

Health and Social Care Committee

Food Hygiene Rating (Wales) Bill – Stage 1 consideration

To: Health and Social Care Committee
From: Legislation Office
Meeting date: 30 May 2012

Purpose

1. To invite the Committee to consider and agree its approach to and framework for Stage 1 scrutiny of the Food Hygiene Rating (Wales) Bill ('the Bill').

Background

2. On 15 May 2012, the Business Committee referred the Bill to the Health and Social Care Committee ('the Committee'), with a reporting deadline of 5 October 2012.

3. On 28 May 2012, Lesley Griffiths AM, Minister for Health and Social Services, introduced the Bill and Explanatory Memorandum.

4. A paper outlining the purpose and provisions of the Bill has been provided separately.

Role of the Committee

5. The role of the Committee at Stage 1 is to *consider and report on the general principles of the Bill* (SO 26.10). There are no specific requirements in Standing Orders governing the way in which the Committee carries out this scrutiny. A suggested approach is set out below, along with a suggested framework within which the Committee will work.

6. Once the Committee has reported, there will be a Stage 1 debate in plenary for the Assembly to agree the general principles of the Bill. If the general principles are agreed, Stage 2 of the process will involve the detailed consideration of the Bill by the Committee, including the disposal of amendments (Stage 2 is currently scheduled to take place during November).

Suggested framework

7. In scrutinising the general principles of the Bill at Stage 1, it is suggested that the Committee works within the following framework:

To consider:

- i) the need for a Bill to introduce a statutory food hygiene rating scheme in Wales;
- ii) whether the Bill achieves its stated purposes;
- iii) the key provisions set out in the Bill and whether they are appropriate to deliver its stated purposes;
- iv) potential barriers to the implementation of the key provisions and whether the Bill takes account of them;
- v) whether there are any unintended consequences arising from the Bill;
- vi) the views of stakeholders who will have to work with the new arrangements;
- vii) whether the Bill contains a reasonable balance between the powers on the face of the Bill and the powers conferred by Regulations?

Committee's approach to Stage 1 scrutiny

8. In line with the deadline set by the Business Committee, the Committee will need to complete its scrutiny of the Bill and lay its report no later than 5 October 2012.

9. The reporting deadline allows nine sitting weeks in which to undertake this work, although it will have to be carried out alongside the policy work already agreed by the Committee. Members have received the work programme for this term, which includes the slots set aside for scrutiny of the Bill.

10. It is suggested that the Committee agree the following approach—

- **General call for evidence**
Issue a general call for evidence, which would be notified to the Welsh media and published on the Assembly's website. The draft consultation letter and a list of the draft consultation questions are attached at **Annex 1**.
- **Invite written submissions**
Invite written submissions from selected organisations and individuals. A suggested list of consultees is attached at **Annex 3**.

- **Oral evidence**
Invite key stakeholders to give oral evidence at future meetings (alongside the consultation exercise). A provisional list of witnesses drawn from the relevant sectors is attached at **Annex 4**.
- **Outreach**

Use the Assembly's Outreach Team to engage with a section of the general public to gauge views on the Bill.

11. The reporting deadline allows for a little over a four-week consultation period, from 30 May to 29 June. This should allow the Committee to consider whether to invite any additional witnesses to give evidence to the Committee in light of the written evidence received, although the timetable would be very tight. It should be noted that the Welsh Government carried recently undertook a consultation on the draft Bill which closed in March 2012. Annex 2 lists the revisions that have been made to the Bill since its original draft.

12. The evidence gathered, both written and oral, will help inform the Committee's consideration of the Bill and its subsequent report.

13. For information, Standing Orders enable both the Finance Committee and the Constitutional and Legislative Affairs Committees to report on the relevant aspects of Bill.

Work Programme

14. A timetable for the Committee's Stage 1 consideration of the Bill is attached at Annex 5.

Action

15. The Committee is invited to:
- agree the framework within which it will work (as outlined in paragraph 7);
 - agree its approach to Stage 1 scrutiny (as outlined in paragraphs 8 - 13);
 - agree a four week consultation exercise, the consultation questions and list of consultees (Annex 1 and Annex 2);
 - agree the provisional list of witnesses (Annex 4).
 - Note the timetable for the Committee's Stage 1 consideration of the Bill (Annex 5).

Manylion y Pwyllgor
Health and Social Care Committee

Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales



Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

30 May 2012

Dear Sir/Madam

Consultation on the Food Hygiene Rating (Wales) Bill

As part of its Stage 1 consideration, the Health and Social Care Committee is calling for evidence on the general principles of the Food Hygiene Rating (Wales) Bill. To assist with its consideration, the Committee would welcome your views on this subject.

What is a Bill?

A Bill is a draft law. Once a Bill has been considered and passed by the Assembly and given Royal Assent by the Queen, it becomes an 'Act of the Assembly'.

There is a four stage process for the consideration of a Bill. Stage 1 involves consideration of the general principles of the Bill by a committee (which includes the taking of written and oral evidence from interested parties and stakeholders), and the agreement of those general principles by the Assembly.

What does this Bill seek to achieve?

The Explanatory Memorandum that accompanies the Bill states:

“The Bill gives effect to the Welsh Government's proposals to introduce a statutory food hygiene rating scheme in Wales. The Bill establishes a statutory requirement for food authorities to operate a food hygiene rating scheme (which includes rating food businesses and enforcing the scheme) and places a duty on food businesses to display their food hygiene rating at their establishment. The intention of the Bill is to ensure that consumers are provided with information about the food hygiene

standards of food businesses in Wales. This will enable consumers to make better informed choices about where to eat or shop for food.

What is the committee's role?

The role of the committee is to consider and report on the general principles of the Bill. In doing so, the Committee has agreed to work within the following framework:

To consider:

- i) the need for a Bill to introduce a statutory food hygiene rating scheme in Wales;
- ii) whether the Bill achieves its stated purposes;
- iii) the key provisions set out in the Bill and whether they are appropriate to deliver its stated purposes;
- iv) potential barriers to the implementation of the key provisions and whether the Bill takes account of them;
- v) whether there are any unintended consequences arising from the Bill;
- vi) the views of stakeholders who will have to work with the new arrangements.

Invitation to contribute to the inquiry

The Committee would like to invite you to submit written evidence to assist in its scrutiny of the Bill. In particular, we would welcome your views on the questions listed in Annex 1. We appreciate that you may have recently been invited to respond to a similar consultation exercise undertaken by the Welsh Government on the draft Bill. Should you have responded to the Welsh Government's consultation, you may wish to resubmit that response. However, please note some revisions have been made to the Bill since its original draft and these are listed in Annex 2.

If you wish to submit evidence, please send an electronic copy of your submission to <mailto:HSCCommittee@wales.gov.uk> and entitle the e-mail Consultation – Food Hygiene Rating (Wales) Bill.

Alternatively, you can write to:

Claire Griffiths, Deputy Clerk
Legislation Office
National Assembly for Wales
Cardiff Bay, CF99 1NA.

Submissions should arrive by **29 June 2012**. It may not be possible to take into account responses received after this date.

When preparing your submission, please keep the following in mind:

- your response should address the issues before the Committee. Please reference your response using the title applied above;
- the National Assembly normally makes responses to public consultation available for public scrutiny and they may also be seen and discussed by Assembly Members at Committee meetings. If you do not want your response or name published, it is important that you clearly specify this in your submission;
- please indicate whether you are responding on behalf of an organisation, or as an individual; and
- please indicate whether or not you would be prepared to give oral evidence to the Committee.

The Committee welcomes contributions in English and Welsh and will consider responses to the written consultation and hold oral evidence sessions during the summer term.

For your information, the Committee has invited submissions from those on the attached distribution list (see Annex 3). The Committee would be grateful if you could forward a copy of the letter to any individuals or organisations that are not included on this list, but might like to contribute to the inquiry. A copy of this letter has been placed on the National Assembly's website with an open invitation to submit views.

Disclosure of Information

It is normal practice for the National Assembly to publish evidence provided to a Committee. Consequently your response may appear in a report or in supplementary evidence to a report. The National Assembly will not publish information which it considers to be personal data.

In the event of a request for information submitted under UK legislation, it may be necessary to disclose the information that you provide. This may include information which has previously been removed by the National Assembly for publication purposes.

If you are providing any information, other than personal data, which you feel is not suitable for public disclosure, it is up to you to stipulate which parts should not be published and to provide a reasoned argument to support this. The National Assembly will take this into account when publishing information or responding to requests for information.

If you have any queries, please contact Fay Buckle, Committee Clerk on 029 2089 8041 or Claire Griffiths, Deputy Clerk on 029 2089 8019.

Yours faithfully

Mark Drakeford AC / AM
Cadeirydd / Chair

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.
2. Do you think the Bill, as drafted, delivers the stated objectives as set out in the Explanatory Memorandum? Please explain your answer.
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 need to change?
4. How will the proposed Measure change what organisations do currently and what impact will such changes have, if any?
5. What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

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)?

In answering this question, you may wish to consider Section 5 of the Explanatory Memorandum, which contains a table summarising the powers delegated to Welsh Ministers in the Bill to make orders and regulations, etc.

Financial Implications

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

In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

Other comments

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

Changes made to the Bill since the original draft

(Extract from page 13 of the Explanatory Memorandum accompanying the Bill)

“33. Following the consultation some important amendments to the Bill have been made. These are:

- (a) businesses that supply food to other businesses are now included within the scope of the scheme;
- (b) the Bill will apply only to food businesses that are registered in Wales. Food business establishments registered outside Wales but trading on a transient basis in Wales (i.e. mobile traders) will not be within the scope of the new scheme;
- (c) food authorities are now required to prepare a programme of inspections of food business establishments in their area having regard to matters specified by the FSA – the programme will determine whether an inspection is required and the frequency of those inspections;
- (d) the requirement to retain the food hygiene certificate, and the associated offence of failure to produce it to an authorised officer on request have been removed;
- (e) the time limit for food businesses to submit an appeal will now be 21 days and food authorities will also be allowed 21 days to consider and determine the appeal – the provisions relating to appeal now also make it clear there is no further right of appeal available to a food business operator following a food authorities determination of their original appeal;
- (f) the provisions relating to right to reply have been made clearer and time limits on the right to reply have been removed; it has been made clear in the Bill that this right may be exercised more than once in relation to any rating while the rating remains valid;
- (g) the provisions relating to re-rating inspections have been made clearer;
- (h) food authorities are now required to inform the operator of a food business establishment of the costs of a re-rating inspections and the way the costs have been calculated before carrying out the re-rating;
- (i) there is a new a duty on food businesses to verbally inform a person of the food hygiene rating for their establishment if requested and an associated offence if they refuse to do so – this will allow people with impaired vision or enquiring by telephone to establish the hygiene rating

of an establishment prior to use.”

Suggested list of consultees

Local Authorities

Blaenau Gwent
Bridgend
Caerphilly
Cardiff
Carmarthenshire
Ceredigion
Conwy
Denbighshire
Flintshire
Gwynedd
Isle of Anglesey
Merthyr Tydfil
Monmouthshire
Neath Port Talbot
Newport
Pembrokeshire
Powys
Rhondda Cynon Taff
Swansea
Torfaen
Vale of Glamorgan
Wrexham

Voluntary Sector

Mudiad Ysgolion Meithrin
National Federation of Women's Institutes
Wales Council for Voluntary Action

Advisory Groups

Age Cymru
Care and Social Services Inspectorate Wales (CSSIW)
Care Council for Wales
Care Standards Inspectorate for Wales
Citizens Advice Cymru
Consumer Focus Wales
Disability Wales
Equality and Human Rights Commission
RNIB Cymru – Royal National Institute for Blind People
RNID Cymru – Royal National Institute for Deaf People
Wales Council for Deaf People
Wales TUC Cymru

Representative Organisations

Association of Convenience Stores

Bar and Restaurant Foods Ltd
British Beer and Pub Association
British Hospitality Association
British Independent Retailers Association
British Institute of Inn Keeping
British Retail Consortium
British Sandwich Association
Care Forum Wales
CBI Wales
Chamber Wales Consumer Focus Wales
Council for Economic Renewal
Estyn
Federation of Small Businesses Wales
Food and Drink Federation
Hospital Caterers Association
Independent Retailers Association
Local Authorities Caterers' Association
Nationwide Caterers Association
National Childminder's Association
National Federation of Meat and Food Traders
National Day Nurseries Association
Trading Standards Institute Wales
Welsh Regulators' Forum Members
Wales Tourism Alliance
Welsh Food Alliance
Welsh WI

Government/Local Government

Directors of Public Protection (Wales)
Food Standards Agency
Local Authority Caterers Association
Local Government Regulation
Office of Fair Trading
Port Health Authorities
Public Service Ombudsman Wales
Welsh Local Government Association (WLGA)

Health

Abertawe Bro Morgannwg University Health Board
Aneurin Bevan Health Board
Betsi Cadwaladr University Health Board
Cardiff and Vale University Health Board
Cwm Taf Health Board
Hywel Dda Health Board
Powys Teaching Health Board
Velindre NHS Trust

Public Health

Association of Directors of Public Health

Chartered Institute of Environmental Health
Faculty of Public Health
Public Health Wales

Suggested persons/organisations to provide oral evidence to the Committee:

Chartered Institute of Environment Health

Consumer Focus Wales

Federation of Small Businesses

Food Standards Agency Cymru

Public Health Wales

Welsh Local Government Association/Association of Directors of Public Health

Work Programme

Date	
30 May 2012	11.50- 12:30: Discussion on the Committee's approach to Stage 1
20 June 2012	11.30 - 12.30: Evidence from Minister for H&SS
12 July 2012	AM 10.00 - 10:45 Evidence Session 1 10:45 - 11:30 Evidence Session 2 11:30 - 12:15 Evidence Session 3
	PM 13:15 - 14:00 Session 1 14:00 - 14:45 Session 2 14:45 - 15:00 wash-up
18 July 2012	9.00 - 10.50: Minister for H&SS & <u>private</u> key issues
Summer Recess	
27 September 2012	<u>Private</u> consideration of draft report <u>Private</u> Stage 2 training
3 October 2012	<u>Private</u> consideration of draft report (if not agreed on 27 Sept)