



Cynulliad Cenedlaethol Cymru The National Assembly for Wales

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

**Dydd Iau, 12 Gorffennaf 2012
Thursday, 12 July 2012**

Cynnwys Contents

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

Bil Sgorio Hylendid Bwyd (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 3
Food Hygiene Rating (Wales) Bill: Stage 1—Evidence Session 3

Bil Sgorio Hylendid Bwyd(Cymru): Cyfnod 1—Sesiwn Dystiolaeth 3
Food Hygiene Rating (Wales) Bill: Stage 1—Evidence Session 3

Bil Sgorio Hylendid Bwyd(Cymru): Cyfnod 1—Trafod y Dystiolaeth
Food Hygiene Rating (Wales) Bill: Stage 1—Discussion of Evidence Received

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

**Aelodau'r pwyllgor yn bresennol
Committee members in attendance**

Mick Antoniw	Llafur Labour
Mark Drakeford	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Rebecca Evans	Llafur Labour
William Graham	Ceidwadwyr Cymreig Welsh Conservatives
Elin Jones	Plaid Cymru The Party of Wales
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Lynne Neagle	Llafur Labour
Jenny Rathbone	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Lindsay Whittle	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Julie Barratt	Cyfarwyddwr, Sefydliad Siartredig Iechyd yr Amgylchedd Cymru Director, Chartered Institute of Environmental Health Wales
Dean Bolton	Aelod o Ffederasiwn Busnesau Bach Cymru Federation of Small Businesses Wales Member
Iestyn Davies	Pennaeth Materion Allanol, Ffederasiwn Busnesau Bach Cymru Head of External Affairs, Federation of Small Businesses Wales
Mike Jones	Aelod o Ffederasiwn Busnesau Bach Cymru Federation of Small Businesses Wales Member
Dr Marion Lyons	Cyfarwyddwr Diogelu Iechyd, Iechyd Cyhoeddus Cymru Director of Health Protection, Public Health Wales

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Faye Buckle	Clerc Clerk
Claire Griffiths	Dirprwy Glerc Deputy Clerk
Philippa Watkins	Y Gwasanaeth Ymchwil Research Service
Lisa Salkeld	Cynghorydd Cyfreithiol Legal Adviser

Dechreuodd y cyfarfod am 1.16 p.m.
The meeting began at 1.16 p.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions

[1] **Mark Drakeford:** Croeso a diolch yn fawr iawn i bawb am ddod i'r sesiwn hon. **Mark Drakeford:** Welcome and thank you all very much for coming to this session.

Bil Sgorio Hylendid Bwyd (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 3 Food Hygiene Rating (Wales) Bill: Stage 1—Evidence Session 3

[2] **Mark Drakeford:** Rydym yn bwrw ymlaen â'n trafodaeth ar y Bil Sgorio Hylendid Bwyd (Cymru) a chroesawaf ein trydedd set o dystion heddiw. Prynhawn da a chroeso i'r Pwyllgor Iechyd a Gofal Cymdeithasol. Diolch am ddod yma y prynhawn yma. Hoffwn gyflwyno Iestyn Davies, pennaeth materion allanol Ffederasiwn Busnesau Bach Cymru. Mae hefyd gennym ddau aelod o'r ffederasiwn—Dean Bolton a Mike Jones. Diolch yn fawr i chi'ch dau am ddod i'n helpu yn ein gwaith. **Mark Drakeford:** We continue with our discussion on the Food Hygiene Rating (Wales) Bill and I welcome our third set of witnesses today. Good afternoon and welcome to the Health and Social Care Committee. Thank you for coming here this afternoon. I introduce Iestyn Davies, head of external affairs at the Federation of Small Businesses Wales. We also have with us two members of the federation—Dean Bolton and Mike Jones. Thank you both for coming to help us with our work.

[3] We appreciate you all taking the time to help us with this part of our work in scrutinising the Welsh Government's Bill. Before I ask you, Iestyn, whether you want to make any opening remarks, I normally ask a question at the beginning to get people going. The federation has some reservations about the Bill—whether it is needed and whether it will work. Could you tell us a little bit about those reservations before we go on to questions from Members?

[4] **Mr Davies:** I do not claim to be an expert on food or hospitality; that is why our members are here this afternoon. Our primary concern can be split into two halves. It is not that we have an issue with promoting good public health—that is not the sort of thing that we would question—but it is whether or not, based on the Government's own premise, this Bill is required. To put it quite simply, given that the consultation document speaks quite glowingly about the current scheme, why does it need to be made compulsory? Even if I say no more than that, that establishes our first principle.

[5] **Mark Drakeford:** Lovely. Diolch yn fawr. Thank you very much. We will now go straight into questions from Members. I will probably ask you, Iestyn, to choose someone to answer the questions, because, given that there are a number of us and a number of you, you will not all be able to answer everything. So, we will do it like that. I turn to Lynne first and then William.

[6] **Lynne Neagle:** Thank you for your evidence and for coming today. You have said that you do not think that it is necessary to put the scheme on a statutory basis, yet we have heard compelling evidence that only a very small proportion of businesses with the lowest ranking score, which are the ones that consumers need to be most aware of, are participating in the scheme. Do you not think that that is the most compelling piece of evidence? If not, what other suggestions do you have to ensure that those businesses that are doing badly on food hygiene actually comply with this scheme?

[7] **Mr Davies:** The devil is in the detail. Businesses are complying, but they are getting low scores. They are required to comply—

[8] **Lynne Neagle:** They are not complying, because they are not displaying their score. The essence of this Bill is that it would make it statutory for businesses to display their food rating. So, what is happening is that they are all having their inspections, but the ones that are doing badly are not then displaying their scores on the doors.

[9] **Mr Bolton:** Why would they? Why would you expect them to display how badly they have done? They are the people who need help. They do not necessarily need that score to be placed out in the open with a poster on the front of their door to say, 'We're not very good'.

[10] **Mr Davies:** I think that there is a means-end distinction here. Are you trying to punish poor businesses or are you trying to encourage compliance and the raising of standards? The FSB has no problem with raising standards. We would want to see our members and other businesses that achieve high standards to be recognised. However, the terms of any good governance mechanism is to bring the poor performers up to a higher standard, and there is no evidence that this scheme would do that. Yes, it would name and shame, but would it increase the net number of businesses reaching higher standards?

[11] **Lynne Neagle:** I do not see this as a naming and shaming thing; I see this as a genuine attempt to drive up standards by allowing consumer choice to do that. I understand that you have some concerns about that, but how would you then weigh up what you have said about not making businesses look bad? That is not the purpose of the legislation; the purpose of the legislation is to drive up standards, along with the need to protect consumers from the premises that are posing a risk to them.

[12] **Mr Davies:** In our initial conversations with members, and with Mike and Dean, what has been said is that there is an incredible amount of subjectivity in the current scheme. It is an interesting proposition. On the one hand, the Government says that the voluntary scheme is good and that it is working—the statistics show that more businesses are now not just complying because they have to, but are starting to reach higher standards. So, if it is the desire of the Welsh Government and the committee and our desire, as the Federation of Small Businesses, to drive up standards, then let us focus on how we do that. The question is: is there sufficient evidence in the proposals that have been put in front of us all that this Bill will do just that?

[13] **Lynne Neagle:** You state in your written evidence that your consultation response has been informed by a focus group of your members. Could you be a bit more specific about that and perhaps give us some idea of numbers? Did you have a balance in that group of businesses that were doing well in relation to food hygiene and ones that were not doing so well?

[14] **Mr Davies:** I cannot give you the exact numbers or tell you what the scores on the doors are, but I can send that information to the clerk.

[15] **Mark Drakeford:** That would be helpful. I have a couple of people who want to come in on this particular issue.

[16] **Mick Antoniw:** Do you not think that consumers have a right to know the food standard rating of food outlets and food suppliers?

[17] **Mr Davies:** I do not think that this is a question of rights. This is surely about how you raise standards. Consumers make choices based on a number of different criteria about where they are going to purchase their food. One, clearly, is their perception as to whether that 3, 4 or 5 is reflected in how they feel about that particular store at the time. I do not think that we would see this in the terms of it being a question of rights.

[18] **Mr Jones:** The evidence is out there in the public domain; it is usually available on the local authority's website. The press is very interested in highlighting and naming and shaming businesses that have not succeeded for its own reasons. So, it is in the interest of businesses to make sure that they have a good score. Placing a score on the door is excellent and useful marketing for those that have a good score, but, as far as the businesses that do not perform are concerned, the fact that they do not have the score on the door is possibly an indication of that. I wholeheartedly agree that the voluntary way forward is far better.

[19] The evidence has shown that it has driven up standards since its introduction. The average curve of performance is a shift in the right direction of about 5%. We should continue with this excellent scheme. The take-up of it has been very good and I hope that that will continue. I would be concerned about extra legislation for businesses. We already have enough to deal with, and having to comply with further legislation is a constant worry.

[20] **Mick Antoniw:** How can it not be better for consumers? Part of the objective of the legislation, as set out in the explanatory memorandum, is to provide information to consumers to enable them to make proper choices. How can it not be better for consumers that, when they are walking down the street and they want to pop in somewhere to purchase food, they have proper information about the standard of the premises, because there are serious consequences?

[21] **Mr Davies:** That is a good question, but the question for most consumers is: given that a rating of 5 is the best standard, does that mean that that is the only standard that you should go for? What is the difference between a rating of 5 or a 4? A business that has a rating of 4 simply because it was marked down for something that was more related to health and safety rather than to food hygiene is being penalised. The voluntary code helps and encourages businesses to drive up standards. We are already seeing shops and premises voluntarily displaying their ratings of 4 or 5. The question is: will it help? It is not a question of whether it is a right or whether consumers can expect to see the rating, but of whether this will drive up standards, not just on the day that the inspection is taking place, but consistently for 52 weeks of the year.

[22] **Mick Antoniw:** Is it not fairer for consumers for all premises to display their ratings? That creates parity and fairness among the suppliers.

[23] **Mr Bolton:** It creates fairness if the rating is correct in the first place. There are inconsistencies in the ratings. So, as Iestyn said, people might perceive a rating of 5 to be the best, and so they will not go into premises with a rating of 4. I know of businesses with a rating of 3 that are perfectly well-established businesses with clean kitchens. However, if they put a rating of 3 on their door, they will lose business and why should they?

[24] **Mark Drakeford:** Your case, Mr Bolton is that the way that these assessments are made is not reliable enough, is it?

[25] **Mr Bolton:** You are relying on the public's knowledge about what to go for out of a rating of 3, 4 or 5. I asked my daughter this morning and she said, 'I want a 5. Why isn't yours a 5, daddy?' As I said, a friend of mine has a cafe and he consistently gets a rating of 3. He just does not have the knowledge or the tools to get a rating of 4. He does not have any help, which is what he needs. He does not need any more than that.

[26] **Mark Drakeford:** Thank you; that is helpful.

[27] **Mr Jones:** A rating of 0 does not mean that a place is unfit to eat in. It would not pose a serious risk to public health. I know that that is less than a rating of 1, but, if you are

telling them to advertise that, then you are telling them to close their business. Rather than seeing businesses closed and boarded up, we need these businesses to improve. The way to do that is to work with them. We should not do that with the stick, but with the carrot.

[28] **Mark Drakeford:** I will take only two quick further points on this one, because we need to move to another topic. Jenny is first, then Aled.

[29] **Jenny Rathbone:** I wrote to all of the premises with a rating of 0 and 1 in my constituency last summer and all of the ones that were keen to improve wrote back or rang to say that they had done x, y and z and that they now had another rating. The issue is with those that get a rating of 0 or 1 and then do not take whatever action the local authority, which, in my case, is Cardiff, directed them to take. They are told that they got the low score because of x or y. So, in my local authority anyway, I am not convinced that there is not a clear indication as to what premises need to do to get up to a higher standard. Putting the score on the door is not onerous, because businesses get that certificate anyway; it just gives them an added incentive to sort themselves out.

1.30 p.m.

[30] **Mr Davies:** We reference in our submission to the Welsh Government and to the committee what you can do if you have a scheme, whether that scheme is the current voluntary-based scheme or the mandatory scheme as proposed. Again, we are not saying that we should not be trying to take businesses on a journey to improve standards, but there are some quite fundamental changes involved in moving from the current scheme to the proposed scheme via the Bill. Ultimately, the question is whether there is sufficient evidence and research and whether the impact assessment has been done in such a way as to appreciate what will happen if you do that to businesses.

[31] **Aled Roberts:** I am having difficulty in understanding your standpoint, because you are quite willing for establishments with a rating of 5 to use that as a marketing tool, but you appear to be loath to accept a situation where the same market forces, through informed choice, might work against establishments with a rating of 0. If I were to accept that argument, what evidence do you have that those establishments rated 0 under the voluntary scheme have set about improving their businesses? At the moment, I do not see evidence for that.

[32] **Mr Davies:** You do not see that incremental improvement in the standards and gradings?

[33] **Aled Roberts:** There may be incremental improvement, but we have this core of 0-rated establishments that, to all intents and purposes, may not want the public to know where they are, because they are not necessarily on a journey of improvement.

[34] **Mr Davies:** That is equally a criticism and observation of the voluntary scheme. The problem with this legislation is that the Government's position is that the voluntary scheme is working. Our starting point is that the argument for changing from the voluntary scheme to a mandatory, statutory scheme is flawed and there is insufficient evidence for that. If you accept that there are companies or firms that already receive a rating of 0, you then have to think about whether, as only one part of the provision, by forcing those businesses to display the rating, they will decide to play catch-up. Our position—

[35] **Aled Roberts:** Will they not have to change as a result of market forces through more informed choice?

[36] **Mr Davies:** That depends on whether you think that the market can dictate the terms

in which people do business and consume goods and services. That is a moot point in itself and is not thoroughly addressed in the evidence. The evidence suggests that the current scheme is moving in the right direction, if you accept the terms of the current scheme. If that is the case, then why move away from it? In the vernacular, 'If it ain't broke, don't fix it'.

[37] We have yet to be convinced that there is a problem with the voluntary scheme other than what you are saying, namely that people are choosing not to display ratings of 0, 1, 2 or 3 on their doors. However, that may change once public awareness increases. Speaking for myself, if I did not see a hygiene rating, I probably would not consume or purchase food from that place. However, a question arises, if there is a rating of 4 or 5, as to what you do then.

[38] So, this is the starting point. We are quite happy to talk about how things would work if the law were introduced and we have submitted comments on that. The point that we are making is that it is not clear what the Government is proposing, and neither is the impact on businesses from the research that has been shared with us via the first and second forms of consultation. We have had this discussion, and there is already a divergence of opinion among the businesses that we represent, which, to us, shows that building a statutory scheme—which is a significant change—on that basis, is in itself problematic.

[39] **Mark Drakeford:** We have probably rehearsed this as much as we can. We will now move to other topics. However, I wanted to check that I understood you properly, Mr Jones. Were you saying that it was your view that the voluntary scheme has some positive advantages of its own because it has buy-in from the sector—people support it and, therefore, it is likely to work, but they may not support a statutory scheme and the goodwill that the sector has for the current scheme would then be lost?

[40] **Mr Jones:** Yes. I think that is absolutely clear. That is my opinion.

[41] **Mark Drakeford:** Thank you; I thought that that was what you were saying.

[42] **William Graham:** Could you help the committee with what you anticipate the financial impact to be? We are all aware that, in the hospitality industry, there is a whole series of people who are one-man-bands and it could have an immediate impact on those people. Therefore, could you guide us on what you think will happen in that respect?

[43] **Mr Davies:** The primary area of concern is the introduction of business-to-business ratings and the effect that it would have on the supply chain or the food chain of companies. Margins are so tight that any increase in cost, particularly for Welsh-sourced produce, would have an immediate impact on how viable it is to use Welsh produce. Members are saying to us that if they cannot source Welsh produce at a viable cost, they would seek to take their business elsewhere. If you are then purchasing a product from a UK-wide supplier, what does that mean not for the origin of supply, but for the last but one part of the chain? Dean and Mike are probably in a better position to talk about the tightness of margins in their sector, but that was the general concern that was expressed.

[44] **Mr Bolton:** You have said everything there. The margins are tight and it will have a knock-on effect, so maybe there should be some evidence to support the statistics that indicate that it is not going to have too much of an effect. We do not want to put Welsh wholesalers out of business—no-one does. I want to stock Welsh products, but I will not be able to if the margins get any tighter.

[45] **William Graham:** In your evidence, you suggest stronger guidance. Would you like to amplify that?

[46] **Mr Davies:** It is about setting the current scheme on a much clearer, firmer footing

and investing more in public education—we have already seen elements of that—so that it is obvious if a company is not displaying its rating of 0, 1, 2 or 3. Ultimately, we would like to reward businesses that succeed in raising standards. That point is not in contention. The question is, on the basis of what we have heard, where is the impact assessment that states that potentially increasing the costs for business-to-business sales will not have a detrimental impact? If that information is out there in the public domain, it has not been shared with us as a consultee or the wider audience.

[47] **Mark Drakeford:** May I give you a chance at responding to this point, Iestyn? Your evidence is particularly critical of the introduction of business-to-business ratings, which were introduced after the original Government proposals were published. Do you want to take a minute to explain to us the FSB's difficulties with that?

[48] **Mr Davies:** First, it is because it has arrived after the event, so to speak. However, our concern is—as you have heard this afternoon—that we do not want to see Welsh traders failing to be able to trade with retailers in Wales, and we do not want the only place that you can buy good quality Welsh produce, or produce that is sold as wholesale in Wales, to be in a part of the market that precludes many people in society from being able to shop locally and consume local produce. Given the way in which the impact assessment has been done, we think that more detailed work should be done by the Welsh Government on the impact of extending this to business to business. We have expressed our concerns about making it statutory. We have said that we feel that the voluntary scheme is working. This is a further departure from the voluntary scheme, so where is the evidence to show that this would not have a detrimental impact? If that cannot be proven, should the Government be seeking to legislate?

[49] **Mark Drakeford:** Thank you, that was very clearly put.

[50] **Lindsay Whittle:** Thank you all for attending today. I know that as small businesses you need to be at the coalface. This morning, we heard evidence from the Welsh Local Government Association—which I do not disagree with—that, if this mandatory system is to be imposed in Wales, the Welsh Government should provide some financial assistance. In your evidence, I read that sometimes the improvements that are needed are structural improvements to businesses. It is not always easy to get money from bankers: they always want our money, but they do not always lend it back out. I am sure that you know that far better than I do. Do you think that this scheme should come with financial assistance to help small businesses to improve their services to the public?

[51] **Mr Davies:** The answer is a resounding 'yes', if this is going to be done well. Let us assume that the legislation is passed, and that we are now dealing with it in place. A lot of the feedback that we are getting is that the ability of local government officers to carry out a structured, effective, impartial review is limited; it depends on who you get on a given day. There are capacity issues and we do not know whether there is greater capacity in rural local authority areas than that in authorities in more urban areas. That evidence is not being shared. We cannot say, because of the implicit cost for the inspection agencies, whether or not this would be done fairly and equitably across the board. Ultimately, this comes down to the implications for business, as you rightly point out. I do not know how much a new walk-in fridge-freezer would cost. If that is the difference between getting a rating of 4 or a rating of 5—we accept that an element of name and shame will happen here, whether that is in the local papers or in the advertising of competitors—can we honestly expect that the net health gain of going from a 4 to a 5 would be justified by the expenditure and cost of restructuring the business that way? There is no evidence that we will get the ultimate gain of 90%, or whatever figure the Welsh Government is hoping for, of businesses having a rating of 4 or 5.

[52] **Lindsay Whittle:** You bring us nicely on to the re-rating inspection regime, which I

personally think takes too long. If I had a business and I had to wait up to 56 days—or maybe it is 52, I cannot remember exactly—then that would be two months and it could mean the difference between some small businesses surviving or not. Should the reinspection regime be shorter?

[53] **Mr Davies:** It has to be suitable for the business as well, not just be a fixed period of time. A one-person trader, who has a part-time employee and someone coming in on weekends, is a different proposition to a restaurant with five or six kitchen hands and an experienced restaurant manager. This has to be appropriate to the business in question. It has to be on the basis that we want to encourage good standards rather than be punitive. I want to reiterate that no-one doubts or questions that we want to maintain good, safe hygiene standards. The question here is about the means-ends distinction. Will this achieve better public health in the long term, or will it simply mean a number of businesses going out of business?

[54] **Lindsay Whittle:** Is there any evidence that small businesses, particularly takeaways, are going out of business? In the village where I live, we have about seven, whereas we only had one a few years ago. The pubs are closing, but the takeaways are thriving.

[55] **Mr Davies:** You are dealing with a very complex business ecology here. As you say, the number of pubs trying to sell food is increasing because the margins on wet sales are decreasing. So, you are looking at a very dynamic and fluid business environment when it comes to pubs—no pun intended. To us, there does not seem to have been sufficient research undertaken to establish that that, moving from what the Government itself claims works to a new system, will help rather than hinder things.

[56] **Lindsay Whittle:** Okay, thank you very much.

[57] **Mark Drakeford:** Would you like come in, Jenny?

[58] **Jenny Rathbone:** I wanted to go back to the business-to-business issue. Dean, you said that the business-to-business legislation would disincentivise you to buy from Welsh producers.

[59] **Mr Bolton:** I did not say that it would; I said that it could.

[60] **Jenny Rathbone:** It could. Okay, so I want to examine why you think that it could. If I am going to sell you sausages that I make in my premises, I am going to have to source the meat and other products from people with—

[61] **Mr Bolton:** It is only going to disincentivise me if the cost goes up.

[62] **Jenny Rathbone:** Why should the cost go up just because companies have to be rated? Everyone who sells food has to go through the regulatory process.

[63] **Mr Bolton:** From what I know about the cost implications of bringing in this legislation for businesses, the legislation will incur costs on wholesalers, and they will ultimately get passed on, as they always do.

[64] **Jenny Rathbone:** I have not understood why that is going to entail an increased cost. Anyone who is involved in the sale of food, in whatever form, has to be regulated.

[65] **Mr Davies:** In Wales.

[66] **Jenny Rathbone:** Yes, in Wales, or anywhere else.

[67] **Mr Davies:** However, food businesses in Wales could easily purchase from outside Wales. Is the intent of this Bill to ensure that anyone supplying food in Wales will be regulated, or just those companies that are based in Wales? Where does that leave companies that are based both sides of the Severn bridge, Offa's Dyke or the Dee estuary? It is not clear.

[68] **Mark Drakeford:** I would like to summarise this correctly. You believe that the introduction of a business-to-business element within the Bill creates a new regulatory burden that would not be there otherwise; this is a regulatory burden that falls on businesses in Wales, but not across our border, therefore, it places greater potential costs on Welsh businesses and might make them less competitive as a result. That is the contention, is it not?

[69] **Mr Davies:** That is the contention. I have no evidence before me to challenge that, or to give me an empirically based view, either way, on the way in which this first piece of legislation and the new powers will impact on business.

1.45 p.m.

[70] **Mark Drakeford:** Is that your anxiety? Is it fair to put it that way?

[71] **Mr Davies:** Yes.

[72] **Rebecca Evans:** Mr Bolton, you referred to your friend who always gets a 3 in his inspection. Is it possible for all businesses to get a 5?

[73] **Mr Bolton:** That was my question.

[74] **Rebecca Evans:** You say that it is impossible?

[75] **Mr Bolton:** No. I want to know if it is possible.

[76] **Rebecca Evans:** So do I.

[77] **Mr Bolton:** If it is not, then we are in trouble. I do not think that it is.

[78] **Rebecca Evans:** As the organisation representing small businesses, you must have a perspective.

[79] **Mr Bolton:** I can only speak from my own point of view. I do not think that it is possible.

[80] **Rebecca Evans:** Could somebody speak for the FSB?

[81] **Mr Davies:** That is a good question. The simple answer is that we do not know. Are we setting up a lot of businesses to fail, who are still legally entitled to trade? Their produce and production would, by most standards, be acceptable, but because they are failing to get a 4 or a 5, we are putting them at a competitive disadvantage against other companies. The next time you go somewhere, ask if it is a 4 or a 5 establishment. Ask what makes the difference between a 4 and a 5. I recently ate at a restaurant that has very fine food, but it was a 4 out of the 5, and that was a celebrated local restaurant. If there is a shift towards wanting everyone to get 5 out of 5, are we then saying that that restaurant should not be trading? Our members tell us that it is a very subjective process. Consumer perception of the value between a 4 and a 5 is also very subjective. It strikes me that the system as it stands was never intended to mean that less than a 5 meant that people should not consume there. It was a different approach to encourage consumer business buy-in to a standards-led process. Even with a 0 you can legally

trade. To try to make it statutory that you must hit a mark or you should not be open to the public is a massive leap away from what we currently have.

[82] **Rebecca Evans:** That may potentially misread what the standards are about. The standards are a tool for consumers to make an informed choice along a scale. It is not 5 or nothing. To be clear, is it possible that some businesses could never achieve a 5 rating?

[83] **Mr Davies:** The cost implications of getting to that might have a long term detrimental impact on those business and the communities in which those businesses are operating.

[84] **Lynne Neagle:** On Rebecca's point, we are getting hung up on the 4 and 5 ratings. We are all worried about the 0, 1 and 2 ratings. Looking at it from that context, do you think that it is possible for all businesses to get a 3, which is satisfactory?

[85] **Mr Bolton:** Satisfactory for you?

[86] **Lynne Neagle:** No. Satisfactory to the food inspectors.

[87] **Mr Davies:** Zero is satisfactory, because they can still trade with a 0 rating.

[88] **Lynne Neagle:** According to the food rating scheme, 3 is the 'satisfactory' rating. Is it possible for all businesses in Wales to attain a food hygiene rating of 3, which says that they are satisfactory?

[89] **Mr Davies:** That is a very difficult question to answer. The FSB would want to ensure that all businesses trading and supplying food do so in a way that does not damage or hinder public health. If the Welsh Government were to propose an in-or-out system, where you either can or cannot trade safely, we would not have a problem with that. That is much simpler and clearer. Either you are in danger of damaging public health, or you are providing a service that is not going to damage public health. For us, it should be a binary proposition, a simple 'yes' or 'no'. If that had the full weight of law behind it, we would be more comfortable with that. The problem here is that we have taken the basis of the voluntary scheme and tried to escalate it into a statutory scheme. As I keep saying, there is no evidence that it will deliver that aim. I cannot answer your question imperially, on whether a 3 or a 5 is achievable.

[90] **Rebecca Evans:** On a different point, you mentioned business to business. Are there other types of businesses that you would like to see exempted from the Bill's provisions? For example, the Government has already suggested that child minders would be exempt. Are there other sorts of businesses that you would like to see made exempt?

[91] **Mr Davies:** There should not be exemptions for businesses that we would ordinarily expect to see regulated in this way. There are issues of scale and we need to consider the purpose. The primary purpose of a child minder is not to provide food but to look after children. We have to contain this within the field where the biggest gains can be made. We accept the extension to the public sector, so that it includes hospitals and schools, and we feel that that would have a big impact, looking back on some of the worst cases of food poisoning we are aware of. We are aware of some very distressing stories. Let us be clear what the problem is that we are trying to fix. Outside of these things, there should not be exemptions.

[92] **Mark Drakeford:** That is very helpful, thank you. We will have questions now from Elin and then Darren.

[93] **Elin Jones:** As it stands, the Bill only requires a business to display a sticker on the

window or in a prominent place at the premises. In this committee, we have had some evidence and some discussion about promotional material that businesses may supply and whether there should also be a requirement in the legislation to display the rating on the promotional material, particularly thinking about takeaway businesses, where people do not visit the premises but order over the phone, and internet businesses. Do you have any view on how difficult or not it would be to include a provision in the Bill that would require promotional material to also carry the rating? What sort of reaction would your businesses have to that?

[94] **Mr Davies:** I think it is probably best that we park the discussion about whether it should be in place, but, if it is in place, the FSB would welcome the fact that, wherever you purchase or consume foods, you are made aware of the standards of those premises. Having nominal or marginal exemptions because of the way the business is transacted does not seem to make sense at all. However, that is all predicated on whether you believe that the 1-to-5 system would work in the first place. So, I think we should park that discussion because you know our position on that. However, if you are going to run the scheme, it has to be clear to everyone, wherever they consume food.

[95] **Mr Jones:** I would also question how on earth the Government would be able to police such a scheme, when leaflets are sent through the post for example. That would be very difficult to manage. When you get a piece of promotional material through the letterbox, how do you know that what it is saying is absolutely true anyway?

[96] **Mr Davies:** We had a conversation in preparing for the meeting about what the cost implications would be of getting it wrong or wilfully getting it wrong. How much would you make back? If you genuinely believe that putting this information out there would put people off or encourage people to consume your product, how big would the penalty have to be in order to be an adequate deterrent? As Mike said, how effective would policing need to be to make that work? Ultimately, if you are going to have a scheme—and we have said that we would much rather have a simple in-or-out scheme—you should make that as publicly visible as possible and ensure that the public is fully aware of a business's success or failure. As an organisation representing small businesses across the piece, and not just in the food industry, we will always want to see them aspiring to the highest standards possible.

[97] **Elin Jones:** On another matter, you have welcomed the response of the Welsh Government to extend some of the timescales if this legislation is introduced. However, we have had evidence from Consumer Focus Wales this morning, and it is concerned that the length of time involved in the display of a re-rating does not give consumers the correct information at the time. The legislation says that a business can have 21 days to submit an appeal. Do you think that 21 days could be shortened? If so, would that disadvantage businesses?

[98] **Mr Davies:** We are happy with what the Government has proposed with regard to the deadlines and timescales. It is a realistic timescale to allow businesses to make what can sometimes be quite significant changes to their premises. If there was a degree of flexibility and that there was a sliding scale, our response, almost on the hoof, to what Consumer Focus has said is that there may be a question of having a different level of warning. It could be that you would have seven days to comply with some things and then 21, 28 or 48 days to comply with other things and to make the necessary changes, given that installing a brand new walk-in fridge is going to take a lot longer than simply painting or turning up the temperature. It must be proportionate, but, again, there is not that nuance within the legislation. Whether that would come across in any further statutory instruments, I do not know, but, again, it is not presented here in front of us.

[99] **Mick Antoniw:** If the scheme became compulsory—if the legislation went through—

do you see any reason why the rating should not go on any promotional material that goes out? I am thinking of things like flyers. Would it not be logical for it to be on there?

[100] **Mr Davies:** If you go down this route—and we accept that you want to promote good standards—it should be a requirement that, however you promote your business, you must say what standard you are at. Whether that is done voluntarily by the business or because it has to be done by legislation should clearly be set out, if you are to proceed with this scheme.

[101] **Mark Drakeford:** We are almost out of time; would it inconvenience you if we were to go on for another 10 minutes? I see that that is fine. I will therefore allow up to another 10 minutes for this part of the evidence, so that Darren can question you.

[102] **Darren Millar:** Thank you for your paper. There has already been a discussion on takeaway premises and the feasibility of publishing their ratings on promotional materials, which has been a cause of concern for me. May I ask a direct question? You have sort of made this clear, but to help me get some clarity in my own mind, are you saying that you have no objection to a requirement for takeaway premises, on the promotional material that they distribute on a door-to-door basis, to display their food hygiene rating, with the date of the last inspection, so that people can see whether it is current or not? Are you content with that?

[103] **Mr Davies:** Yes.

[104] **Darren Millar:** Okay, thank you. My second question is on the appeals process. We were discussing earlier the fact that the committee has received some evidence on the possibility of neighbouring local authorities acting as the appeal authority. The relationship between some businesses and their local authority may break down following a poor rating and the upholding of an appeal as a result of poor relationships with departments. Could you comment on that?

[105] **Mr Davies:** We would agree with that principle. Another thing that was made clear in our paper, and Dean and Mike helped us come to this position, was that a lot of this can boil down to personal relationships between an individual inspector and a business. A lot can happen in those relationships. If you think of the diverse range of people who provide takeaway and restaurant services in a community, you will realise that it is not beyond the realms of possibility for there to be serious problems in the nature of the relationship between an inspector and someone who is being inspected. So, there must be good governance and a good arm's-length principle at work here, because business and employment opportunities are at stake if this goes wrong.

[106] **Darren Millar:** What evidence has been provided by FSB members operating food establishments in two or more local authority areas about the consistency or inconsistency around Wales in the application of the scheme?

[107] **Mr Davies:** I cannot answer that, but I can say that there is anecdotal evidence. Dean would back me up that, often, the relationship between the inspector and the company being inspected can be very subjective.

[108] **Mr Bolton:** My experience is that you have one inspection and subsequent improvement notices, which you accomplish, and then, when the next inspection comes, the goalposts have moved. So, it is not just about the relationships between different local authorities, but, within the same local authority, you get different inspectors who have a different take on how they inspect, even though they have the same regime to follow. It can be very frustrating when you have just done an expensive piece of work and you find that it was not needed, because it was not explained in the right way.

2.00 p.m.

[109] **Mr Davies:** A good example of that, and something that we were discussing earlier, is that there is this perception that you must have everybody certificated to a certain level. A lot of our feedback suggests that that is not the case, providing that the knowledge is held within the organisation, kitchen or delicatessen. However, for some reason, the message going out to businesses is, ‘You must have this certificate. You must have this tiling. You must have this splashback’, when that is not necessarily the case under the terms of the legislation or guidance as it stands.

[110] **Mark Drakeford:** Would it be helpful, from the FSB’s perspective, if the reports that lie behind the rating were published? If your perception is that these things are inconsistently done, would it help to drive consistency if the people writing the reports knew that people could read them? We were told earlier that in Norwich, for example, the local authority routinely places all inspection reports on its website for people to see. Would that be helpful?

[111] **Mr Davies:** If you are going to publicise the ratings that the establishments are getting—I will not say ‘name and shame’—it is only fair and equitable to publish what the authority is saying about these establishments. To follow Mick’s point, consumers would then have the opportunity to make informed choices. Ultimately, what we are saying is that we do not think that the system allows that genuinely informed choice by the consumer, for a number of complex reasons.

[112] **Mark Drakeford:** Are there any further questions from any Member? I am keen that the committee gets the full benefit of the FSB’s evidence while we have you here. We have probably heard the main things that you want to say, but we have a couple of minutes in case there is anything that has not emerged strongly enough, but which you would like to leave us with.

[113] **Mr Davies:** If there are any more questions, we will try to answer them. As we have mentioned already, we will try to provide the basis of our consultation. If the committee wants to make contact, we could even put further questions to the appropriate part of our membership to see how this would pan out for them. I just want to reiterate that we are not against raising standards and protecting public health. The examination question is, ‘Would this help with that? Would it do it?’, and on the basis of the impact assessment and the evidence that we have before us, we cannot unequivocally support this Bill. We support its principles, and what it is trying to do, but the Bill itself, as it stands, we cannot unequivocally support.

[114] **Mark Drakeford:** Thank you all; that has been really helpful. Thank you for taking the trouble to come to help us with our work this afternoon.

2.03 p.m.

Bil Sgorio Hylendid Bwyd(Cymru): Cyfnod 1—Sesiwn Dystiolaeth 3 Food Hygiene Rating (Wales) Bill: Stage 1—Evidence Session 3

[115] **Mark Drakeford:** Rydym yn symud ymlaen at ein sesiwn dystiolaeth olaf heddiw. Croeso i Julia Barratt, cyfarwyddwr Sefydliad Siartredig Iechyd yr Amgylchedd Cymru, a Dr Marion Lyons, cyfarwyddwr diogelu iechyd, Iechyd Cyhoeddus Cymru. Diolch am ddod yma y prynhawn yma.

Mark Drakeford: We move on to our final evidence-taking session today. I welcome Julia Barratt, director of the Chartered Institute of Environmental Health Wales, and Dr Marion Lyons, health protection director for Public Health Wales. Thank you for your attendance this afternoon.

[116] I will start with a question that I have been putting to most witnesses; it certainly came up in our last session. Why is the Government bothering to bring this Bill forward? We have a voluntary scheme that is working well and commands the confidence of the sector. Why are we moving to a statutory system? What is the case for it?

[117] **Ms Barratt:** I would agree that we have a voluntary scheme, but I would take issue with the suggestion that it is working well. I do not think that it is. For those people scoring 4 and 5, there is some evidence that the rating is displayed, but certainly for those scoring 0 to 3, there is not that evidence, and they are the people we are concerned with. We would like the public to be cognisant of the rating and to take a view on whether they want to go there. The fact that the system is not working, in my view, is why we need a mandatory scheme.

[118] **Mark Drakeford:** Dr Lyons, do you want to add anything to that? I was quoting the Government, by the way, when I said that it was ‘working well’; that is what it says in its explanatory memorandum.

[119] **Dr Lyons:** Public Health Wales would support any initiative that would improve the standard of hygiene and reduce the burden of food-borne illness. There is sufficient evidence now from countries such as Canada, America and Denmark that not only has the hygiene standard risen considerably with the introduction of mandatory schemes, but the rates of hospitalisation for food-borne illnesses has decreased quite dramatically in some areas. This could not be accounted for just by people voting with their feet, by not going to somewhere with a bad rating; it had to mean that a substantial number of premises raised the standard of their food hygiene. So, we would support this.

[120] **Mark Drakeford:** Before I turn to people for questions, could you just help us one more time, Dr Lyons, with the evidential chain that leads you to that conclusion about a reduction in the burden of food-borne illnesses? All that I have seen—not in your evidence, I must say—is reference to a single 10-year-old paper from Los Angeles. Most of the witnesses who have made the case to us that there is a chain that links all this, that there is a reduction in illness at the end of it, rely on that paper. Is there more and better evidence?

[121] **Dr Lyons:** No. I appreciate that, in the review of literature, that is probably the most substantial paper on the measurement of the burden and of a reduction in the burden of illness, but from working day to day with local authorities in investigating outbreaks of incidents of food-borne illness, we can find weaknesses in the system that can account for how illnesses may have occurred and how the spread of infection may have occurred in premises, allowing for these outbreaks of food-borne illnesses.

[122] **Jenny Rathbone:** Is it possible for all food premises to get a 5? This was raised by an earlier witness.

[123] **Ms Barratt:** Yes, it is possible for all food premises to get a 5, if that is what they are minded to do. Everybody can raise their standards to the point where they can get a 5. It is clear to food businesses what they have to do to achieve a 5. Some will choose not to do so, because they do not consider there to be a sufficient return on the input that would be required, but it is possible for them to get a 5 if they choose to do so.

[124] **Jenny Rathbone:** Is it onerous for small businesses to achieve that 5?

[125] **Ms Barratt:** Not necessarily, no. With a small business, you can achieve a 5 by doing comparatively less than a large business. It depends on what work is necessary in a particular business to take it to the point where it will achieve a 5.

[126] **Mark Drakeford:** We have written evidence from people saying that it is not

possible for all premises to obtain a 5, because one of the four components of the rating is physical environment. If you are in a heritage building, for example, there may be limitations on the changes that you can make to that environment.

[127] **Ms Barratt:** That is absolutely true.

[128] **Mark Drakeford:** In that case, you would not be able to carry out the changes necessary to get you to a 5. That is what the written suggestion is. Is that a fair point that people are making?

[129] **Ms Barratt:** I think that you can say that all premises can get to the point where they can achieve as much as they can and could get a 5. The fact that it may be different if you are in a brand-spanking-new building, as opposed to being in a heritage site, may mean that there are slight differences in what you can do, but you can still achieve as much to take it to the highest standard that you could get.

[130] **Mark Drakeford:** I just want to make sure that I have understood that. I fully understood it the way that you put it the last time, that any place could do everything that it could to get the best possible rating that it could get, but is that the same as saying that every place could get a 5, if there are inherent limitations in the physical space that you cannot do anything about? I am just relaying to you what people have claimed to us. They would say, 'That means that I could never get a 5'.

[131] **Ms Barratt:** I think that I would have some difficulty in commenting on that. Certainly, every business can do as much as it can, but whether some would be physically precluded from getting a 5 is something that I would not be qualified to talk about.

[132] **Jenny Rathbone:** I have been told that it is not possible for a doner kebab premises to get a 5, just because of the nature of this lump of meat and the temperature of the meat. Is that just an urban myth?

[133] **Ms Barratt:** What you are talking about is the method of cooking, I think, and not the premises, because it is the outside of the meat that comes to a particular temperature and not the inner core of it. However, that is not to do with the premises, but the cooking style. You could make the same argument for, for instance, an open-air barbecue.

[134] **Aled Roberts:** Another concern that has been expressed to us today is about cross-border businesses, particularly how they are regulated, but also possibly the impact on the Welsh food supply chain if they are placed at a disadvantage compared with wholesalers in England, say, which are not subject to the same suggested mandatory scheme. Do you have any views on that at all?

[135] **Ms Barratt:** We certainly have a view on mobile food vehicles coming into Wales. Mobile food vehicles operating from Wales will have a rating because the local authority in which they are based will give them a food hygiene rating, as it would give them a food hygiene inspection in the normal course of events. For mobile vehicles coming into Wales, obviously, there is an argument that they could be at an advantage because they would not be rated by their home authority, as the schemes as they currently operate in England are voluntary. However, we would say that any mobile vehicle coming into Wales can be controlled because it will come into a local authority that will license either the streets upon which it trades or the event at which it is trading. Therefore, it can ask that the vehicle comes with a voluntary rating as given by its home local authority, or, in the alternative, it can be inspected and rated by the authority that it comes to in Wales.

[136] As far as wholesalers are concerned, I do not think that they would be at a

competitive disadvantage, because to do that is to suggest that the people purchasing from wholesalers will select to buy from a wholesaler that has a lower rating, but the evidence does not suggest that that is the case. It suggests that people selectively choose to purchase from premises where there is a higher rating, particularly where they are selling on food and are themselves at risk of causing food poisoning.

[137] **Mick Antoniw:** I have a couple of questions. Are there any trends or is any information available in respect of food-related illness? Is it a growing problem, or is it static? Is there much evidence on this?

[138] **Dr Lyons:** Over the past 10 or 15 years, there has been a considerable improvement with a reduction in the number of outbreaks of food-borne illness. We still see a lot of food-borne infections and, every year, we have a cluster of outbreaks in our restaurants or food premises. Last week alone, we had almost 100 cases of campylobacter in Wales, coming from meat, particularly chicken. So, we see a lot of these infections. We are currently investigating a cluster of food-borne illness in a number of people who have visited a restaurant in Cardiff, and that is under investigation by the local authority. So, we do see quite a few. However, the huge numbers of Salmonella cases that we used to see previously have been much reduced over the past decade. However, for any one event on premises or a wholesaler's, it takes just one poorly controlled issue to cause a devastating outbreak like the E. coli outbreak that I worked on in 2005.

[139] **Mick Antoniw:** Has any analysis been done, or is there any way of correlating where those outbreaks have occurred or are suspected to have occurred? Is there a link with the grading given to the premises, and so on? Can anything be learned from that?

[140] **Dr Lyons:** The numbers that I am aware of currently are very small. However, for the recent cases that I have in my head, we are talking about premises with ratings of 2 and 3. However, because the numbers are so small, I could not say whether that is statistically significant. Something devastating might happen tomorrow somewhere that has a rating of 5 and there might be a big outbreak. However, certainly, the recent ones that come to my mind have had a rating of 3 or less.

[141] **Mick Antoniw:** Perhaps I could make just one point that follows on from our last evidence session. In the information that organisations have to put out, do you see any reason for or against their having to put the gradings on all their promotional material and publicity?

2.15 p.m.

[142] **Dr Lyons:** The important point is that when people go to a premises, they understand the rating. They do understand the 1-to-5 rating now. It is done for hotels all the time. The rating system is something that consumers are well used to. So, they know the difference between a 3 and a 5, a 4 and a 5, or a 2 and a 5. Whether they put that on all their menus is not the issue; the consumer needs to have that choice before they go through the door.

[143] **Mick Antoniw:** I am thinking about promotional material and a lot of the home-delivery leaflet type of stuff.

[144] **Dr Lyons:** Yes, I would support the rating's being put on promotional material.

[145] **Ms Barratt:** We have some reservations, particularly about placing the information on fliers, which may have a time-limited life or on takeaway menus, for example, which people tend to put in a drawer and use for years. We all know that the prices change, but the menu is fundamentally the same. Our concern with displaying the rating on those is that you would have to put a date on them to show that, for example, as of 10 June 2012, the rating

was 4. That will remain true even if the rating changes. That is our concern, namely that small businesses may buy around 5,000 menus and then find that their rating changes the next day, but the rating on the menu will not change and neither will the truth of the statement if it says, 'This was our rating on the X date of Y'. That is what we are keen to avoid. The Chartered Institute of Environmental Health would be far happier to see a reference on takeaway menus stating, 'We have a food hygiene rating; go to this website to have a look at our current rating'.

[146] **Mick Antoniw:** Does that not create a situation? Would you not be better off with that information there, at least with a date on it, than the alternative, which is probably nothing at all?

[147] **Ms Barratt:** I do not think that you have a nothing-at-all option; you are directed to a place where you can find the current rating, rather than being presented with—and accepting—an out-of-date rating.

[148] **Jenny Rathbone:** How do you police assertions? If someone has a flyer with a 4 or a 5 rating on it but was given a lower rating last week, how do you think that will get policed to ensure that consumers are given accurate information?

[149] **Ms Barratt:** Local authorities have a lot of experience of policing such assertions. My trading standards colleagues, for instance, look at people who are gas-safe registered. People are asserting that they are registered, but trading standards will consistently check that their assertion remains true. With anyone who asserts that they are part of a tradesmen's register, trading standards will check whether that assertion continues to be true. So, local authorities already undertake that function, and this would just be an additional function check for them.

[150] **Mark Drakeford:** I will do my best to come back to you, Jenny, but I want to bring others in who have not had a chance to speak so far.

[151] **Darren Millar:** On this issue of an incorrect assertion, you have just argued that it would be relatively easy for local authorities to police whether the information was incorrect or whether people were claiming that their premises were rated a 5 when they were actually a 2. Would it not be easier simply to ensure that there was a requirement to rate? Something could be included on the face of the Bill to help to set up a system of policing for the display of ratings on promotional material. If it is clear that there is a date on that material at which an inspection took place and everyone knows that there should be another inspection within 18 months, as we heard earlier, people would clearly know if it was out of date, would they not? So, it helps to inform the consumer. You mentioned referring people to a website, but not everyone is on the web. People might not necessarily have access to technology at their fingertips or be bothered to take 10 minutes to go online when they are hungry and have just got home from work.

[152] **Ms Barratt:** I entirely agree. The chartered institute will certainly support the display of food hygiene ratings on premises and on websites—stuff that can be readily changed. However, our concern is that a small business might buy 5,000 fliers tomorrow and find that, next Friday, they are out of date. That does not help the business, because it then has material that is out of date, and it then has to decide either to continue to use it or to withdraw it, which is a burden on the business. That does not help the consumer, because it is giving the wrong information.

[153] **Darren Millar:** Yes, but businesses regularly change their prices and produce other menus. An argument was presented to us this morning that having that requirement to publish on their delivery materials would incentivise them to aim higher in their performance because

they would have to publish the rating on those returns rather than be asked for that information over the telephone, if someone remembers to ask.

[154] **Ms Barratt:** If there is evidence—and I have to say that I have not seen any—to suggest that that will happen, I would support it strongly. My concern is that businesses would order a large quantity of documents, such as menus and fliers, and they would be reluctant to get rid of them, so they would continue to use them, carrying out-of-date information. That is a burden on small businesses that they probably cannot stand.

[155] **Darren Millar:** Provided that the documents are date-stamped and date-sensitive, and that people are aware of that, is it not better to give them some information than no information?

[156] **Ms Barratt:** It is better to give them some information, but there is a degree of sophistication that you have to bear in mind. Some premises will be inspected every six months and some will be inspected only every 18 months. If a business is to put out information that says what their hygiene rating was on the X date of Y, the public also needs to understand when the next inspection is due; so, how likely it is that that rating will have changed in the interim.

[157] **Darren Millar:** Could that not be published on the leaflet as well? Will they not have an indication of the next inspection date?

[158] **Ms Barratt:** It certainly could be, but a relatively simple scheme would become really quite complicated if you were to go down that route.

[159] **Darren Millar:** I have to say that the representatives of the FSB, on behalf of its members, had no objections whatsoever to publishing information and felt that it ought to be as widely available as possible. There was also an assertion that it would be an incentive for people to aim higher if they had to publish the rating on their records and were about to make a big purchase of leaflets. So, your evidence is significantly at odds with the evidence that we have received so far today.

[160] **Ms Barratt:** The view that we are giving is that we do not want to see the public being misled—accidentally or by design—as a result of printed material that has been generated in quantity and that a business feels inclined to use. If a business is minded to say that it will order a small amount to use until it is no longer relevant and then throw it away, that is fine, but I would not want to see businesses in the position of acting in a criminal way, effectively, just because they had acquired a large number of leaflets and had continued to use them.

[161] **Darren Millar:** They would not be acting in a criminal way if the information in the leaflet was consistent with the regulations and so on that might be drawn up.

[162] I have one final question. We know that, if a rating changes, there will be a number of days, while an appeals process is undertaken perhaps or a reinspection takes place, for which the display in the shop will be incorrect. Do you have a view on the timescale by which people ought to display their new stickers and ratings? You have made it quite clear that you object to people having this information in a leaflet that may be out of date, but the regulations and the Bill allow for a time lag between a rating and its display, do they not?

[163] **Ms Barratt:** Yes, they do. The premises are inspected, given a rating, and then reinspected and maybe given another rating. Until such time as the debate on the rating and the appeal is determined, the old rating should stand. The issue is how quickly the local authority can deal with the re-rating.

[164] **Dr Lyons:** I have considered the debate and there is probably a middle ground that could be reached. I can see the value of using the rating for promotional materials, because I do believe that that would raise standards. If businesses have to say how well they are doing, they will want to do their best. In the same way as we have a use-by date on our meat and chicken, you could say that the rating given is as of a certain date and note the date the next rating is due, so that people will know that if a Chinese takeaway menu has been in the drawer for four years, there must have been one or two inspections since then.

[165] **Elin Jones:** Following on from the answer that you have just given on re-rating, a business could be down-rated from 3 to 1, and a period of time could pass before that information has to be displayed—it could be at least 56 days before that is the case, in the legislation as currently drafted. From a public health point of view, would you consider that too lengthy a period of time for the consumer to learn that premises had changed their rating from 3 to 1 or from 5 to 3?

[166] Secondly, I was quite pleasantly surprised by the evidence of the Federation of Small Businesses, which said that it would have no objection to the inspector's report that lies behind the rating being made a public document, or being made available on demand to members of the public. Would you have a view on the inspector's report being made public, and whether it could aid the consistency of inspection, which has been a concern raised by the Federation of Small Businesses?

[167] **Ms Barratt:** Taking the first point, the sooner we get re-ratings displayed, the better it is for everyone. It is better for the business because the element of uncertainty has gone, and it is better for the public because they are aware of the current rating. Fifty-six days sounds like an awful lot. However, we also have to bear in mind that local authorities are doing this, and there is a certain amount of work that they have to do. We are very keen that the system of rating and re-rating should not deflect from front-line food hygiene inspections. Whatever that period is, it must not impact on food hygiene inspections.

[168] Regarding the second point, about the display of inspections, I know, from talking to professional colleagues across the country, that various local authorities already display their food hygiene inspection reports online. This is not without its difficulties. If there are issues that make a report sub judice, clearly it cannot be displayed. Then, there is a whole cloud of uncertainty about why it is not there, and speculation about what it might contain, which can be quite damaging. There is also a degree of redaction that is necessary with reports before they go online. I am not entirely sure that they do promote consistency across local authorities. I am not sure that there is any evidence that someone sits down and compares reports done in local authority A with those done in authorities B and C to ensure that they are consistent. In Wales, we can say that the Food Standards Agency and ourselves, the chartered institute, work with all local authorities, putting on training and trying to ensure, as far as we can, that inspections are consistent and that everyone has a consistent understanding. We can never guarantee that that will be the case because individuals bring their individuality to inspections. However, as far as we can, we try to do that. We would have no objection to the display of inspection reports on websites, subject, as I say, to an assurance that the burden of doing the necessary work on that would not impact on front-line food hygiene services.

[169] **Elin Jones:** A related issue is the independence of the appeal. We have heard one local authority suggest that the appeal could be heard by another local authority, to give the business a degree of faith that the appeal hearing would be independent. Do you have any views on whether that would be a good way to progress on this, or on whether the Food Standards Agency could hear the appeal?

[170] **Ms Barratt:** That is a question better addressed to local authorities, because it will be

a burden for local authorities if they have to take on neighbouring local authorities' appeals. The more fundamental question is whether this is likely to happen. In any local authority, there is a senior food hygiene officer and a head of food hygiene. There is a structure that would allow someone with a sufficient degree of independence to take a view on an inspection that has been done by an officer who also works for the local authority. Regarding the system of improvement notices that are served on businesses, the question is one of how many are appealed. The number is very small indeed. The suggestion that there will be a rash of appeals is not based on anything. We are not seeing it at the moment on the basis of a voluntary scheme. There may be more enthusiasm for appealing in a mandatory scheme, where everyone is involved and everyone has to display a rating, but I just question whether there will be that need. I would suggest that, inside a local authority, there is probably enough distance between the senior officer—the head of the food team—and the officer who is going out and doing the inspections, to maintain a degree of independence. However, I would think that it is for the WLGA to take a view on whether there is capacity across local authorities to deal with appeals. One only has to look at an authority such as Powys, which has an awful lot of neighbouring local authorities, to see that it could end up dealing with an awful lot of appeals. Meanwhile, there are others with just one neighbouring authority that might find themselves in the happy position of not dealing with any.

[171] **Elin Jones:** Ynys Môn. *[Laughter.]*

[172] **William Graham:** What are your views on informing the public? It has been suggested that people will think that this is a rating of quality rather than of compliance.

[173] **Ms Barratt:** Well, it is called the food hygiene rating scheme. There are plenty of qualitative schemes, such as Michelin stars and Les Routiers and so forth. However, this is a food hygiene rating scheme, and it is quite clearly called that. I have no evidence to suggest that the public do not understand that as a concept. The evidence suggests that they understand the difference between 0 or 1 and 5. The important thing is that they understand that they should be looking to the top end of the scale.

2.30 p.m.

[174] **William Graham:** So, your evidence would be that the voluntary scheme is already well understood.

[175] **Ms Barratt:** The voluntary scheme is understood by the public in as much as they see it. It is understood by businesses in as much as if they have anything less than a 3, they are not displaying it. So, they also understand the impact that it is having on the public.

[176] **William Graham:** Quite so. Incidental to that, in terms of the display of the rating by those who do not have a permanent establishment, do you have any suggestions about how there could be uniformity for that?

[177] **Ms Barratt:** With mobile food vehicles—ice cream vans, hot dog vans and all the rest of it—we suggest that it should be on the serving window so that anybody standing in front of it can see the sign. Similarly, with mobile shops, it should be on the entrance to the shop so that someone looking at it can see it before they choose to enter—in the same way as it would be on the door or the immediate frontage of a premises. The decision to go in is made having seen the food hygiene rating.

[178] **Mick Antoniw:** On the point about the public's perception and understanding of the system, what would you expect a member of the public to make of a 1 rating? What do you think they would expect from that?

[179] **Ms Barratt:** I do not know if the public necessarily look at a 1 and try to work out what it means. They look at a 1 and think that it will not be as good as a 3 or a 4. If you look at the analogy of hotels, for instance, you will see that members of the public readily understand that if you go to a 5-star hotel you would expect far better facilities, rooms, and choice of food compared with a 2-star hotel. Knowing the ins and outs of what the mechanical differences are between one and the other is not necessarily important. You make a judgment on what you see as the greater number of stars, which is sometimes reflected in price, location or whatever it happens to be.

[180] **Mick Antoniw:** Do you think that they should be better explained to the public? We were told by the FSA that 0, 1 and 2-rated establishments have significantly contravened food safety law. I am sure that someone going into a 1-rated establishment would not be going in there thinking, 'I think I'll buy a sandwich from here because they've substantially contravened food safety law'. Do you get me? What are we actually telling people about this?

[181] **Ms Barratt:** We need to be clear that there is a distinct difference between a food hygiene inspection and the food hygiene rating system. If an environmental health officer went to a food premises and found an imminent risk to health, it would be closed down—irrespective of any rating that it may have had. Some premises will get a low score. For instance, a food business will get a low score if it has not reduced its hazard analysis and critical control point system into writing. That does not necessarily mean that there is an imminent risk to health; it means that the food business is not demonstrating that it has understood HACCP, has quantified it, has written it down, that it is consistent, and that it can apply it everywhere and so on. It does not mean that a member of the public is taking their life in their hands by going in there; it just means that the business has not done everything that it can to demonstrate that it understands the concept of HACCP and has reduced it into writing. It may well be that the public wants more information on the scheme and what constitutes 1 and 5. That can be done by publishing the guidelines on all local authority websites and on the Food Standards Agency website. What is important is that businesses know that if they have a 1 and they are next door to a business with a 4, the footfall is likely to be into the business with the rating of 4.

[182] **Jenny Rathbone:** I want to go back to competitive disadvantages for Welsh businesses. You gave us a clear answer about mobile vendors going to public events and large events and so on. I want to come back to the concern about cheap producers of different meat products or milk products, not necessarily in the UK, but in other parts of Europe or further afield, undercutting local producers. There are different standards and under EC regulations they are still allowed to sell to Welsh businesses. How do you see that operating, given that the business-to-business food rating will not cover businesses in other countries?

[183] **Ms Barratt:** No; it cannot. The business-to-business aspect can only cover businesses operating within Wales selling to businesses within Wales or, obviously, selling outside. Selling outside is not really a matter for this. We are looking at businesses in Wales selling to businesses in Wales, which is all that the legislation can cover. There will clearly be businesses outside Wales selling to businesses inside Wales that are not caught by the regulations, but that is the nature of the beast.

[184] **Jenny Rathbone:** Okay. So, it is perfectly possible for someone who scores a rating of 4 or 5 in this country to be buying products from premises that would score very low, were we to apply our standards to them.

[185] **Ms Barratt:** It is important not to lose sight of the fact that the premises that are in Wales, and those that are in the EU, are all subject to the food hygiene legislation. If we are talking about price and quality, that is one thing, but if we are talking about hygiene standards and the risk of food poisoning, that is quite another matter. That is caught by the food hygiene

inspection regime irrespective of the country of origin of the food product.

[186] **Jenny Rathbone:** Okay. So, you would not have a situation where a business in Wales with a rating of 5 could be selling food that was not safely produced.

[187] **Ms Barratt:** No; you certainly should not have, subject to the food hygiene inspection regulations.

[188] **Jenny Rathbone:** Okay. Thank you.

[189] **Mark Drakeford:** Rebecca, did you have a question relating to what we have just heard?

[190] **Rebecca Evans:** No.

[191] **Mark Drakeford:** I wish to do a couple of things. There will be another chance for anyone who has other questions. Dr Lyons, I well remember that you were heavily involved in the 2006 outbreak. Would this piece of legislation have made any difference to the circumstances that we were involved in then? Sometimes, the origins of this legislation are pointed to as lying in that outbreak.

[192] **Dr Lyons:** Yes, I think that extending the scope of the rating to more than just the outlets of food is something that we will strongly support. I will not go into any detail about the outbreak. I would want all our schools and hospitals to know the ratings of those premises from which they buy their meats. They can make their own risk assessments, but at least that information should be available.

[193] **Mark Drakeford:** Had that information been available in 2006, it potentially might have made a difference.

[194] **Dr Lyons:** I cannot say how they commission the purchase of their meats, but you could assume that they would at least have had a document showing the risk assessment undertaken if they commission their meats in that way.

[195] **Ms Barratt:** Procurement rules would certainly take account of food hygiene ratings, and that would then have the advantage of forcing those businesses that want to trade with local authorities, national health trusts, or whoever, to be cognisant of the procurement rules and to make sure that their standards met those or exceeded them.

[196] **Mark Drakeford:** I wonder whether the institute could help me with a question. I asked the question this morning, and I thought that I understood the answer, but I am not certain that I did understand it properly. I was trying to find out whether the timings of inspections would be common across different local authorities in Wales.

[197] **Ms Barratt:** Yes.

[198] **Mark Drakeford:** I was given an answer, which I now think related to food hygiene inspections where, if you were in category A, you would be inspected every six months, if you were in category B, it would be every 12 months and if you were in category C, it would be every 18 months. Is it your expectation that, when a food hygiene inspection is being carried out, a food hygiene rating inspection will happen alongside it?

[199] **Ms Barratt:** Yes.

[200] **Mark Drakeford:** So, I could be confident—as I was when I heard the answer—that

the longest that any food hygiene rating inspection would have currency would be 18 months.

[201] **Ms Barratt:** Yes; that is right.

[202] **Mark Drakeford:** Will that be common across all parts of Wales?

[203] **Ms Barratt:** Yes; that is right. The rating system is common across the whole of the UK, but it is certainly common across the whole of Wales.

[204] **Mark Drakeford:** That is the real point that I was interested in. That is very helpful. Thank you.

[205] I also wanted to check that it would still be possible for premises in category A under the food hygiene inspection regime, which need to be seen every six months, to have a rating of 5, and that premises in the category that need to be seen only every 18 months could actually have a 0 rating.

[206] **Ms Barratt:** Yes; that is right. If you are a category A premises, being inspected every six months, you could have 5, but that rating would be subject to review every six months, obviously, as you were reinspected. Similarly, if you were a category C business that was inspected only every 18 months, you would be rated once every 18 months and your rating would continue for 18 months until the next inspection, subject to your not appealing against it, of course.

[207] **Mark Drakeford:** So, in other words, the fact that you do well under a food hygiene inspection does not necessarily mean that you will do well under a food hygiene rating inspection and vice versa, but the longest any business with a rating of 0 would have to wait to be seen again is 18 months.

[208] **Ms Barratt:** Yes. If the business was minded to sit there with a rating of 0 and do nothing about it, the longest it would have the rating is 18 months.

[209] **Mark Drakeford:** Thank you. That has cleared that up for me.

[210] **Darren Millar:** We touched on this issue earlier during evidence from local government. Part of the Bill contains additional powers of entry. Are these necessary given the existing powers of entry for local authority officers and environmental health officers to enable them to enter people's premises to inspect them?

[211] **Ms Barratt:** Yes, they are.

[212] **Darren Millar:** Can you tell us why?

[213] **Ms Barratt:** I am a barrister as well as an environmental health officer so perhaps I can throw my legal advice in here. If you enter premises using your food hygiene powers, you can use only the power of entry with which you went in, in this case to execute food hygiene functions. Therefore, if you use your power of entry under the food hygiene regulations to enter premises, you cannot do anything about the food hygiene rating scheme, because that is not why you are there. You need a concurrent power of entry so that you can go in to do both things. A mirror image of powers of entry would be fine, and it effectively means that you can go in and do both of those things but, if push comes to shove, you could say that when you took action with regard to the food hygiene rating scheme you were using your food hygiene power of entry and that, when you took action with regard to the food hygiene inspection, you were using your food safety power of entry.

[214] **Darren Millar:** That was a very clear answer; I really appreciate that. As it stands, are the powers of entry sufficient to allow you to do everything you need to do in order to enforce the legislation and ensure that the food hygiene display system is working?

[215] **Ms Barratt:** Yes they are. The obstruction power supplements that, and that would be sufficient.

[216] **Darren Millar:** It is super to get free legal advice. *[Laughter.]*

[217] **Rebecca Evans:** I think I know the answer to this question, but, just in case, are there any types of businesses that could or should be exempt from a mandatory scheme?

[218] **Ms Barratt:** Yes. We are keen to ensure that only businesses that are true businesses fall within this scheme. Therefore, if you have someone who, on odd occasions, bakes a cake for a church fete, a school cake sale or whatever in domestic premises, they should not be caught by this. Similarly, the main business of a child minder is child minding, so we would not expect them to have a food hygiene rating. They will still be inspected under the food hygiene inspection regime because they are feeding children. However, where we have vulnerable individuals like small children or vulnerable adults living together as a household, we do not think food hygiene ratings should apply because it is not somewhere members of the public are going to eat or procure food. It is a business that is exclusive to the customers who go there. Therefore, organisations such as the Women's Institute, making jam and cakes, should be outside the scheme, provided they are not doing it as a business.

[219] **Mark Drakeford:** We are going to put the William Graham question, as we think of it, to you now. *[Laughter.]*

[220] **William Graham:** I am still concerned about this. We heard about the idea of this being regular and, as you say, of something being a business. There may be charities, for example, that fall into that legal definition. The example I used this morning was pensioners' lunches. There are examples of where that has gone wrong, resulting in fatalities. Are those intended to be caught?

[221] **Ms Barratt:** With regard to a business or charity doing something that is regular, if we are talking about the WRVS producing meals on wheels or a church that does a pensioners' lunch once a week as part of its business and conduct, yes, it should be caught by the scheme. However, if we are talking about a church hall that, on the odd occasion, puts some sandwiches together, say for a funeral service, and the event is random and involves different individuals, that is not a business in the sense that we are looking at consistent and ongoing food provision, so it should not be caught.

[222] **William Graham:** If, in that scenario, they always bought food in, would you inspect them to be rated, even if it was done regularly?

2.45 p.m.

[223] **Ms Barratt:** No, not if they always bought food in, because they are buying from someone who will have a rating. That is no different from you or me regularly going to buy a sandwich for lunch.

[224] **Mark Drakeford:** This is the last chance for Members to ask any questions at this point. We also have a couple of moments in case there is anything that has not emerged clearly in the questions that our witnesses would like to draw to our attention.

[225] **Ms Barratt:** It may help the committee if I gave you some very up-to-date figures,

which my current students, who are sitting behind me and whom I am indebted to, collected in the past month. We did a piece of work, dated from 10 June to 10 July, in the Torfaen area, in which we sampled 35% of those food properties appearing on the Food Standards Agency website as having a food hygiene rating, to see how many of them were displaying their rating. We found that of those with a rating of 0, none were showing their rating. Of those with a rating of 1, of which there were 21, none were showing their rating, and of those with a rating of 2, of which there were nine, again, none were showing their rating. So, none of the premises in Torfaen with a score of 2 or less were showing their rating. Once we got to a score of 3, 15 out of 52 premises, which is about 29%, were showing their rating, and of those with a score of 4, 29 out of a possible 55 were showing their rating, which is slightly over 50%. Finally, of those with a score of 5, 44 out of 63 premises were showing their rating, which is about 70%. So, in Torfaen, over the past month, we saw that premises with a score of 3 or above are, in increasing numbers, displaying their rating. Those with a rating of 0 to 2 are not showing their rating at all.

[226] **Mark Drakeford:** That is very helpful, thank you.

[227] **Ms Barratt:** I am happy to leave those figures with the clerk.

[228] **Mark Drakeford:** Thank you; that would be useful for us. Dr Lyons, do you have anything to add—

[229] **Lindsay Whittle:** Chair, sorry to interrupt, but was there an analysis of why that was the case? If I was a businessperson and had a score of 5, I would want the whole world to know.

[230] **Ms Barratt:** I can give you, in part, an anecdotal answer to that. We have heard—and I cannot put it any higher than that—that certain chains of companies that operate a lot of premises have taken a view that, rather than sit at board level and say, ‘If we get a rating of 3 or below, we won’t display our score, but we will display a 4 or a 5’, which is effectively a fairly cynical circumvention of the scheme, they say ‘We’ll just not show any scores, rather than risk having to put up a low score’. There are other premises that take the view that they do not want to clutter up their frontage with more signage. That was an issue that we had in relation to the ban on smoking in public places. At that time, one concern for some businesses was that the signage did not fit in with their corporate colouring and they did not want to clutter up the facia of their building with signs and so on. There are a number of reasons why people do not put up scores of 5, but you can see from the figures that, increasingly as the scores go up, the desire to display them also goes up.

[231] **Mark Drakeford:** There is just one last question from me, which I should have asked you earlier. During the day, we have explored with other witnesses the following question: if this is essentially a consumer-information measure, which is how it was described to us by the FSA, is not having premises with a 0 rating that can continue to trade a confusing message for people—it is that bad, but you are still able to buy food there?

[232] **Ms Barratt:** That is a hard question, but, yes, I agree, provided that the 0 rating is displayed. My concern is about premises that have a rating of 0 and feeling that they do not have to display anything, which would mean that the public could not see anything. Provided that the rating of 0 is displayed, I do not think that we have a problem with that, because it is effectively just a scale of six, and it could just as easily be 1 to 6, rather than 0 to 5. That is just nomenclature, really. My bigger concern is those premises that have no score at all—they have scored a 0—and feel that they do not have to display anything, because there is nothing to display.

[233] **Dr Lyons:** I would support a true explanation of the scheme on all of the websites, so

that the public understands that this does not mean that there is imminent risk to life and health. That is the important thing, although there is significant work to be done to comply with the legislation. I think that, once you have the information, you should display it. People should know about it. I think that they do understand these complex messages. The public should know once it is there. We should explain, quite clearly, what it means.

[234] **Mark Drakeford:** Thank you very much to you both. That has been a really helpful session, and we are very grateful to you for all your help.

2.50 p.m.

Bil Sgorio Hylendid Bwyd(Cymru): Cyfnod 1—Trafod y Dystiolaeth Food Hygiene Rating (Wales) Bill: Stage 1—Discussion of Evidence Received

[235] **Mark Drakeford:** Rydym yn bwrw **Mark Drakeford:** We move on now to the ymlaen at yr eitem olaf ar ein hagenda last item on our agenda today, which is a heddiw, sef trafod y dystiolaeth. discussion of the evidence.

[236] This is the part of the agenda where we are going to have a chance to reflect on the evidence that we have heard and, in particular, to identify two things, which are likely to overlap but which might not be identical. First, there are those issues that are emerging that we will want to draw attention to in our report at Stage 1. Secondly, there is some uncertainty about next week's agenda, but, going on the basis that the Minister will have time for us to talk to her about food hygiene as well, there are the points that we wish to put to her in that session. So, we can get our briefing organised to help us with that. I am happy to take any contributions.

[237] **Darren Millar:** May I start the discussion, Chair? There were three things that stuck out for me today. One was the quite widespread support for the display of food hygiene ratings on promotional materials. There was a bit of resistance from a couple of witnesses, or a few reservations, shall we say, but there was quite a lot of support, including from the Federation of Small Businesses, which surprised me. I liked the idea of a sell-by date, as it were, with the date of inspection being displayed on the promotional material somewhere. That was a useful point that we brought out. I also liked the discussion that we had around the appeals process, particularly in terms of an appeal to a neighbouring authority for businesses in order for them to have confidence that there is some impartiality when their appeals are being heard. On the business-to-business front, there was widespread support apart from the FSB, but I still cannot understand what the additional costs of regulation would be to Welsh businesses. To me, it seems that if they are already complying, as Jenny quite rightly pointed out, with the existing food hygiene regulations, then to simply display a sticker or something on the window or in their materials would be pretty straightforward and not costly at all. So, for me, they were the things that stuck out.

[238] **Mark Drakeford:** That is really helpful. Does anybody either want to take issue with that or add to the points made?

[239] **Elin Jones:** I do not disagree on those issues. I wanted to raise the timescales. The idea of 14 days and 21 days before a new rating or re-rating is given as information to the consumer still seems to me to be excessive. There seems to be a consensus—no, sorry, that is the wrong word to use; there was no consensus, but I was quite persuaded that there were elements of that that seemed too long and too generous. That is something I want to raise with the Minister in particular, because obviously she changed her view as a result of the consultation on that one.

[240] The other issue is the publication of the inspection reports. Whether that ever becomes an issue for the legislation, or whether it is an issue that runs alongside the legislation, I still understand some of the issues that the local authority raised about the practicality of some of that. However, I think that the view of the Federation of Small Businesses was quite persuasive—it was almost counterintuitive that it wanted the reports made public, but, of course, individual businesses are then able to look at other businesses' inspection reports to see whether there is consistency within a local authority. They could also look to see whether there is consistency in reporting between local authorities. It aids, I would suggest, the development of consistency over time.

[241] **Darren Millar:** Was it Nottingham you mentioned?

[242] **Elin Jones:** Norwich.

[243] **Mark Drakeford:** There are two, actually. There is Norwich and there is Staffordshire, both of which routinely publish every inspection. Would it be useful for committee members if we perhaps asked for one random example from each to be circulated among us, so that we could see what goes up on their websites? I see that you agree.

[244] In relation to the length of time issues, I would be interested in Members' thoughts. Consumer Focus Wales said that it was particularly anxious that these were going to be on the face of the Bill. In other words, if you ever needed to change something, you would have to pass a piece of legislation. I think that it was suggesting that they would be better left to regulations, where there is more flexibility. That is just for people to think about.

[245] **Mick Antoniw:** On the promotional material, if we propose that that should be the case, and it seemed to me that the evidence overall was pretty overwhelming, it also means that we need an amendment to section 9, because the only penalty in respect of misleading information is basically by displaying an invalid food hygiene rating sticker, which is a particular definition. Any attempt to purport to have a rating to which you are not entitled should be part of the offence. It ought to be more specific.

[246] **Mark Drakeford:** You put that point to the FSA, did you not?

[247] **Mick Antoniw:** That is right, and its representatives tended to agree.

[248] **Mark Drakeford:** They did. Thank you; that is useful.

[249] **Rebecca Evans:** Going back to Norwich and Staffordshire local authorities publishing the reports, could we ask them for their views on whether it has been particularly time-consuming or expensive? Also, perhaps the Research Service could explore what implications Welsh-language legislation would have for that.

[250] **Mark Drakeford:** That was raised by the WLGA representative—that you might run into a different set of issues. Is it possible to look at that?

[251] **Ms Hathaway:** Yes.

[252] **Mark Drakeford:** Thank you very much indeed.

[253] **Lindsay Whittle:** I would like some consideration, at least, of the evidence from the WLGA and from the Federation of Small Businesses on the financial implications for local government of a more rigorous, compulsory inspection and the compulsory display. It is going to have financial implications. Should they be taken into account in the revenue support grant? I think that they should.

[254] With some businesses, there was talk of these walk-in fridges, which do not come cheap. Would there be any financial assistance to small businesses? Could that at least be looked at? There may be some grants somewhere; I do not know.

[255] **Mark Drakeford:** That is a question to ask the Minister as to whether any help is already available.

[256] **Lindsay Whittle:** There may be, but I do not know. Some local authorities and some organisations have a habit of finding grants that we are not always aware of. I think that that would be of benefit to the businesses. I do not want to see businesses fail. Where businesses are profitable, they should be using their own money to improve their services, but it is a fine line.

[257] **Mark Drakeford:** William, where do you feel, over the run of the day, the question that you asked regularly was left?

[258] **William Graham:** I am much more reassured that it catches the right people, if that is the right term to use. If you are regularly running a lunch, for whatever reason, you should comply. That point is accepted. However, if it is irregular, it should not necessarily mean additional compliance for charitable voluntary organisations. I think that I am satisfied as to that.

[259] If I might, I would just comment that the second answer on the power of entry was very much more explanatory.

[260] **Mark Drakeford:** That cleared the matter up completely, did it not? We understood that.

[261] **Jenny Rathbone:** I am still slightly fussing about this perverse incentive to buy processed food from abroad. Julie Barratt was clear about the European legislation and that there are European standards, but that does not stop people buying from Africa or wherever. I wonder whether we have a legal adviser who can tie that down. When you are talking about the catering industry in particular, unfortunately, price is everything.

3.00 p.m.

[262] **Mark Drakeford:** We will try to get some advice on that. Again, it is a question that we could potentially put to the Minister. It cannot be captured by this piece of legislation, but we could ask how she is otherwise thinking about that whole point. Collectively, were we reassured by what we were told about the regularity of reinspection? When we raised it with the Minister, we were concerned that things could be very different in different parts of Wales. In some parts, you might be inspected only once every five years, while, in another place, you might be inspected every three months. The suggestion that I think we have heard is that—

[263] **Darren Millar:** It is a risk-based issue. The three categories of A, B and C seem very reasonable to me.

[264] **Mark Drakeford:** Yes. The food hygiene inspections under this Bill will simply be grafted onto that existing system.

[265] **Darren Millar:** Yes. From a public education point of view, this maximum of 18 months is very important to get across.

[266] **Mark Drakeford:** I was going to say exactly that. Once you realise that the longest that any rating is likely to last, as a general rule, is 18 months, on that business about things being out of date on leaflets, and so on, you will resolve for yourself, will you not?

[267] **Mick Antoniw:** Chair, on that point, I was reasonably reassured towards the end, but I am still not completely confident as to how there will be a guarantee that that will happen. It seems to me that the best way to do it is to ask the Minister how she intends to ensure that that happens.

[268] **Darren Millar:** I take it that you are referring to consistency. I agree; I was not entirely confident about the consistency of the application of the scheme across the board. Once again, this is anecdotal evidence, but, even in my own constituency, there will be someone who appears to be tough on one person and not so tough on another.

[269] **Mark Drakeford:** The FSA and the institute both told us that they had a role to play in that and that they do some sort of auditing, sampling and common training, and that there was an effort to try to make it more consistent. However, I agree that there is a question for us to ask the Minister regarding what extra effort will be made. There is a difference between a compulsory scheme and a voluntary one.

[270] I would like to return, for a minute, to the points that were made by the FSB. I think that we should rehearse these at least once. Its arguments to us were that it is premature to move from a voluntary to a compulsory scheme; that the voluntary scheme had the support and the goodwill of the sector and you might lose a bit of that if you turn it into a compulsory scheme.

[271] **Mick Antoniw:** The point is that I do not think that was proven by the information that we had either in terms of the information on Torfaen or the information that is in the explanatory memorandum, which basically shows that 70% of the organisations that are required to be rated do not display the rating. It seemed to me that its evidence was missing the importance of this in terms of consumer choice.

[272] **Darren Millar:** It does not appear to me to be an overwhelmingly complicated and onerous scheme for businesses to participate in. In terms of a regulatory burden, the regulations on food hygiene already exist. This is about displaying something in the window. It is not a hugely onerous and expensive operation. They struggled to answer, when the business-to-business question was put to them, as to what the additional cost was. They did not have an estimate, because there is not one.

[273] **Mark Drakeford:** My feeling was—I will put it this way for the record—that the points that they made were proper and sensible points, and we are not in any way dismissing them, but I felt that they were outweighed by the other evidence that we had.

[274] **Darren Millar:** Yes.

[275] **Elin Jones:** On another matter, we heard the FSA—we have had the FSA and the FSB today—say right at the start that, with hindsight, a scoring system of 1 to 6 would probably have been preferable to 0 to 5. The voluntary scheme has been in operation since 2010; if that were to change to a rating system of 1 to 6, now would be the time to do it. I guess that, if we wanted to explore that issue, because a number of us have talked about what consumers think about a rating of 0 and the validity of such a rating when the business continues to be able to sell food. That is obviously a big thing to take on, but I think that it is an issue that we could ask the Minister about, because the 0-to-5 scheme runs in England as well, does it not, as a voluntary scheme?

[276] **Mark Drakeford:** Yes, as a voluntary scheme, as I understand it.

[277] **Elin Jones:** So, it is an FSA scheme that operates in Wales and England. So, there might be reluctance from the FSA to change it and there would be issues of understanding the scheme in England and in Wales if they were different. There are arguments on both sides, I think.

[278] **Rebecca Evans:** I disagree; it is an important point and my only concern would be if we moved from a 0-to-5 to a 1-to-6 rating system, and then suddenly a load of people would get bumped up from a 3 to a 4 or from a 4 to a 5. That would be confusing.

[279] **Mark Drakeford:** I think that Elin just wants to rehearse the argument for the Minister.

[280] **Elin Jones:** I am not saying that I support it, but if we think that a business with a rating of 0 continuing to trade is not a good thing and that that needs to be changed, then now is the time to change it rather than two years into the legislation being enacted, but I am rehearsing the argument.

[281] **Mick Antoniw:** By the end, I was fairly convinced that it was probably not appropriate to change the system for a variety of reasons. Much of the concern related to whether businesses with a rating of 0 or 1 should be trading at all. The information that we were then given, which I hope that I understood, was that there may be a series of reasons why a business might be in breach, but that those might not pose a risk to health in relation to the food. For example, there could be a variety of safety breaches, such as the carpet being torn and so on, which are not creating an imminent risk.

[282] I was also a little concerned about the use of the term ‘imminent risk’, because does that mean that it is okay that there is a slightly-less-than-imminent risk? So, on all of these terms, with a mind to wanting to create consistency across borders, I have reached that view. However, it is worth making that point to the Minister, that we are now convinced that this is the way that we are going to go and so on.

[283] **Ms Hatherley:** It might be useful to note that, in Scotland, the scheme only has two categories of rating: ‘pass’ or ‘improvement required’.

[284] **Mark Drakeford:** That is what Iestyn Davies was referring to when he said that he would be comfortable with the in-or-out scheme. That is the Scottish scheme—you are either okay or you are not.

[285] **Darren Millar:** But, by this standard, a rating of 0 to 5 would be a pass, so you would not have any competitive advantage in aiming for a 5.

[286] **Mark Drakeford:** No. There are some good points about the Scottish scheme, but there is also much criticism of it.

[287] **Rebecca Evans:** Just because you mentioned that, we have heard about schemes in Denmark, Los Angeles, New York and so on; I am not suggesting that we visit those places, but how do those schemes operate? In my mind, they also have a 0-to-5 rating system, but are theirs pass or fail systems?

[288] **Ms Hatherley:** I think that in Denmark, it is slightly more detailed; Denmark has a ‘smiley’ scheme, but I think that a bit more detail is provided in the rating. I do not know about the other places, but we can look into it.

[289] **Mick Antoniwi:** For a 0, is there a skull and crossbones image? [*Laughter.*]

[290] **Mark Drakeford:** I think that that session has been useful; all of the key issues have been covered.

[291] **Darren Millar:** On this issue of consistency, the way that Graham Perry from Monmouthshire County Council put it in terms of it being an art and not a science was telling. I know that I have referred to this before, but we need to explore the rigour of the scheme in terms of how it is applied. That is important to businesses.

[292] **Mark Drakeford:** Like you, Darren, I thought that it was slightly counter-intuitive of the FSB to be in favour of publishing the whole report, but I think that they were because they were hoping that it might then veer more towards 'science' and be a bit less reliant on 'art' as a result.

[293] Thank you all very much; that concludes our meeting for today.

*Daeth y cyfarfod i ben am 3.09 p.m.
The meeting ended at 3.09 p.m.*