



Food Hygiene Rating (Wales) Bill
Evidence from the Association of Convenience Stores

1. ACS (the Association of Convenience Stores) welcomes the opportunity to provide evidence to the Committee. ACS represents 33,500 local shops across the UK, the vast majority of which sell food products and are subject to food hygiene regulations. ACS recognises the importance of food hygiene regulations which prevent the contamination of food and the spread of disease, and continues to provide information and advice to members on this important area of the law.
2. However, ACS believes that these important measures must be proportionally implemented. New regulations should only be introduced in cases where there is clear public risk to customers, or where the outcomes justify the additional burden being placed on the food industry.
3. ACS outlines below the key reasons we do not believe it is necessary to introduce a compulsory Food Hygiene Rating Scheme (FHRS), which would create additional regulatory burden at a time when central Government is committed to reducing the amount of red tape faced by business.

Aim of the Bill

4. The consultation document on the draft Bill stated that the aim of the Bill is to reduce incidence of food-borne illness. However the Bill does not propose any measures which will strengthen food hygiene standards in stores. The Bill focuses on achieving two aims, firstly to create a compulsory FHRS, and secondly to require all food businesses to display their rating.
5. ACS argues that a compulsory scheme is unnecessary as the consultation's own Regulatory Impact Assessment (RIA) highlights that the current voluntary scheme is being operated by all 22 Local Authorities in Wales. As the current scheme has universal coverage, and there is no suggestion that any Authorities plan to withdraw from the scheme, further regulation is not required to achieve this aim.
6. The primary focus of the Bill, therefore, is to require premises to display their Food Hygiene Rating, in order to ensure customers have equal access to information and are better informed. While we understand the aim, this will not have any direct impact on the stated aim to reduce incidence of food-borne illness.
7. As a result, the estimated cost of £225,000 per year for the sector appears to be a disproportionate burden on businesses during what are already difficult economic times.

Impact on small firms

8. The consultation's own RIA acknowledged that this financial burden will be felt significantly more by small firms, many of whom may already be struggling due to the current economic climate. Much of the cost of the scheme will come from the reassessment of business ratings in cases where improvement works have been carried

out, or where ownership and food preparation and handling practices have been changed. While larger stores can more easily absorb these costs, for small businesses such fixed costs can signify a much greater hurdle. The result would be that larger stores would be able to afford to obtain and promote their newer ratings, which could constitute a commercial advantage over their smaller competitors.

Practical application

9. There are also likely to be practical considerations which would limit the intended result, even if the Bill were to be passed. The Bill states that a sticker showing the Food Hygiene Rating must be displayed in a prescribed location on the premises where it would be visible to customers. Due to the nature of some food businesses, this could prove problematic.
10. For shops, the key issue would be where the 'prescribed location' would be sited, and how prominent it must be. Convenience retailing involves the sale of many highly regulated products, most notably alcohol and tobacco. As a result, there is already a plethora of signage at the point of sale and throughout stores, from information highlighting that it is illegal to sell restricted products to those below the age of 18, to information on schemes such as Challenge 25, and educational material to promote how many units are in your drink.
11. While it may appear straight forward to require information to be publicly displayed, there is a real risk of the message getting lost amongst the existing signage, or worse, diluting the messages of the existing material displayed in store.
12. For these reasons, ACS does not believe that the Bill will be able to achieve its aims, and will instead place an unnecessary burden on convenience store retailers in Wales.

Alternative options

13. ACS believes there may be other solutions which should be explored before legislation is introduced. As the issue is predominantly the availability and use of Food Hygiene Ratings, the role of Government, Local Authorities, and the potential role of technology should be considered as a means of increasing the flow of information.
14. The Welsh Assembly or Local Authorities could maintain and distribute information on local amenities and their ratings as part of existing communications (such as tourism information). Technology could also play a role in making this information more accessible, through means such as mobile phone applications, which are able to identify local premises, and could include information as to their Food Hygiene Rating.
15. These measures are indicative of potential alternative solutions which would not place an additional regulatory or financial burden on the food industry in Wales.

The Draft Bill

17. Despite opposing the introduction of the Bill, ACS aims to also provide constructive comment on the proposed Draft Bill, in order to minimise the extent of the burden to the food industry should the Bill be enacted.
18. ACS outlines below a number of areas we feel would require improvement should the Bill be formally adopted.

Resourcing

19. The Bill makes no provision for additional resourcing. Local Authorities have assessed 13,500 premises to date, since the voluntary scheme came in in October 2010. In order to roll out this scheme to all 30,000 premises, and to ensure that all would be rated within a reasonable time and on a regular basis, ACS believes additional resources would be required. Without this, there is concern that re-ratings, which would provide a revenue stream for Local Authorities, could be prioritised over the day to day needs of businesses.
20. In order to ease the burden while the scheme was being rolled out, ACS believes a phased roll-out may also be appropriate. This would start with high priority establishments such as schools and hospitals, moving down to butchers, restaurants, stores etc. as appropriate. A phased roll-out would ease the pressure on resources and mean that the highest priority premises were covered as soon as possible.

Training of Food Authority (FA) officers

21. ACS is concerned of reports of inconsistencies in the application of the existing voluntary scheme, even within the same FA. ACS believes the Bill should contain a requirement for all officers receive standardised training, which would continue at suitable intervals during their employment. A sample of ratings should also be independently reviewed on an annual basis to ensure standards are applied consistently across the scheme.

Rating system and the need for public education

22. Members have expressed some concerns over the public understanding of Food Hygiene ratings. Customers who are not familiar with the ratings may consider that ratings reflect the public health risk of premises, rather than an officers view of legal compliance. The ratings also do not reflect the varying levels of risk between a small retail store compared to a busy high risk food restaurant or takeaway.
23. ACS believes that further work should be carried out to ensure the scoring criteria take account of these factors, and that the Welsh Government and Local Authorities should work together to create and provide materials to educate the public as to the meaning of the ratings.

Publication of inspection report summaries

24. ACS believes that inspection report summaries should only be published on condition that this would not further increase the costs and burden of this regulation on businesses.

Display of invalid stickers

25. The Bill would make it an offence to display an invalid Food Hygiene Rating sticker, however does not state how it could be identified as invalid. Would stickers carry an

expiry date, or date of next inspection? If not, administrative or postal errors could result in businesses inadvertently failing to comply with the regulations. Without a means of identifying invalid stickers, the public would also have no way of knowing if the rating displayed was still genuine or how old it was.

Right to reply

26. ACS does not believe comments made under the right to reply terms should only be made available on the FSA website. This information is an explanation by the business of any and all relevant circumstances at the time the assessment was carried out.
27. The consultation's underlying assumption is that simply publishing information online is not an adequate means of ensuring customers have access, hence the proposed requirement for the display of Food Hygiene Ratings at all premises. ACS believes that, if this logic is to hold, it must also apply to ensuring customers have access to all relevant information, including that contained in the right to reply.
28. ACS therefore believes that retailers should be permitted to display this additional information alongside their rating in store, and Local Authorities should be required to include this information as part of any publication of Food Hygiene Ratings.

Re-rating inspections

29. The consultation does not state how Local Authorities will determine whether it is 'reasonable' to conduct a reassessment of premises, or how they would calculate what the 'reasonable costs' are to be incurred for that inspection. Clear guidance would be required to ensure a consistent approach was adopted across all Local Authorities, and clear criteria, or a set fee, should be introduced so businesses are aware up front of how much the process may cost them.
30. The consultation also makes reference to the possibility of some premises, such as schools and hospitals, being exempt from re-rating costs. If this were to be introduced, safeguards must be put in place to ensure that these costs were not passed on to the rest of the food sector.

Power of entry

31. ACS agrees that FAs need power of entry to ensure compliance with food hygiene and safety standards. However, as such visits often cause disruption, premises should be given time to implement plans to minimise the impact on their business.
32. ACS therefore believes that regulations should include a requirement on FAs for prior notification of visits, except in cases where an imminent risk of harm has been identified.

Offence by body corporate

33. The Bill also states that, where a business is run by a corporate body, an individual within the premises will also be liable under the proposed regulations. Clarity is needed over how the individual would be identified as being liable, for example whether it would be a store manager, a health and safety officer, or store assistant who had accidentally removed information from display? This information would be needed for in store training as well as for clarity on individual responsibilities under the Bill.

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