

Online display of food hygiene ratings by food businesses in Wales: Challenges and opportunities

3.1 Implementation challenges

- Strong support for aggregators to lead the way.
- Agreement that the less human intervention by businesses to achieve compliance the better.
- Participants interested in finding out more about possible technological solutions for automatically updating food business websites and social media accounts with correct ratings and monitoring compliance remotely.
- Question as to whether businesses could discharge their duty to provide information online if it was available on an aggregator website. This would shift responsibility to the aggregator for ensuring ratings are kept up to date. If ratings on aggregator websites are not up to date who commits the offence, the business or the aggregator?
- Currently businesses with low ratings attempt to hide their stickers. If the online display requirement is not specified in precise detail, it is almost certain some businesses will attempt to hide low ratings on their websites.
- Requirement on website will need to be prescriptive in terms of where rating should appear and how prominent it needs to be. Agreement that ratings need to be prominent on front or home page.
- Strong support for an initial voluntary approach in advance of mandation and the potential to identify businesses who will act as pathfinders. This will provide the opportunity to test any technological solutions.
- A phased approach to mandation suggested and supported by participants with takeaways in first phase as overall, these establishments experience challenges achieving compliance.
- Cross border issues need consideration. Not uncommon for consumers living on borders to live in Wales and order online from establishments in England but this should not be a barrier.

3.2 Enforcement challenges

Discussions around enforcement generated several questions and views:

- If purchase online where does sale take place? In home or where the order received? What if server is located outside UK? This needs further exploration. Trading standards may be able to assist.
- In the case of aggregators, who commits the offence, the food business or the aggregator?
- Would LAs be responsible for checking website information is accurate as part of their routine inspections?
- Surveillance and enforcement could be done centrally by the FSA or another organisation as on-site visits would not be necessary to verify compliance. Compliance with online display requirements could be checked remotely. However, some participants thought fixed penalty notice receipts would be useful to reinvest in LA official controls delivery.

- Sanctions should mirror those already in place with fixed penalty notices and prosecution for non-payment.
- It is likely that failure to display ratings online will be perceived by courts as a trivial offence.
- Offences should include i) failure to display a rating online and ii) displaying an incorrect rating.
- Participants queried the expectation around enforcement and suggested a soft approach initially, with businesses being afforded the opportunity to comply before being served a fixed penalty notice.
- Concerns were raised at the potential time it would take for LAs to proactively check food business websites and social media accounts. Participants reiterated that this surveillance could be done remotely by the FSA or another organisation and LAs only notified when problems or potential non-compliances are identified and enforcement required.
- It was suggested that enforcement could be complaint led – just reactive. Particularly if there was a campaign aimed at consumers to encourage them to look for ratings on food business websites.
- Currently, in respect of FHRS stickers, LAs receive customer complaints if they are not available. These are investigated. No reason why failure to display online should not be investigated by LAs in the same way.
- An unintended consequence of this initiative could be more appeals, more right of replies generating more work for LAs.

3.3 Support for businesses

There was overwhelming support for a technological fix requiring minimal effort on the part of businesses to comply. In the absence of a technological fix, participants were of the view that many businesses will struggle.

Consensus that some businesses will need support even with a technological fix in place.

Consensus that from both a capacity and capability perspective, LAs would not be best placed to provide IT support to businesses.

3.4 Support for regulators

Whilst participants were overall supportive, the need for clarity around expectations of already stretched LAs was regarded as important at the outset.

With current pressures on LA resources, participants agreed that any changes to LA information systems to support the initiative are unlikely to be funded by LAs. This will need to be a consideration for the FSA.

Proactive monitoring of compliance could prove time consuming and a technological fix for this was preferred whereby LAs are alerted when ratings are not available or incorrect.

Participants advised that they currently have other high priority issues to deal with e.g. securing compliance with allergen requirements, dealing with businesses that fail to register and EU exit. Consideration of the relative priority of this initiative will be important, not just from a LA perspective, but also for businesses who are facing similar challenges. Timing is going to be key in securing stakeholder support and capacity to progress the initiative.

3.5 Opportunities

Participants recognised the significant opportunities associated with the initiative for website designers and software companies and for businesses in promoting their achievements. They

also acknowledged the opportunity for Wales to continue to improve the robustness of the Scheme, and agreed online display is sensible in the natural progression and development of the current Scheme.