

Health and Social Care Committee

HSC(4)-01-12 paper 2

Draft Food Hygiene Bill – Approach to consideration

Purpose

1. This paper draws the committee's attention to the Draft Food Hygiene Rating (Wales) Bill and outlines some possible options should the committee wish to undertake pre-legislative scrutiny.

Background

2. The Draft Food Hygiene Rating (Wales) Bill was published for a 12 week consultation by the Minister for Health and Social Services on 14 December 2011.¹

3. The Bill will make it compulsory for food businesses in Wales to display information on their hygiene standards (their food hygiene rating) in a position where it can easily be seen by customers. The Bill will also require local authorities to enforce the mandatory scheme in their area and ensure ratings are correctly displayed.

4. The subject matter of the draft Bill does not lie clearly within the remit of a specific committee. A decision as to which committee it will be referred to will be taken by the Business Committee once a Bill is formally introduced.

Discussion

The use of Draft Bills

5. Draft Bills are used by Government to consult the wider public or particular interest groups on specific legislative proposals. There is no requirement in the Assembly's standing orders for Assembly Committees to consider or scrutinise draft Bills.

6. Draft Bills have become common in the UK Parliament in recent years, and are often scrutinised by a Select Committee before being formally introduced. However, this practice has developed partly because there is no Stage 1 scrutiny process in Westminster while the later Committee stage may not include Members of the original Select Committee. In Scotland, although the Scottish Government does appear to publish some Bills in draft, there does not appear to be much scrutiny of these by Parliamentary Committees.

¹ Available from:

<http://wales.gov.uk/legislation/programme/assemblybills/foodhygiene/?lang=en>

7. While it could be perceived as being counter-productive for Committees not to consider draft Bills, there is the risk that attempting detailed consideration at this stage could compromise or confuse Stage 1 consideration by Committee.

8. In addition, responding formally to the Government consultation could obscure the Committee's role, as well as give insufficient weight to its formal role.

Options

9. It is against this background that the following options are put forward for work that could be undertaken by the Committee:

- i. do nothing – as indicated above, there is no requirement in standing orders for committees to undertake pre-legislative scrutiny of Bills and Stage 1 offers scope for consideration of the formally introduced Bill.
- ii. invite the Minister to give evidence to the committee as a means of setting the scene for the Bill's introduction later on in the year; however, in this context the committee will wish to be aware of the recent exchange of correspondence between the First Minister and Presiding Officer (attached at Annexe 1) regarding the calling of Ministers to appear before committees in relation to Draft Bills.
- iii. invite government officials to brief the committee about the draft Bill as a means of explaining the background to it and keeping the committee informed of developments so that it is fully prepared for Stage 1 scrutiny;
- iv. undertake options ii. or iii. with other committees that are likely to have an interest in the Bill, namely the Communities, Equality and Local Government Committee and the Enterprise and Business Committee. This could be done by meeting concurrently or potentially through sub-committees

Action

10. The committee is invited to consider which of the options outlined in paragraph 9 it wishes to pursue in relation to the Draft Food Hygiene Rating (Wales) Bill.

Y Gwir Anrh/Rt Hon Carwyn Jones AC/AM
Prif Weinidog Cymru/First Minister of Wales



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: LF/FM/5121/11

Rosemary Butler AM
Presiding Officer
Chair, Business Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

17 October 2011

Dear Rosemary

I am writing to you to clarify the Welsh Government's position in relation to the handling of its White Paper and Draft Bill consultations.

The Welsh Government has made a commitment to consulting prior to introducing legislation, whether it be at policy stage, White Paper stage, or by way of a Draft Bill. We have already published a White Paper relation to the School Standards and Organisation Bill, and will shortly be publishing a White Paper on Organ Donation. Later this year we will also publish a number of Draft Bills for consultation.

While I consider both White Papers and Draft Bills to be primarily Government consultations, I have asked Ministers to ensure that Assembly Members are informed prior to publication by way of a Written Ministerial Statement. These consultations are however an exercise in listening to and engaging with stakeholders and the wider public.

We would of course welcome the views the Assembly may have in relation to the proposals outlined in these consultations, whether they come from individual Assembly Members or an Assembly Committee.

However, the appropriate time for the Assembly to properly scrutinise Ministers on Welsh Government legislative proposals is during the formal scrutiny stages once the Bill is formally introduced. We would not wish to undermine the Assembly's scrutiny of Government legislation by circumventing these proceedings.

As such, we would not expect Ministers to be called to appear before Committees during these consultations to discuss a White Paper or Draft Bill. We would however be happy to arrange for officials to provide technical briefings to Committees on individual White Papers or Draft Bills.

It is of course for Committees to decide how best to consider these consultations, if they wish to do so, and they may wish to invite evidence from key stakeholders. The Government's position will be clearly set out in each White Paper or Draft Bill, on which we are seeking the views of stakeholders.

I hope that this letter clarifies the Government's position on this matter

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a smaller 'J' and a short horizontal stroke.

CARWYN JONES



Rt Hon Carwyn Jones AM
First Minister of Wales
Welsh Government
Cardiff Bay
CF99 1NA

Your ref: LF/FM/5121/11
Our ref: RB/AC/CJN/PO143

18 October 2011

Dear Carwyn

Thank you for your letter concerning the Welsh Government's position on White Paper and Draft Bill consultations.

Consultation on proposals for Government legislation is a welcome development and I sincerely hope that it will result in wider engagement with the process of making legislation and, ultimately, in better law.

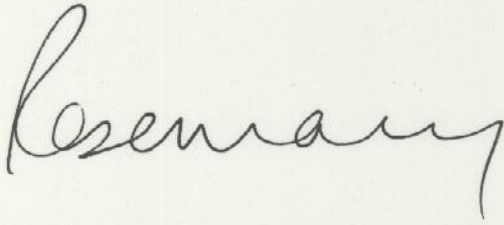
I am pleased that you recognise the importance of the Assembly's formal scrutiny procedures and share your desire that these should not be undermined or circumvented by the process of legislative consultation. Thank you also for signalling the Government's willingness to provide committees with technical briefings from your officials. I am sure that this will be appreciated.

I will share these points with committee Chairs and members of the Business Committee for their information but I am afraid that I cannot guarantee that committees will never invite Ministers to attend committees to discuss White

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Papers and Draft Bills. It is not a matter for me to dictate to committees how they should approach their work and there might well be occasions when it is perfectly appropriate for them to hear from Ministers when major policy proposals are being formulated. That said, I agree that it would be undesirable for Ministers routinely to be called before committees during consultation periods only to go over exactly the same ground during the Stage 1 scrutiny process.

A handwritten signature in cursive script, appearing to read 'Rosemary', written in dark ink.

Rosemary Butler AC, Llywydd
Rosemary Butler AM, Presiding Officer