inspection reports available on their own sites

<sup>3</sup> Consumer Focus Wales (2011) Protecting Consumers from E.Coli O157: Second Annual Progress Report, page 43

<sup>4</sup> 17 withheld out of 72 requested



We also found an inconsistent approach towards dealing with our requests. Some local authorities released all reports including where revisits were pending, some authorities only released reports where no revisit was pending, and other authorities withheld some and released some, depending they said on how likely they thought an eventual prosecution would be.

As an aside, in discussing this issue with the Welsh Local Government Association (WLGA) it is clear that there is confusion amongst local authorities about how to handle such requests for information at present. They have noted that they would benefit from more guidance about when to release information that may be subject to/support further action by the local authority against the food business. We have called on the Welsh Government to seek to work with the FSA and local government on this important issue.

In practise therefore it is very difficult for consumers to find out why their local food establishment has a poor score.

Providing more information to consumers where places serving food to vulnerable groups have poor hygiene ratings such as schools, nurseries, playgroups, care homes and hospital is very important, especially those that receive public funding, as often consumers have no choice about whether to eat there and the most vulnerable and disadvantaged consumers have the least power to exercise choice. Such information can also enable consumers to campaign for improvements. For example in schools where low ratings are due to structural issues then pressure from parents and local publicity could lead to structural repairs becoming a priority of the local education authority. Widening public access to this information will also help to guard against disproportionate responses by giving families a better understanding of the exact reasons behind a particular poor rating.

We believe that if local authorities were required to make further detail available about the reasons for the score received by a premises, this would allow consumers to find out the reasons behind poor ratings immediately without the need for time-consuming information requests that are a burden for consumers and Environmental Health Officers alike.

Some Environmental Health Managers in Wales have previously told us they are in favour of placing inspection reports online as this would reduce the amount of time spent responding to Freedom of Information requests, which is currently diverting resources away from the front line.

We believe that providing downloadable reports need not add complexity for consumers who are browsing ratings. A short summary of the key elements of the report could be made available; with the more detailed report available to give consumers a further tier of detail should they wish to see it. The fact that some local authorities are already providing downloadable full reports shows that this level of disclosure is achievable and realistic.

In other countries where similar schemes operate, full inspection reports are generally available on the scheme website to download or on request where people do not have internet access.

We understand that there is some concern about this approach in terms of the work that it would take local authorities to develop greater consistency between different and also within local authority reporting. A paper that went to the FSA UK board in November 2011<sup>5</sup> confirmed that there is great inconsistency in the way that local authorities currently record inspection data and it would be challenging to address this. However the FSA also provided the example of Norwich Council who already make full food hygiene inspection reports available on their website as a model report which could be introduced. We understand the FSA UK board has approved further consideration of the issue of greater transparency in

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<sup>5</sup> Food Standards Agency Open Board, Information for Consumers on compliance and food hygiene in food establishments, 15<sup>th</sup> November 2011

inspection information to consumers, which we strongly support, however we feel that this Bill provides a clear opportunity to allow for this greater transparency as part of the mandatory FHRS being proposed by the Welsh Government.

Consumer Focus Wales does not believe that just because something is challenging, it should not be done. We believe that seeking to develop a model inspection report for use by local authorities across Wales and introducing more consistent reporting and recording of information means that not only will consumers have greater opportunity to understand the reasons behind a score, but at the same time it will benefit local authorities, the FSA and Welsh Government in enabling easier monitoring and reporting of food safety in future.

### **Recommendations**

- We would strongly recommend that provision is made within the Bill to require that a food business' most recent ratings are published on the FSA's Food Hygiene Ratings website for consumers to access at the same time as a consumer would have sight of the new rating at the business
- The maximum time periods for notification and publication of food hygiene ratings should be reduced. We would suggest therefore that the Bill is changed to reflect this by reducing the relevant period (sub clause 4) for the food authority to the following:
  - a) if there is no appeal against the food hygiene rating, 10 days from the receipt by an operator of a food business establishment of notification of the food hygiene rating
  - b) if an appeal is made, at the earliest opportunity after the determination of the appeal, to a maximum of 10 days
  - We also suggest that the Bill is changed to reflect a reduced time period for the FSA to publish within. We suggest it may be pertinent to not make this dependent on receipt of the information from the local authority, but instead place responsibility on the FSA to ensure that they publish by the end of the appeal period, or if an appeal is lodged, immediately after the determination of that appeal.
- We ask the Committee to recommend that provision be made within the Bill for completed inspection reports to be available online with a short summary for consumers. To enable this to happen, standard templates for food inspection reports should also be introduced

### **Clause 7: Requirement to display food hygiene ratings**

Clause 7 currently allows for the food business operator to have 21 days *'until they must display the sticker at the food establishment'* and we appreciate this is connected to enabling them time to consider an appeal. However we believe that a food business operator will know whether they wish to appeal immediately. We therefore feel this clause should be amended to:

- Food businesses should display their food hygiene rating immediately unless they choose to appeal

We would also draw attention to the reference within this clause to when the rating ceases to be valid. Clause 3 (sub clause 10) notes that a rating ceases to be valid when a food business receives notification of a new food hygiene rating. This means in practise that a food business could remove a rating on receipt of their new rating and not replace this with their new rating for 21 days. Secondly, it would allow for a food business to non-display a

rating for the period of an appeal they decide to submit (which, as has been noted in clause 5 above, this could be a significant amount of time – more than 56 days in some cases).

We believe that firstly a clause should be added to the Bill which requires food businesses who are covered by the scheme to show their most current rating at all times (in the case of an appeal, we believe this should be their old or existing rating, until they have been notified of the outcome of their appeal. This rating should also continue to be shown on the FSA's Food Hygiene Ratings website during this period.

In addition, we believe the Bill should include under clause 7 a requirement for food businesses to show their food hygiene rating on appropriate publicity material. This should include their website. Whilst we appreciate that businesses may be concerned about the cost of having ratings on printed material that may go out of date, every effort should be made by the business or premises to make their rating available through any publicity or communication material. Placing a requirement on a food business to make a rating available on their website should be achievable given that this can be easily changed following a change in rating. This is supported by consumers, with 80% of people wanting businesses to display the rating on their website. We believe it should also be an offence for a business not to make their food hygiene rating clearly visible on their website.

In addition, 75% of people think that the rating should be displayed on any printed advertising material, whilst 73% of people want to see the rating on any other materials that the business produce. For takeaways that deliver leaflets through the door, 82% of people think the rating should be made available on these materials too<sup>6</sup>.

For premises serving food to vulnerable groups, such as educational establishments and care homes it is even more important that the rating of the premises is clearly visible on relevant marketing material. This is key to enable the public to have access to the food hygiene ratings of a premises when making important decisions, for example which care home to choose for a vulnerable family member. In fact, 81% of people think that the rating should be displayed on any promotional literature that care homes produce, whilst 61% of people believe it should be displayed on patient menu cards. In hospitals, 82% of people want to see the rating displayed in any hospital cafes or restaurants, 72% of people feel that they should be displayed on menu cards and 72% on any hospital information about catering<sup>7</sup>.

We also asked the public specifically where they felt ratings should be made available in schools, 73% of people believe the ratings should be sent home to parents, whilst 59% of people want the rating to be displayed in the school canteen and 56% of people on any promotional literature<sup>8</sup>. In nurseries, people also believe that the ratings should be sent home to parents (79%) and included in any promotional literature (69%)<sup>9</sup>.

## Recommendations

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<sup>6</sup> Op cit 1

<sup>7</sup> Op cit 1

<sup>8</sup> Op cit 1

<sup>9</sup> Op cit 1

- As noted above, food businesses should display their food hygiene rating immediately unless they chose to appeal
- The Bill should require food businesses who are covered by the scheme to show their most current rating at all times
- It should also include a requirement for food businesses to show their food hygiene rating on appropriate publicity material, this should specifically include their website

**Clauses 13 -Duties of the Food Standards Agency and Clause 14- Other powers and responsibilities of food authorities respectively**

We believe monitoring and evaluation of the new mandatory scheme will be key to its success. We believe therefore that a responsibility should be placed within the Bill on the FSA and local authorities to monitor the scheme on an ongoing basis and for the FSA to evaluate the operation of the new scheme periodically.

The form that this monitoring and evaluation will take should then be set down in resulting regulations and guidance. Examples of the type of thing we would like to see as part of a monitoring and evaluation plan would be:

- Spot checks to ensure that businesses are displaying correct ratings
- Spot checks to ensure that businesses (when asked) are giving correct ratings to consumers over the telephone
- Regular monitoring by the FSA of the length of time it is taking local authorities to upload ratings onto their website from inspection
- Regular engagement with consumers about their experiences of the scheme and any issues resulting from this that need to be addressed and measures of increased awareness as a result of a mandatory scheme
- Recording measures of reductions of food-borne illness periodically following introduction of the scheme

For further information, please contact:

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Consumer Focus Wales  
Portcullis House  
21 Cowbridge Road East  
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**Annex 1:**

## Consumer Focus Wales support for the introduction of a mandatory Food Hygiene Rating Scheme in Wales

As indicated above, Consumer Focus Wales strongly supports the introduction of a mandatory FHRS in Wales. Whilst we welcome the commitment by all 22 Welsh local authorities to adopting the Food Standards Agency (FSA) voluntary FHRS, the Scheme at present is reliant on businesses displaying their scores or consumers visiting the FSA's FHRS website to check the score of a premises. We know that in recent research undertaken by the FSA in Wales, only 31% of audited premises were displaying their score. This fell to only 6% of businesses with a low rating of 0, 1 or 2<sup>10</sup>. Therefore consumers are only likely to see a score when a business has a high score for food hygiene, not when it has a lower score which may affect their decision to eat at the premises.

If businesses have the choice whether to display ratings on the premises, the only way for consumers to find out about poorly performing businesses will be to visit the website. This is not an option for the 31 per cent of people in Wales who do not use the internet and the 73 per cent of people aged 65+ who do not use the internet and who are more vulnerable to food-borne disease<sup>11</sup>.

In addition, whilst the FHRS website is a useful tool for informing consumers, we know that busy lives mean that people will not always plan ahead to visit the website before going out to eat or ordering a takeaway. In fact we know from research we have undertaken with consumers that where they are aware of the Food Hygiene Ratings Scheme only limited numbers had visited the scheme's website<sup>12</sup>.

Whilst our research showed that 50% of people in Wales have seen or heard about the Food Hygiene Ratings Scheme, if mandatory display is not made compulsory with a sticker being visible within the premises to help influence the decision of a consumer about where to eat, there is limited pressure on businesses to improve their standards.

Where ratings schemes operate in other countries, mandatory schemes are much more successful, with higher levels of recognition than those on a voluntary basis. A survey in Los Angeles in 2001 found that 84 per cent of residents had heard of the scheme and 77 per cent noticed the posted grades most or all of the time, whilst a 2007 survey in Denmark found 100 per cent consumer recognition. There is also evidence to prove that mandatory display leads to greater reductions in food-borne illness. A comparison of hospital admissions in Los Angeles County revealed that the policy of mandatory display caused a 20 per cent decrease in food-borne illness hospitalisations, while the policy of voluntary display caused a 13 per cent decrease<sup>13</sup>. The Los Angeles County scheme also demonstrated an overall reduction in hospital admissions for food-related digestive disorders of 13.3 per cent in its first year of operation, while in the rest of California food-borne illness admissions rose by 3.2 per cent.

There has been little significant change in the level of UK food-borne disease since 2005. Each year, it is estimated that in the UK around a million people suffer a food related illness, which leads to around 20,000 people receiving hospital treatment and around 500 deaths, at a total annual cost of nearly £1.5 billion<sup>14</sup>. Therefore the introduction of a mandatory FHRS

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<sup>10</sup> GFK NOP report on the display of Food Hygiene Ratings in Wales for the Food Standards Agency (November 2011)

<sup>11</sup> Richards S (2009) Logged in or Locked out? Consumer access to the internet in Wales. Consumer Focus Wales

<sup>12</sup> Op cit. 1

<sup>13</sup> Jin, GZ, Leslie P (2003) The effect of information on product quality: evidence from restaurant hygiene grade cards. *The Quarterly Journal of Economics* 118: 409-51.

<sup>14</sup> FSA Foodborne Disease Strategy 2010-15

in Wales presents a real opportunity to improve levels of foodborne illness and the associated costs to the National Health Service. Consumers have also told us that they believe that premises serving food to the public should have to display their food hygiene rating score, with an overwhelming 94% of people in Wales wanting to see this. It is for these reasons that we strongly support this proposal by the Welsh Government. It presents a real opportunity for Wales to lead the way and drive up food hygiene standards with the support of more empowered consumers.

## Health and Social Care Committee

### Food Hygiene Rating (Wales) Bill

### FHR 6 – Welsh Local Government Association (WLGA) and the Directors of Public Protection in Wales (DPPW)

#### 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 FHRs is a simple and effective public health measure that has been introduced across the whole of Wales but would deliver greater benefits if placed on a statutory footing.

We believe that since we introduced the Scheme across Wales, it has helped local authorities deliver tangible improvements in food safety and enhanced consumer protection. For example, within Monmouthshire we have seen a significant improvement in food hygiene ratings overall and particularly in relation to existing businesses. My colleagues across Wales report a similar experience. Our dealings with food businesses suggest that the scheme has brought food safety into much sharper focus and has helped drive improvements in standards.

However, placing the scheme on a statutory footing would deliver the following key benefits:

Recent Food Standards Agency (FSA) 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. We believe that a legal requirement for businesses to display their rating would enable consumers to make an informed choice on every occasion and help drive further improvements. There is a need for a bill if we are to ensure that ALL food businesses display their ratings not just those that chose to.

If we are to require, by law, food businesses to display their rating we need to put in place effective measures that will ensure that such an approach is fair, consistent, open and transparent, is deliverable in practice and sustainable over time. The bill is needed to ensure that the measures necessary to achieve this are adequately considered and appropriately included within any mandatory scheme.

The implementation of such a scheme has implications for local authorities which to date have been absorbed by local government in Wales with some financial support from FSA Wales. Making the National Food Hygiene Rating Scheme a statutory function for local authorities across Wales will help ensure that resources continue to be allocated to delivering this service.

**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 sets out proposals to establish a statutory food hygiene rating scheme in Wales that is based upon the FSA scheme which has been adopted by local authorities throughout Wales. Our experience of implementing that scheme leads us to support the proposals to make the scheme

**Health and Social Care Committee**  
**Food Hygiene Rating (Wales) Bill**  
**FHR 6 – Welsh Local Government Association (WLGA) and the Directors of**  
**Public Protection in Wales (DPPW)**

mandatory. That experience also provides us with a practical understanding of the measures that are necessary to ensure that such a scheme delivers the objectives of better public protection and consumer choice and is workable in practice and sustainable over time.

We believe that the Bill as drafted properly addresses the measures needed - including some of the potential burden upon local authorities - and the safeguards needed to ensure the Scheme is fair, consistent, open and transparent.

We are pleased that the experience of Local Government Environmental Health officers has informed development of the Bill and that consultation on the first draft has resulted in some important changes. We are pleased that the Bill addresses the inclusion of business-to-business trade premises as we feel that it is important that these businesses should be included in the scheme so that those responsible for procurement of foods via contracts have knowledge of the hygiene ratings of these establishments. The hygiene rating awarded can then be considered during the tender evaluation process. The revised time period for dealing with an appeal is welcome.

**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 sections cover the areas required to ensure that the Food Hygiene Rating Scheme can be operated fairly and consistently and gives officers the necessary enforcement tools to ensure compliance.

**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 that research suggests they want. The FSA research suggests that this will particularly impact upon those poorer performing businesses where currently only 6% of businesses display their rating.

Whilst there is complexity in the detail behind the scheme, it is simple in its presentation and it brings food safety into sharper focus for businesses and their customers. It stimulates business operators in a different way. This is true for single site businesses and for chains. Take for example a company that has a chain of hotels or restaurants that generally perform well on their ratings. If one of those premises scores poorly, the display of a low score, in our experience, can bring food safety at that premises to the urgent attention of the corporate centre in a way that an inspection letter might not. It is in the public eye and impacts upon the company image. It brings urgent attention to the action necessary to improve their score. A compulsion to display underlines that even more.

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. A statutory footing also ensures that a charging regime is operated within a clear framework of cost-recovery thus limiting the potential burden on business.



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Food Hygiene Rating (Wales) Bill  
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Public Protection in Wales (DPPW)**

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

The key barrier to implementing the provisions of the Bill would in our view be the potential burden upon inspecting local authorities, particularly where the rating scheme will involve undertaking revisits where these might otherwise not be carried out. However, the Bill as drafted sets out provisions for charging by local authorities when requests for re-rating are made.

**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)?**

We note the powers in the Bill for Welsh Ministers to make subordinate legislation and we support these, in principle, as being sensible and appropriate.

**Financial Implications**

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

Clearly there will be financial implications for local authorities in implementing the Scheme as proposed. The need to undertake revisits to re-rate businesses where visits would not otherwise be made will impose an additional burden that could take resources away from other activities if that were not addressed. We therefore welcome the proposals for local authorities to implement cost recovery, particularly in advance of a re-visit. We feel this is essential to support the sustained delivery of the scheme as proposed. We note that the cost implications of issuing stickers, particularly in retrospect, are also accounted for in the proposals.

# Agenda Item 6

## Y Pwyllgor Iechyd a Gofal Cymdeithasol Health and Social Care Committee

Cynulliad  
Cenedlaethol  
Cymru  
National  
Assembly for  
Wales



Lesley Griffiths AM  
Minister for Health and Social Services  
Welsh Government

31 May 2012

Dear Lesley,

### **Food Hygiene Rating (Wales) Bill**

At its meeting on 30 May 2012, the Health and Social Care Committee considered and agreed its scope and approach to its Stage 1 consideration of the Food Hygiene Rating (Wales) Bill.

The Committee considered provisions contained in the Bill to make subordinate legislation and specifically referred to powers provided to Welsh Ministers to prescribe (by way of regulations) that certain categories of establishment may be excluded from the requirement to be rated (Section 2 (6) (a)) and the proper location and manner for displaying food hygiene rating stickers (Section 7 (3)).

The Committee acknowledges that the Explanatory Memorandum states that, regulations relating to exemption would be consulted upon subject to the Bill completing Stage 1 of the Assembly's consideration. The Committee further notes that you stated in your Statement to Plenary on the 29 May 2012 your intention for these, and other regulations provided by the Bill, to be fully consulted upon subject to the Bill completing Stage 2 of the Assembly's consideration.

However, in order to inform its work at Stage 1 the Committee asks that you give consideration to publishing the draft regulations earlier. This would firstly assist the Committee in clarifying the scope of the Bill and ensure it is able to consult appropriately. Secondly it would help the Committee in its consideration of whether the Bill contains a reasonable balance between the powers on the face of the Bill and the powers conferred by Regulations.

Bae Caerdydd  
Cardiff Bay  
CF99 1NA

I would be grateful if you could give consideration to this request and look forward to your response.

Yours sincerely

*Mark Drakeford.*

Mark Drakeford AM  
Chair

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

Mark Drakeford AM  
Chair, Health and Social Care Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

18 June 2012

Dear Mark,

#### **FOOD HYGIENE RATING (WALES) BILL**

Thank you for your letter of 31 May regarding the Food Hygiene Rating (Wales) Bill. I am grateful to the Committee for its work in considering the Bill, and for the opportunity to provide further information in relation to the provisions of the Bill to make subordinate legislation.

I have carefully considered the 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 enclose a detailed policy statement on my proposals for the content of the regulations (at Annex A).

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
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*Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)*

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*Printed on 100% recycled paper*

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.

Regards

A handwritten signature in black ink, appearing to read 'Lesley', written in a cursive style.

**Lesley Griffiths AC / AM**

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services



Lesley Griffiths AM  
Minister for Health and Social Services  
Welsh Government

21 June 2012

Dear Lesley,

### **Food Hygiene Rating (Wales) Bill**

Thank you for your letter of 18 June 2012 in response to our request for information on the provisions of the Food Hygiene Rating (Wales) Bill to make subordinate legislation. The detailed policy statement, outlining your proposals for the content of regulations, enclosed with the letter has been helpful to the Committee's consideration of the Bill. It is also helpful that you were able to confirm, at the Committee's meeting held on 20 June 2012, that you will make available the results of consultation on the draft regulations to the Committee on completion of Stage 2 and before the start of Stage 3.

You will be aware from the meeting held on 20 June 2012 that the Committee is concerned to establish greater clarity about the scope of the Bill and specifically those who will be subject to the provisions of the Bill and those who will not.

The Committee understands that pursuant to Regulations EC 852/2004 and 178/2002, businesses whether for profit or not who carry out any activities related to any stage of production, processing and distribution of food will be required to be registered with the appropriate food authority and thus be subject to the provisions of the Bill where the activities they are involved with take place on a regular basis, and with some degree of organisation. This could for example include a weekly luncheon club but would not include a small scale occasional cake sale.

In response to questions asked by the Committee, you indicated that voluntary groups who depend on coffee mornings and lunches as a large part of their activities would be subject to existing food hygiene standards, but would not be required to display a food hygiene rating sticker. Furthermore, your Official indicated that the Food Hygiene Rating Scheme

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would apply to registered businesses and that the size of business would determine whether it is registered or not.

The Committee would be grateful for further clarification as to whether the reason those involved in the organisation of cake sales, lunch events and similar events will not be required to display a food hygiene sticker is because they will not be required to register under Article 6 of Regulation (EC) no 852/2004, or because it is intended that those operations who will require registration, such as the weekly luncheon club, regular organised church cake sale, will be exempted in regulations made under Section 3 (5) of the Bill.

I would be grateful if you could give consideration to this request and look forward to your response.

Yours sincerely

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive style.

Mark Drakeford AM  
Chair