



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

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

Dydd Mercher, 7 Tachwedd 2012
Wednesday, 7 November 2012

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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
Vaughan Gething	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
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

Eraill yn bresennol
Others in attendance

Christopher Brereton	Pennaeth Deddfwriaeth Iechyd Cyhoeddus Amgylcheddol, Llywodraeth Cymru Head of Environmental Public Health Legislation, Welsh Government
Lesley Griffiths	Aelod Cynulliad, Llafur (y Gweinidog Iechyd a Gwasanaethau Cymdeithasol) Assembly Member, Labour (the Minister for Health and Social Services)
Christopher Humphreys	Adran Gwasanaethau Cyfreithiol, Llywodraeth Cymru Legal Services Department, Welsh Government

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

Fay Buckle	Clerc Clerk
Claire Griffiths	Dirprwy Glerc Deputy Clerk
Lisa Salkeld	Cynghorydd Cyfreithiol Legal Adviser

Dechreuodd y cyfarfod am 9.30 a.m.
The meeting began at 9.30 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Mark Drakeford:** Bore da. Mae wedi troi 9.30 a.m. felly croeso i chi i gyd i'r Pwyllgor Iechyd a Gofal Cymdeithasol. Byddwn yn bwrw ymlaen yn syth at eitem 2 ar yr agenda, sef Bil Sgorio Hylendid Bwyd (Cymru).

Mark Drakeford: Good morning. It has just turned 9.30 a.m. so welcome to you all to the Health and Social Care Committee. We will go straight on to item 2 on the agenda, which is the Food Hygiene Rating (Wales) Bill.

9.31 a.m.

Bil Sgorio Hylendid Bwyd (Cymru): Cyfnod 2—Ystyried y Gwelliannau
Food Hygiene Rating (Wales) Bill: Stage 2—Consideration of Amendments

[2] **Mark Drakeford:** Heddiw, rydym yn trafod Cyfnod 2 y Bil. Croeso i'r Gweinidog, Lesley Griffiths, a Christopher Brereton a Christopher Humphreys hefyd. Croeso i chi i gyd. Rwy'n mynd i wneud popeth yn Saesneg i ddechrau y bore yma nes ein bod ni gyd yn rhythm y peth, a gobeithiaf wedyn allu troi i'r Gymraeg.

Mark Drakeford: Today, we are considering Stage 2 of the Bill. Welcome to the Minister, Lesley Griffiths, and Christopher Brereton and Christopher Humphreys as well. Welcome to you all. I will do everything in English to begin with this morning, until we are all in the swing of things, and then I hope to be able to turn to Welsh.

Grŵp 1: Technegol (Gwelliannau 1, 2 a 3)
Group 1: Technical (Amendments 1, 2 and 3)

[3] **Mark Drakeford:** Good morning, Minister. Group 1 of the amendments that are to be considered this morning are yours. The first group of amendments are technical and the lead amendment in the group is amendment 1. Would you like amendment 1 in your name to be moved?

[4] **The Minister for Health and Social Services (Lesley Griffiths):** Yes.

[5] **Mark Drakeford:** I move amendment 1 in the name of the Minister. I call on the Minister to speak to it and to the other amendments in this group.

[6] **Lesley Griffiths:** Thank you, Chair. Amendments 1 and 3 are technical amendments, consequential to amendment 2. Amendment 2 is a technical amendment to clarify that the mandatory scheme applies only to food establishments registered or approved in Wales. The amendment also puts the position beyond doubt that the food hygiene rating scheme does not apply to food business establishments that are registered or approved outside Wales. I ask the committee to support these amendments.

[7] **Mark Drakeford:** Are there any other Members who would wish to speak on any amendment in this group? I see that there are none. Minister, there is no debate to reply to; in that case, do you wish to proceed to a vote on amendment 1 or withdraw it?

[8] **Lesley Griffiths:** I wish to proceed to a vote, Chair.

[9] **Mark Drakeford:** Thank you very much. The question is that amendment 1 be agreed to. Does any Member object? I see that they do not. In that case, amendment 1 is agreed in accordance with Standing Order No. 17.34(i).

Derbyniwyd gwelliant 1.
Amendment 1 agreed.

[10] **Mark Drakeford:** Minister, would you like amendment 2 in your name to be moved?

[11] **Lesley Griffiths:** Yes.

[12] **Mark Drakeford:** I move amendment 2 in the name of the Minister.

[13] The question is that amendment 2 is agreed to. Does any Member object? I see that they do not. Amendment 2 is therefore agreed in accordance with Standing Order No. 17.34(i).

Derbyniwyd gwelliant 2.
Amendment 2 agreed.

[14] **Mark Drakeford:** Minister, would you like amendment 3 in your name to be moved?

[15] **Lesley Griffiths:** Yes.

[16] **Mark Drakeford:** I move amendment 3 in the name of the Minister.

[17] The question is that amendment 3 be agreed to. Does any Member object? I see that

they do not. In that case, amendment 3 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 3.
Amendment 3 agreed.*

[18] **Mark Drakeford:** We have disposed of all amendments in group 1.

**Grŵp 2: Apelau (Gwelliannau 28, 29, 4, 5, 6, 7, 8 a 9)
Group 2: Appeals (Amendments 28, 29, 4, 5, 6, 7, 8 and 9)**

[19] **Mark Drakeford:** We now move to group 2, where it all becomes a little more complicated. I wish to say two things before we get into the discussion on this. First, just to be clear, although I am sure that everybody knows, the system works on a system of pre-emptions, so that there will be amendments in this group, and depending on how we dispose of these amendments, there will be consequences for other amendments in this group, and in some cases, in further groups. So, amendments that fall in this group may cause amendments further down the line to fall as well, and we will try to make sure that we point that out to everybody as we go along.

[20] The second thing is to be clear with Members that the system works in this way. There is a lead amendment in every group and I will ask the Member with the lead amendment to speak first. I will then ask if there is any other Member who wishes to speak on any other amendment in this group. It is important to be clear that the only opportunity to speak on any amendment in any group is at that starting point, under that lead amendment. So, if there are any other amendments in the group that Members want to ask about, that is the opportunity to ask about them. There will be no further opportunity. Once the lead amendment discussion is concluded, we will then vote on every other amendment that we need to vote on within that group.

[21] So, to give you an example of pre-emptions, if amendment 29 in this group is agreed, for example, then amendments 4, 5 and 6 will fall. The lead amendment in this group is amendment 28. It is an amendment that belongs to Darren, so I call on Darren Millar to move that amendment and to speak to other amendments in this group.

[22] **Darren Millar:** I move amendment 28 in my name, with the name of Kirsty Williams in support.

[23] This amendment, along with amendment 29, deals with the appeals process through which a food business or establishment would be able to lodge an appeal against a rating that has been awarded. The Bill, as it stands, requires another official from the same food authority to determine an appeal. In the evidence received by the committee, we heard that because of the size of food hygiene rating teams within food authorities, it could be difficult for someone at a desk in the same room to make a different decision than one of their colleagues. So, we feel that appeals should be assessed by an independent panel to ensure that there is no conflict of interest. These two particular amendments will require an official from a neighbouring authority to be present as a member of an appeals panel.

[24] In the committee report that we produced at the end of Stage 1, the committee made it clear that we felt that there needed to be some independence in the appeals process and that we needed to ensure that it was more robust and transparent. I know that the Minister also agreed with our view at that time. The Federation of Small Businesses highlighted a potentially serious problem with the nature of the relationship between an inspector and someone who is being inspected, and that is why we have tabled these particular amendments. We acknowledge that the Government has tabled a substantive amendment, amendment 6,

which attempts to deal with this concern, but we will be opposing that particular amendment as we do not feel that it goes far enough and we do not feel that it is strong enough simply to say that these ought to be matters determined by regulations, provided by the Minister. We feel that there needs to be some substantive determination of this issue on the face of the Bill, and that is why we are moving our amendments. However, we will be supporting amendments 4, 5, 7, 8 and 9.

[25] **Mark Drakeford:** Thank you very much. Are there any other Members who wish to speak on this group of amendments? I will go to Vaughan first, then Kirsty and then Lindsay.

[26] **Vaughan Gething:** I know that all Members will recall that we had some discussion about this during the course of our scrutiny, and I note that the Government amendment moves some way towards where we wanted to be. I will not be supporting amendments 28 and 29, largely because I think that the element of prescription in the amendments is something that I am not clear about in terms of the cost and the way in which it would be dealt with, in particular, the requirement that a member of a neighbouring food authority must be included. That may or may not be an appropriate requirement to put in place, but I would be quite uncomfortable about having that on the face of the Bill so that it must happen on each occasion.

[27] We certainly did discuss the desirability of having independence in the appeal process, and I would be interested to hear what the Minister has to say at the end of this particular debate about how she would envisage that process working in practice if amendment 6 is passed. That would be helpful. We certainly did not have any discussion in the committee about the payment of allowances. I would want to know a bit more about the financial implications of what is being proposed before I would be prepared to vote for it.

[28] In terms of looking at the rather more technical aspects of amendments 7, 8 and 9, I can understand the rationale regarding the question of whether it is a genuinely new amendment or whether a rating is revised rather than being made anew. I have no difficulty with that and I would be happy to support those.

[29] **Kirsty Williams:** I will be supporting amendments 28 and 29 as I think that those amendments best reflect the discussion and evidence put forward to the committee about the desirability of having an element of independence in the appeals process. In responding to the committee's report and in the amendments laid before us today on behalf of the Minister, I acknowledge that she has gone some way to recognising those concerns. However, in terms of the spirit of our report and the desirability of having an independent person from a different food authority and who has not been involved in the initial assessment introduces an element of independence that does not allow those who perhaps might be upset or angry about the rating that they have had to claim that the process is unfair and that any appeals function is also unfair.

[30] This whole scheme needs to be based on a principle of confidence on behalf of the public. That confidence will be undermined if people who score badly are able to then criticise the process by which that score has been arrived at and are able to question the independence of that score and of the appeals mechanism. Public confidence in the system is crucial. I am strongly supportive of the aims and objectives of this Bill and I want this law to work as well as it possibly can and to remove from the debate any possibility of suggestions by people who fail in the system to say that the system is not fair and not robust and that that is why they have a bad score. The reason for a bad score will be because they are not abiding by good standards of food hygiene. I want to make the system as robust as possible, and that is best achieved by being strict and prescriptive on the face of the Bill about how the appeals mechanism works.

[31] **Lindsay Whittle:** I support amendment 28, but I have a question on amendment 29, just as Vaughan Gething has, on payment by the food authority of allowances to members. I thought that we were hoping to encourage local authorities to work together. I can only see this as becoming a series of invoices flying around Wales with some authorities being unfairly penalised because they have more food establishments than the smaller authorities. I do not like sub-paragraph (c) in amendment 29. The rest is fine, but I would like more clarity on that sub-paragraph in amendment 29.

[32] **Mick Antoniw:** I am sympathetic to amendment 28, but I am also given a certain amount of confidence by amendment 6. I will ask the Minister to give us a bit more detail about the intentions behind amendment 6 and the extent to which that will introduce the flexibility—and this is the area of concern—to, at some stage in the future, introduce independence. The Minister will be aware of our discussions on this and that there was a degree of unanimity on that point. However, many of us are aware that we do not want to create a bureaucratic system initially; we want the flexibility to ensure that we end up with a system that works and that is fair.

[33] **Elin Jones:** Rydw i hefyd yn edrych ymlaen at yr hyn sydd gan y Gweinidog i'w ddweud am welliant 6 ac at fwy o eglurder gan Darren Millar ynghylch yr hyn sydd y tu ôl i adran 5(3)(c) yng ngwelliant 29. Yn gyffredinol, rwyf o'r un farn â Kirsty Williams ac yn gefnogol o welliannau 28 a 29 yng nghyd-destun y ffaith bod y dystiolaeth yr ydym wedi'i chlywed gan fusnesau yn enwedig yn gofyn am eu hyder yn y broses a'i hannibyniaeth, yn enwedig y broses apêl. Felly, mae cyflwyno modd i gryfhau annibyniaeth y broses apêl honno a thegwch yr holl gyfundrefn yn bwysig o'r dystiolaeth yr ydym wedi'i chlywed ac o'r hyn yr wyf am weld y Bil hwn yn ei gyflawni.

Elin Jones: I, too, am looking forward to what the Minister has to say on amendment 6 and I seek more clarity by Darren Millar on what is behind section 5(3)(c) in amendment 29. In general, I am of the same opinion as Kirsty Williams and am supportive of amendments 28 and 29 in the context of the fact that the evidence that we have heard from businesses in particular requires their confidence in the process and its independence, in the appeals process in particular. Therefore, providing a means of strengthening the independence and fairness of the appeals process is important for the whole system given the evidence that we have heard and from what I want to see this Bill achieving.

[34] **Mark Drakeford:** A oes unrhyw Aelod arall eisiau siarad am y grŵp hwn? Gwelaf nad oes.

Mark Drakeford: Does any other Member wish to speak about this group? I see that no-one wishes to speak.

[35] In that case, I call on the Minister to contribute next.

9.45 a.m.

[36] **Lesley Griffiths:** On amendments 28 and 29, I consider that to specify on the face of the Bill for an appeal to be determined by a regional panel is likely to reduce the flexibility to amend the appeals process and increase costs and complexity for food authorities. As the committee will be aware, I stated to this committee on 27 September, and also to Plenary on 16 October, that my officials were investigating, in terms of feasibility and affordability, the possibility of setting up regional panels to consider each appeal. Should such panels be introduced, it will be necessary to consider their legal status and their constitution. While it has always been my intention to ensure that the appeals procedure is fair to businesses, it also needs to be proportionate and workable for food authorities. Although the idea of establishing regional panels to consider appeals initially seems attractive, this might add to the time taken for the appeal to be determined and may prove to be disproportionately costly and time-consuming in practice.

[37] As Darren said in Plenary on 16 October, regional panels may not be the most cost-effective solution. To meet the time requirements set out in the Bill, each panel is likely to have to meet once every 21 days to determine any appeals arising in their region. In the worst-case scenario, this would result in each panel meeting 18 times a year. Based on a three-region model, this would equate to a total of 54 meetings across Wales, determining a total of around 176 appeals. Officials estimate that an average panel, comprising three authorised officers representing each region, meeting on such a basis, could cost in excess of £68,000. Using the regional-panel approach could entail three officers, rather than one, considering each appeal. This could reduce the annual number of food hygiene inspections by around 70 a year.

[38] I still consider the requirements in the Bill regarding appeals to be fair and proportionate, as an appeal must be determined by an authorised officer who was not involved in the assessment of the food hygiene rating that is being appealed. This requirement replicates the appeals process that has operated successfully in the voluntary scheme for the past two years. It is my position that before any change is made to the appeals process, an evidence-based assessment must be undertaken so that the implications of the change are fully considered. Therefore, I would prefer to retain the appeals procedure as detailed in the Bill for at least the first year of the scheme but have the flexibility to change the person or body responsible for determining appeals if there is a case to do so in the future.

[39] My amendment 6 provides flexibility to change the person or body responsible for determining appeals in the future. While this is a regulation-making power, it will be subject to the affirmative procedure and therefore must be considered and resolved by the Assembly. I therefore ask the committee to oppose these amendments.

[40] **Mark Drakeford:** I call on Darren to reply to the debate.

[41] **Darren Millar:** I am grateful to those who have participated in the debate on this particular part of the Bill. I want to respond to some of the issues that have been raised. The purpose of this is clearly to ensure that there is transparency and a robust appeals process in which food businesses and consumers can have real confidence. I am a little disappointed by the Minister's response, which is at odds with the position that she seemed to take when she last gave evidence to the committee during Stage 1, when she clearly indicated that she was looking to establish an independent appeals process for food businesses to be able to participate in if they were not satisfied with their rating. I am a little disappointed that she has not reiterated that point today. We all know that amendment 6 simply states that Welsh Ministers

[42] 'may, by regulations, provide for an appeal under this section to be determined by a person other than the food authority'.

[43] They also may not, if they do not want to. That is the difficulty that I have with amendment 6. It is important that we have something clear on the face of the Bill that sets this out.

[44] A few Members have raised concerns about the potential costs of amendment 29, in terms of section 5(3)(c) to be inserted into the Bill. This ought to be no more expensive than any other appeals panel-type process, and the Minister acknowledged at the end of Stage 1 that she was planning to be able to introduce one. We all know that, in the debate in Plenary at that time, the Minister seemed to indicate that she was prepared to consider the establishment of appeals panels. So, I do not feel that we can just dismiss this and take the assurances of the Minister. I know that she is very sincere in wanting to get this right, but I really feel that we need something on the face of the Bill that perhaps can be tweaked and

amended at Stage 3 if necessary in order to get this right.

[45] The Minister said that the proposal in amendment 29 sounds complex. I do not think that it is complex at all. It is very straightforward, and very simple. There would be an appeals panel made up of people who are not from that particular food authority that will determine the appeal. That is perfectly fair and robust. We know that the weight of the evidence at Stage 1 was very clear that the current arrangements in the Bill, which the Minister has suggested need to continue for at least the first 12 months, were not satisfactory. I would encourage Members to support the amendments in my name.

[46] **Mark Drakeford:** I should have allowed the Minister to carry on and cover Government amendments when she was speaking. I am sorry, but I cut across her when she was doing that. I will not do it next time. I ask the Minister if she would deal with those amendments now.

[47] **Lesley Griffiths:** I will just turn to the Government amendments. Amendment 4 requires the food authority to notify the Food Standards Agency at the same time as notifying the food business operator of its decision on an appeal. This will ensure that the FSA has a copy of each appeal determination so that it can undertake an annual review of the operation of the appeals system as required by amendment 17. Once it has undertaken its review, the FSA will be required to provide a report to Welsh Ministers. This process will provide scrutiny and independent monitoring of the appeals powers and enable me to monitor the use of these powers.

[48] I will now move on to amendment 5, which draws a distinction between the function of determining an appeal, which belongs to the food authority, and the conduct of the appeal itself, which has to be performed by an authorised officer other than the one who assessed the food hygiene rating that is being appealed.

[49] Government amendment 6 introduces a power to enable Welsh Ministers to amend the appeals process in the future if there is an evidence base to do so. This enables the Welsh Ministers by regulations to provide for appeals to be determined by a person other than the food authority that made the assessment. As I have said previously, while I intend to introduce the appeals process as currently detailed in the Bill, this amendment provides flexibility—which is what I think Mick was referring to—to change the person or body responsible for determining appeals in future if there is an evidence base to do so. This power will ensure that Welsh Ministers can take action if the current appeals process requires strengthening.

[50] Government amendments 7 and 8 relate to the issue of a food hygiene rating being issued following an appeal. Amendment 7 clarifies that, following an appeal, a food authority can revise rather than change the food business's food hygiene rating. Amendment 8 makes it clear that the food hygiene rating issued after an appeal is a revised rating, not a new one. These amendments also draw a distinction between the two types of situation where a rating could be changed—as a result of an appeal, and as a result of a re-rating inspection.

[51] Amendment 9 is intended to ensure that the FSA receives a copy of the notification of the revised food hygiene rating and a copy of the written statement of the reasons for the rating when a food authority decides to revise a food hygiene rating following an appeal. The food authority will send the FSA this information at the same time as notifying it of its decision regarding the determination of the appeal as required by amendment 4. The changes introduced by this amendment, as with those introduced by amendment 4, will enable the FSA to undertake an annual review of appeals determined in Wales.

[52] I ask committee to support amendments 4, 5, 6, 7, 8 and 9.

[53] **Mark Drakeford:** Darren, yours was the lead amendment, so is there anything that you want to add, having heard the Minister's comments?

[54] **Darren Millar:** Just to reiterate, I certainly do not doubt the sincerity of the Minister in terms of wanting to get this right, but I do not feel that amendment 6 addresses the concerns expressed by this committee at Stage 1, or the concerns expressed by many people in the evidence sessions that took place during the development of our Stage 1 report. The information in amendment 6 is not consistent with the information and evidence provided by the Minister previously to this committee, whereby she clearly indicated that she would look at a robust appeals process and seek to change the existing appeals process on the face of the Bill. That is the concern that I have here, which is why I encourage Members to support amendments 28 and 29 in my name.

[55] **Mark Drakeford:** Let me ask you formally, then, Darren. Do you wish to proceed to a vote on amendment 28?

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

[57] **Mark Drakeford:** Amendment 28 inserts a new provision to introduce an appeals panel, constituted in accordance with regulations to be made by the Welsh Ministers. The question is that amendment 6 be agreed to. Are there any objections? I see that there are. Therefore, I call for a vote by a show of hands. I remind Members that, in voting in this way, you have the choices that we have normally in the Chamber. You can vote for or against, or you can abstain. The clerk will be taking a record of all the votes, so it would be helpful if people kept their hands in the air for long enough for their vote to be recorded.

Gwelliant 28: O blaid 5, Ymatal 0, Yn erbyn 5.

Amendment 28: For 5, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Graham, William
Jones, Elin
Millar, Darren
Whittle, Lindsay
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Antoniw, Mick
Drakeford, Mark
Evans, Rebecca
Gething, Vaughan
Neagle, Lynne

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).

As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order No. 6.20(ii).

Gwrthodwyd gwelliant 28.

Amendment 28 not agreed.

[58] **Mark Drakeford:** As amendment 28 has not been agreed, amendment 29 in the name of Darren Millar has fallen.

Methodd gwelliant 29.

Amendment 29 fell.

[59] **Mark Drakeford:** In accordance with the marshalled list, we now move to the next amendment, which is amendment 4. Minister, would you like amendment 4 in your name to be moved?

[60] **Lesley Griffiths:** Yes.

[61] **Mark Drakeford:** I formally move amendment 4 in the name of Lesley Griffiths, which requires the food authority to notify the Food Standards Agency at the same time as notifying the food business operator of its decision on an appeal. The question is that amendment 4 be agreed to. Does any Member object? I see that there are no objections. In that case, amendment 4 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 4.
Amendment 4 agreed.*

[62] **Mark Drakeford:** Minister, would you like amendment 5 in your name to be moved?

[63] **Lesley Griffiths:** Yes.

[64] **Mark Drakeford:** I formally move amendment 5 in the name of Lesley Griffiths, which replaces the word 'determined' with the word 'conducted' in relation to the role of the authorised officer in the appeals process. The question is that amendment 5 be agreed to. Does any Member object? I see that there are no objections. Amendment 5 is therefore agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 5.
Amendment 5 agreed.*

[65] **Mark Drakeford:** Minister, would you like amendment 6 in your name to be moved?

[66] **Lesley Griffiths:** Yes.

[67] **Mark Drakeford:** I formally move amendment 6 in the name of Lesley Griffiths, which introduces regulation-making powers to provide for appeals to be determined by a person other than the food authority that made the assessment. The question is that amendment 6 be agreed to. Does any Member object? I see that there is an objection. Therefore, I call for a vote by show of hands.

*Gwelliant 6: O blaid 8, Ymatal 0, Yn erbyn 2.
Amendment 6: For 8, Abstain 0, Against 2.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Antoniw, Mick
Drakeford, Mark
Evans, Rebecca
Gething, Vaughan
Jones, Elin
Neagle, Lynne
Whittle, Lindsay
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Graham, William
Millar, Darren

*Derbyniwyd gwelliant 6.
Amendment 6 agreed.*

[68] **Mark Drakeford:** Minister, would you like amendment 7 in your name to be moved?

[69] **Lesley Griffiths:** Yes.

[70] **Mark Drakeford:** I formally move amendment 7 in the name of Lesley Griffiths, which clarifies that the rating is not new if it is a revision of the rating. The question is that amendment 7 be agreed to. Does any Member object? I see that there is no objection. Therefore, amendment 7 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 7.
Amendment 7 agreed.*

[71] **Mark Drakeford:** Minister, would you like amendment 8 in your name to be moved?

[72] **Lesley Griffiths:** Yes.

[73] **Mark Drakeford:** I formally move amendment 8 in the name of Lesley Griffiths, which is a technical amendment consequent upon amendment 7. The question is that amendment 8 be agreed to. Does any Member object? I see that there is no objection. Therefore, amendment 8 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 8.
Amendment 8 agreed.*

10.00 a.m.

[74] **Mark Drakeford:** Minister, would you like amendment 9 in your name to be moved?

[75] **Lesley Griffiths:** Yes.

[76] **Mark Drakeford:** I formally move amendment 9 in the name of Lesley Griffiths, which ensures that, where a food authority decides to revise a rating on appeal, it sends the FSA a copy of the notification and a statement of the reasons for the rating. The question is that amendment 9 be agreed to. Does any Member object? I see that there are no objections. Amendment 9 is therefore agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 9.
Amendment 9 agreed.*

[77] **Mark Drakeford:** As we have now disposed of all amendments in group 2, we move to group 3.

Grŵp 3: Hysbysu am Sgoriau Hylendid Bwyd a'u Cyhoeddi (Gwelliannau 33, 34, 10, 35 ac 11)

Group 3: Notification and Publication of Food Hygiene Ratings (Amendments 33, 34, 10, 35 and 11)

[78] **Mark Drakeford:** The lead amendment in this group is amendment 33. I call on Kirsty Williams to move the amendment and to speak to the other amendments in the group.

[79] **Kirsty Williams:** Thank you very much, Mark. I formally move amendment 33, tabled in my name and supported by Darren Millar.

[80] In doing so, I acknowledge that amendment 33 is actually a technical amendment that

gives rise to the more substantive amendments tabled by myself in this particular grouping, namely amendments 34 and 35.

[81] It seems to me that the whole principle behind this legislation is to give information to the public so that they have the ability to make choices about where they buy food products. I welcome it very much. The principle behind the Bill has been widely supported by everyone on this committee and by the vast majority of people who gave evidence to this committee.

[82] These amendments seek to drive that principle of informing the public even further, giving them the ability to access easily the information that lies behind the score rating that they will see displayed in restaurants and food establishments.

[83] It is clear to me that there will be a great deal of public interest as people become more aware of this scheme, and I believe that there will be a desire by many members of the public to have a greater understanding of why a certain establishment has received a certain score. Amendments 34 and 35 look to put that information in the public domain so that it can be looked at easily by members of the public who would not have to go through any bureaucratic processes to gain such information. The committee received evidence from other places that do, and they have proven that it is possible to make this information readily and easily available, and it has not been beyond the wit of those authorities to make such information available.

[84] Amendment 34 seeks to make that information available in its fullest extent, allowing people to see a copy of the full report, and amendment 35 is, I suppose, my belt-and-braces approach to this. If the full report does not find favour with the Minister or the members of this committee who support the Government, perhaps there could be a compromise in supporting amendment 35, which would allow for a condensed report stating the reasons for the rating, rather than the full technical detail.

[85] **Mark Drakeford:** Thank you, Kirsty. I now call on any other Members who wish to speak on any amendments in this group.

[86] **Darren Millar:** I just want to speak in support of the amendments that have been moved by Kirsty Williams. This is all about underscoring the public information that is out there for people to be able to make a judgment about the food establishments that they conduct their business with. We know that the more information that is shared with customers and consumers, the more confidence there will be. It is important that we widen access and understanding of the scheme in a way that allows people to understand why a rating of 5 is a rating of 5, and why a rating of 0 is a rating of 0. There is also a commitment and a requirement here to publish these exports in full, and fully bilingually. We have to underline our commitment in Wales to the Welsh language now that it has official status, and it is important for that information to be available bilingually on websites. We have the opportunity here to be a beacon of good practice. We know that local authorities or food authorities elsewhere in the United Kingdom are producing these reports fully within a prescribed timescale on their websites, and I see no reason why food authorities in Wales cannot do the same.

[87] Turning to some of the other amendments in this group, we will be opposing amendment 10. Again, it leaves matters to regulations as far as the FSA producing and publishing additional information on its website about food hygiene ratings is concerned. We do not feel that that is sufficiently robust to give consumers confidence in the scheme. Therefore, we will be supporting amendments 33, 34 and 35. We will also support amendment 11, which has been tabled by the Government.

[88] **Vaughan Gething:** Of course, we had a debate in the committee on this subject of wanting to ensure that the public properly understands the rating scheme that is being introduced and why different establishments have different ratings. That will largely come from an understanding of the rating system itself. However, turning to the particular proposals in this group of amendments, there is a practical challenge in providing a bilingual report. We heard direct evidence from food authorities that most food authorities would be producing their internal reports in English only. Even if you want to go ahead with the amendment, there is an issue about whether seven days would be enough time, to make a very practical point. We had a discussion in committee, which I am not sure we fully resolved one way or another, about whether we wanted the full inspection reports available. To an extent, whether it would be appropriate to have the whole report published on the website would depend on the form and length of those reports and what information they contained.

[89] I am especially interested in what the Minister has to say about amendment 10 and how she would view 'and such other information as may be prescribed', knowing full well that the committee wants to see that information made available to the public so that people can make informed choices about where to eat and purchase food. However, I welcome the movement from the Government represented by amendment 11 on shortening the timescale for information to be published.

[90] **Elin Jones:** Byddaf yn cefnogi gwelliant 34, ac os nad yw'n llwyddiannus, byddaf yn cefnogi gwelliant 35. O ystyried y dystiolaeth a glywsom ar gychwyn y drafodaeth am y Bil hwn—ac mae'n rhaid imi gofio yn ôl at y sioc o glywed fod rhaid gwneud cais rhyddid gwybodaeth i gael gafael ar adroddiad asesiad hylendid bwyd unrhyw fusnes—roedd consensws yn y pwyllgor hwn nad oedd hynny'n dderbyniol bellach. Yn wir, dywedodd y Gweinidog ei hun hynny yn ei datganiad ar ddiwedd Cyfnod 1. Felly, rwy'n credu ei fod yn bwysig inni gymryd camau breision yma yng Nghymru i symud ymlaen o hynny, ac i roi'r wybodaeth yn llawn i gwsmeriaid a phobl sydd â diddordeb deall manylion pam mae rhyw fusnes wedi cael sgôr penodol—gan gofio, wrth gwrs, fod rhai busnesau na fyddai byth yn gallu cyrraedd sgôr o 5, ond bod rheswm digon teilwng a derbyniol y tu ôl i hynny, a dylai hynny fod yn adroddiad y cyngor sir am y busnes hwnnw. Felly, rwy'n credu ei fod yn ddefnyddiol i'r busnes ac yn sicr i'r cwsmeriaid potensial i'r wybodaeth honno fod ar gael yn llawn i bobl gael ei gweld. Mae'r adroddiadau hyn yn cael eu cynhyrchu beth bynnag, felly pam lai eu cyhoeddi? Rwy'n gefnogol i'r egwyddorion hyn.

Elin Jones: I will be supporting amendment 34, and if that is not successful, I will support amendment 35. Given the evidence that we received at the outset of our discussions on this Bill—and I have to remember the shock I had when I learned that one had to make a freedom of information request in order to get hold of the food hygiene assessment report for any business—there was consensus within this committee that that was no longer acceptable. Indeed, the Minister herself said that in her statement at the end of Stage 1. Therefore, I believe that it is important that we make strides in Wales to move forward from that position and to provide information in full to customers and those interested in understanding the details of why a business has been given a specific score—bearing in mind, of course, that some businesses will never be able to achieve a score of 5, but for perfectly valid and acceptable reasons, and those should be detailed in the county council's report on that business. Therefore, I think that it would be useful to businesses and certainly its potential customers for that information to be available in full for people to see. These reports are produced in any case, so why not make them public? I support the principles behind these amendments.

[91] **Mark Drakeford:** A oes unrhyw Aelod arall eisiau siarad am y grŵp hwn o welliannau? Gwelaf nad oes.

Mark Drakeford: Does any other Member wish to speak to this group of amendments? I see that no-one does.

[92] Minister, I therefore call on you to respond to the amendments in the name of Kirsty Williams and to say anything you wish in relation to the Government amendments in this group.

[93] **Lesley Griffiths:** Thank you, Chair. In relation to amendments 33, 34 and 35, I remain of the view that it would not be appropriate to require the publication of full food hygiene inspection reports at this time. To do so would necessitate food authorities diverting resources estimated by the FSA to be equivalent to those required to deliver approximately 1,200 food hygiene inspections per year across Wales. The food authorities would need to remove all personal information from the inspection report before publishing to ensure compliance with the Data Protection Act 1998.

[94] It is likely that food safety officers would have to undertake this work, which would have a consequential impact on their other duties, including the number of inspections that they could undertake. There would also be significant translation costs to ensure that inspection reports were published bilingually. It has been estimated that that could cost approximately £750,000 per year in Wales. The food authorities would also face additional and possibly significant website development costs if they were required to publish bilingually their inspection reports.

[95] In the Plenary debate on 16 October, I indicated my intention to create an explicit requirement for food authorities to provide full food hygiene inspection reports to consumers on request. However, since then, my lawyers have advised that this will need further consideration because of potential wider implications for the Freedom of Information Act 2000. If those concerns can be overcome, I will seek to amend the Bill at Stage 3 to create such a requirement.

[96] Research by the FSA has indicated that consumers consider it important that food hygiene inspection reports should be accessible to people who want them. However, consumers felt that food authorities should only make these reports available if it did not require additional resources that could be better used elsewhere—for example, to carry out food hygiene inspections.

[97] As I said, the FSA has estimated that the resources needed to routinely publish 30,000 bilingual redacted inspection reports would be equivalent to those required to deliver approximately 1,200 inspections per year. In relation to amendment 35, the FSA has already stated that it is working towards making further information available to consumers regarding how each food hygiene rating has been derived and to publish this alongside the food hygiene rating on its website. In addition, I am proposing, in Government amendment 10, a regulation-making power that would require the FSA to publish

[98] ‘such other information as may be prescribed’.

[99] I therefore ask the committee to oppose amendments 33, 34 and 35, for the reasons I have expressed.

[100] I turn now to the Government amendments. Amendment 10 provides Welsh Ministers with a regulation-making power to require the FSA to publish additional information on its website. For example, this power could be used in the future to require the FSA to publish full food hygiene inspection reports. While I have no plans to require the publication of full inspection reports at this time, this amendment has been drafted to provide Welsh Ministers with the flexibility to require the FSA to publish other information if there is a case for doing so in the future.

[101] Amendment 11 reduces from 28 to seven days the time available to the FSA to

publish food hygiene ratings, and any other information that might be prescribed by regulations, on its website. Consumer Focus Wales, in its evidence to this committee on 12 July, registered concern about the potential delay in publishing food hygiene ratings on the FSA website. The current version of the Bill requires the FSA to publish the food hygiene rating on its website within 28 days of receipt. When asked about this timescale in committee, the director of FSA Wales said the FSA

[102] ‘would be willing to commit to a shorter timescale’.

[103] This amendment therefore reduces the timescale. I ask the committee to support amendments 10 and 11. I would also like to make a general point in that I disagree with Elin; I do think every food establishment can achieve a rating of 5.

[104] **Mark Drakeford:** Thank you. I call Kirsty to reply.

[105] **Kirsty Williams:** Thank you, Mark. I guess these are the old chestnuts, are they not: technical difficulties and the cost of being a truly bilingual nation. I have not yet, in the 13 years that I have sat here, come across a presentation by the Welsh Local Government Association that did not claim technical and practical difficulties in implementing something that required it to do extra work and I do not see any difference in this argument today.

10.15 a.m.

[106] Either we believe in the principle of allowing the public to know why a food establishment has had a specific rating or we do not. Vaughan Gething said that the committee’s feeling, when we discussed this at length after the evidence we had heard, was that there was a desire among this committee for that information to be published in full. I find it difficult to accept the Minister’s argument that there are technical difficulties with the websites. Local authorities already have bilingual websites. Most, if not all, of the documentation that they produce has to be produced in a bilingual format and is available on their websites. That goes for the most bilingual local authority that does the majority of its work through the medium of Welsh, and for a local authority such as mine, which has very little experience of producing or desire to produce these documents in Welsh. We do not accept this from other people; we do not say to companies such as utilities companies that moan to us that it costs them money to do things bilingually, ‘Well, that’s okay; you don’t have to do it’. We tell people that it is an important part of being in a bilingual nation that they have to do things through the media of English and Welsh. It sticks in my throat that we tell other people to do these things, but we are not prepared to enact those principles ourselves.

[107] With regard to the Government amendment and bringing forward regulations, with all due respect, I have heard it all before. I have sat in other legislation committees and heard Ministers promise that it will be dealt with at a later stage by regulation. I have heard it all before with regard to the principles around standards for food in schools. We are still waiting, years later, for the Government to bring forward those regulations. If the amendment that says that the Government is allowed to bring forward regulations at another stage is agreed today, that does not mean that that will actually happen. We are being asked by the Minister to buy an open-ended guarantee. I am sure this Minister is committed to enacting these regulations at a later stage if she felt it necessary, but the current Minister might not be the Minister at that later stage, and Ministers of the future will not be beholden to any assurances that she gives us now. There is only one sure-fire way of guaranteeing this committee’s desire to have this information out in the public, and that is to vote for these amendments today. If the committee does not have the heart to require the full inspection reports to be published, I believe that there is room for compromise here and we could support amendment 35, which would ensure that a shortened form was published immediately. Rather than our buying a commitment by

the Food Standards Agency that it is working towards doing so and being asked to accept the assurances of the organisation, this would require it to happen and ensure it would happen. If we want it to happen, we have the power to make it happen this morning in this committee. We either want to do it or we do not.

[108] **Mark Drakeford:** Thank you, Kirsty. The first amendment to be put to a vote in this group is amendment 33, which removes sub-section 6(1). Kirsty, do you want to proceed to a vote on amendment 33?

[109] **Kirsty Williams:** I do, Chair.

[110] **Mark Drakeford:** The question is that amendment 33 be agreed to. Does any Member object? I see that there is objection, therefore I call for a vote.

*Gwelliant 33: O blaid 5, Ymatal 0, Yn erbyn 5.
Amendment 33: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Graham, William
Jones, Elin
Millar, Darren
Whittle, Lindsay
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Antoniw, Mick
Drakeford, Mark
Evans, Rebecca
Gething, Vaughan
Neagle, Lynne

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).

As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order No. 6.20(ii).

*Gwrthodwyd gwelliant 33.
Amendment 33 not agreed.*

[111] **Mark Drakeford:** Kirsty, would you like to move amendment 34?

[112] **Kirsty Williams:** Yes. I move amendment 34 in my name and with the name of Darren Millar in support.

[113] **Mark Drakeford:** Amendment 34 requires the food authority to inform the FSA of the food hygiene rating of the food business establishment and to provide the FSA with a written statement of the reasons for the rating and any further information that may be prescribed, and make available on its website, bilingually, copies of any inspection reports carried out in accordance with section 2.

[114] The question is that amendment 34 be agreed to. Does any Member object? I see that there is objection, therefore I call for a vote.

*Gwelliant 34: O blaid 5, Ymatal 0, Yn erbyn 5.
Amendment 34: For 5, Abstain 0, Against 5.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Graham, William
Jones, Elin
Millar, Darren
Whittle, Lindsay

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Antoniw, Mick
Drakeford, Mark
Evans, Rebecca
Gething Vaughan,

Williams, Kirsty

Neagle, Lynne

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).

As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order No. 6.20(ii).

Gwrthodwyd gwelliant 34.

Amendment 34 not agreed.

[115] **Mark Drakeford:** Minister, your amendment 10 is the next on the list. Would you like amendment 10 in your name to be moved?

[116] **Lesley Griffiths:** Yes.

[117] **Mark Drakeford:** I move amendment 10 in the name of the Minister. Amendment 10 provides Welsh Ministers with a regulation-making power to require the FSA to publish additional information on its website. The question is that amendment 10 be agreed to. Does any Member object? I see that there is objection, therefore I call for a vote.

Gwelliant 10: O blaid 5, Ymatal 0, Yn erbyn 5.

Amendment 10: For 5, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Antoniw, Mick
Drakeford, Mark
Evans, Rebecca
Gething, Vaughan
Neagle, Lynne

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Graham, William
Jones, Elin
Millar, Darren
Whittle, Lindsay
Williams, Kirsty

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).

As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order No. 6.20(ii).

Gwrthodwyd gwelliant 10.

Amendment 10 not agreed.

[118] **Mark Drakeford:** We now come to dispose of amendment 35. Kirsty, would you like to move amendment 35?

[119] **Kirsty Williams:** I move amendment 35 in my name and with the name of Darren Millar in support.

[120] **Mark Drakeford:** Amendment 35 requires the FSA to publish a bilingual written statement of the reasons for the rating. The question is that amendment 35 be agreed to. I call for a vote.

Gwelliant 35: O blaid 5, Ymatal 0, Yn erbyn 5.

Amendment 35: For 5, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Graham, William
Jones, Elin

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Antoniw, Mick
Drakeford, Mark

Millar, Darren
Whittle, Lindsay
Williams, Kirsty

Evans, Rebecca
Gething, Vaughan
Neagle, Lynne

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).

As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order No. 6.20(ii).

Gwrthodwyd gwelliant 35.

Amendment 35 not agreed.

[121] **Mark Drakeford:** Minister, would you like amendment 11 in your name to be moved?

[122] **Lesley Griffiths:** Yes.

[123] **Mark Drakeford:** I move amendment 11 in the name of the Minister. Amendment 11 reduces from 28 days to seven days the time available to the FSA to publish food hygiene ratings and any other information prescribed by regulations on its website. The question is that amendment 11 be agreed to. Is there any objection? I see that there is not. Amendment 11 is therefore agreed in accordance with Standing Order No. 17.34(i).

Derbyniwyd gwelliant 11.

Amendment 11 agreed.

[124] **Mark Drakeford:** We have now disposed of all amendments in group 3.

Grŵp 4: Hysbysu'r Cyhoedd am Sgoriau Hylendid Bwyd (Gwelliannau 23, 26, 30, 24, 31, 12, 15 a 16)

Group 4: Informing the Public about Food Hygiene Ratings (Amendments 23, 26, 30, 24, 31, 12, 15 a 16)

[125] **Mark Drakeford:** There are pre-emptions in this group. If Amendment 23 is not agreed, amendment 25 in group 5 will fall. The lead amendment in this group is amendment 23. I call on Elin Jones to move the amendment and to speak to the other amendments in this group.

[126] **Elin Jones:** Cynigiau welliant 23 yn fy enw i a chydau enw Darren Millar yn ei gefnogi.

Elin Jones: I move amendment 23 in my name and with the name of Darren Millar in support.

[127] Mae'r gwelliannau yn fy enw i yn y grŵp hwn yn ymwneud â gofyniad bod busnesau yn gwneud gwybodaeth ar gael ar y we am eu sgôr hylendid bwyd. Mae dau welliant yn rhoi dau opsiwn i gyflawni hyn, ac ni fyddaf yn cynnig neu symud i bleidlais ar un o'r gwelliannau yn dilyn y drafodaeth am y grŵp, gan ddibynnu ar hwyl a sylwadau'r Aelodau. I egluro, felly, mae gwelliant 23 yn rhoi gofyniad ar fusnes i roi cyfeiriad ar ei safle we at safle we'r Asiantaeth Safonau Bwyd a'r sgôr sy'n ymddangos ar y safle we hwnnw.

The amendments in my name in this group relate to requiring businesses to provide information online about their food hygiene rating. There are two amendments that give two options to achieve this, and I will not move or move to a vote on one of those amendments following the debate on this group, depending on the mood and the comments of Members. To explain, therefore, amendment 23 places a requirement on a business to provide on its website a reference to the Food Standards Agency website and the score displayed on it.

[128] Yr opsiwn arall, yng ngwelliant 26, yw bod gofyniad ar fusnes i roi ei sgôr ar ei safle we ei hun. Roeddwn wedi disgwyl y byddai gwelliant gan y Llywodraeth ar y pwnc hwn gan fod y Gweinidog, ar ddiwedd Cyfnod 1, wedi siarad yn gefnogol yn y drafodaeth yn y Cynulliad a dweud y buasai yn dymuno gweld gwybodaeth ar y we am y sgôr hylendid bwyd, a'i hoff ddewis hi ar y pwynt hwnnw yn y drafodaeth oedd bod cyfeiriad ar wefan y busnes i wefan yr Asiantaeth Safonau Bwyd—hynny yw, yr hyn sydd yng ngwelliant 23. I mi, fel pwynt o egwyddor, yr hyn sy'n bwysig i'w gyflawni yw bod gwybodaeth ar gael i gwsmeriaid, lle bynnag a phryd bynnag maent yn prynu bwyd. Yn y Bil fel ag y mae ar hyn o bryd, bydd gwybodaeth ar gael i gwsmer sy'n mynychu'r lle bwyd, oherwydd bydd y sticer yn cael ei arddangos, a bydd gwybodaeth ar gael i unrhyw un sy'n gwneud archeb dros y ffôn, gan fod y Bil yn rhoi hawl i'r cwsmer ofyn am wybodaeth wrth archebu. Fodd bynnag, yr hyn sydd ar goll o'r Bil ar hyn o bryd yw nad yw'r wybodaeth ynglŷn â'r sgôr ar gael i'r bobl sy'n archebu dros y we. Yn y dyfodol, byddwn yn gweld cynnydd yn nifer yr archebion bwyd dros y we, a dyna pam ei bod yn bwysig bod hynny'n cael ei gynnwys yn y Bil. Fy hoff ddewis i yw bod gofyniad i'r lle bwyd a'r busnes roi'r wybodaeth hon ar eu safleoedd gwe, sef yr hyn a awgrymir yng ngwelliant 26. Fodd bynnag, pe bai mwy o gefnogaeth i'r syniad mai cyfeiriad at wefan yr Asiantaeth Safonau Bwyd yn unig sydd ei hangen, byddaf yn gwrando ar yr hyn sydd gan y Llywodraeth ac Aelodau eraill i'w ddweud yn ystod y ddadl.

[129] Symudaf ymlaen i wneud un pwynt cyflym ar welliant 30 yn enw Darren Millar, ar ddeunydd marchnata. Nid wyf yn credu bod angen gosod y sgôr hylendid bwyd ar ddeunydd marchnata, a hynny am y rhesymau rydym wedi eu clywed yn ystod y sesiynau tystiolaeth. Mae pobl yn dueddol—rwy'n gwneud hyn yn bersonol—o gadw hen ddeunyddiau marchnata ac nid oes modd dilysu pa mor gyfredol yw unrhyw sgôr hylendid bwyd ar ddeunydd marchnata heb roi baich sylweddol ychwanegol ar fusnesau. Felly, ni fyddaf yn cefnogi gwelliant 30.

The other option, which is set out in amendment 26, is a requirement on a business to provide its food hygiene rating on its own website. I had expected a Government amendment on this issue as the Minister, at the end of Stage 1, had made supportive comments in the discussion in the Assembly, saying that she would want to see information provided online about the food hygiene score, and that her preferred option at that point in the debate was that there should be a link to the Food Standards Agency's website on the website of the business—that is, what is set out in amendment 23. To me, as a point of principle, it is important that information is available to customers wherever and wherever they purchase food. In the Bill as it currently stands, information will be available to customers who visit the food premises, because the sticker will be displayed, and there will be information for anyone who orders food over the telephone, because the Bill gives customers the right to request information when placing their order. However, what is currently missing from the Bill is that the information about the score is not available to those ordering online. In future, we will see an increase in the number of food orders placed online, and that is why it is important that that is included in the Bill. My preferred option is that there should be a requirement for the food establishment to provide this information on their own websites, which is what is set out in amendment 26. However, if there was greater support for the idea that there should just be a link to the Food Standards Agency website, I will listen to what the Government and other Members have to say during the debate.

I will move on to make one brief reference to amendment 30 in the name of Darren Millar, on promotional materials. I do not believe that the food hygiene rating needs to be displayed on promotional material, for the reasons that we have heard during the evidence-gathering sessions. People tend to keep old promotional materials—I do this myself—and there is then no way to validate how up to date any food hygiene score would be without placing an additional burden on businesses. So, I will not be supporting amendment 30.

[130] **Mark Drakeford:** A oes unrhyw **Mark Drakeford:** Do any other Members
Aelod arall am gyfrannu at y ddadl? wish to contribute to the debate?

[131] **Mick Antoniw:** Amendments 23, 26 and 30 all relate to a matter that we discussed in some detail and on which I thought there was quite a degree of unanimity within our discussions, namely how we make the legislation effective—namely ensuring that people purchasing food have access to the information. Our discussions also recognised very clearly that people access information in many different ways. They do not just do it by popping into premises; online ordering is becoming increasingly important, as is the amount of material being delivered and the amount of promotional information going through. So, I am very supportive of amendments 23, 26 and 30, because I think that they give effect to the legislation.

[132] I understand that there may be a variety of concerns over the practicality, proportionality and cost of these. Perhaps I could refer you to Elin's last point on amendment 30. I am not convinced that there is not a justification for including the material that is produced. Material is produced very quickly and easily with the printing methods available these days, and I think that the material that is put in front of people is part and parcel of it, and I do not see great difficulty for those who are supplying goods and services to be able to provide adequate information. However, subject to what the Minister says in terms of any reservations that she has, I would say that, if not at this stage, then certainly at a later stage in this debate I will want, at the very least, to ensure that these matters come before us, because I am very supportive of what the amendments seek to achieve, unless there are significant and good reasons why not. It may be the case that it is not appropriate at this stage, while further consideration is given, but certainly at a later stage I will want to be completely satisfied. Otherwise, I would be supportive of this.

10.30 a.m.

[133] Turning to the amendments relating to enforcement provisions, I believe that amendment 12 in the name of Lesley Griffiths arises from discussions that we had about the notification of employees, which again is an important matter, which I also support. Minister, I draw your attention to the views expressed in the debate on the importance of these issues, and I look forward to hearing your comments on those.

[134] **Darren Millar:** I want to speak to amendments 30 and 31, tabled in my name, which place a requirement on food business establishments to inform the public about the availability of a food hygiene rating in any of their marketing or other promotional materials. I agree with Mick: if this is to be a successful scheme, we have to ensure that there is public participation, and that people are fully aware of their ability to access food hygiene ratings. We had some discussion on this during the committee stage, when some red-herring arguments were presented—and have been presented again today by Elin—suggesting that many leaflets would be outdated if there was a requirement to put a food hygiene rating on them. I agree with her, actually—they would be outdated if there was a requirement to put the rating on them and the rating expired. However, they would not be outdated if there was a simple advertisement or notification to the public on the leaflet about the availability of a hygiene rating upon request, or information pointing people to a website where they could access information about food hygiene rating. I really do not believe or accept the argument that this would place an additional burden on business. If they can put this information on their website, as we all agree they ought to be able to, I see no reason why they cannot promote the availability of a food hygiene rating in any of their other marketing material. We know that the vast majority of witnesses who appeared before the committee supported this particular principle, and I do not feel that there ought to be any barrier to requiring food businesses to publish this information in anything that they produce. We have to remember that many people, when they order food from a food establishment, will do so from a leaflet

that has come through their door—not necessarily in person at that food establishment. That leaflet is an opportunity to provide information on the scheme and the availability of a hygiene rating.

[135] Speaking very briefly to the amendments that have been tabled in Elin Jones's name about the need to publish information on websites, I share the desire to future-proof this legislation to ensure that websites also promote the availability of a food hygiene rating. There were some issues about a potential delay, if someone else is managing a food establishment's website, in getting an appropriate rating displayed, but that said, I feel that we need to ensure that there is a requirement on the face of the Bill for this to be done. I accept that the Minister indicated that she also wanted to see that, so I will be interested to hear what she has to say.

[136] My amendment 31 simply acknowledges that there may be a requirement to make different provisions for regulations according to the type of material that a business may produce, so it is just a practical issue that that addresses. I, too, welcome amendment 12, which the Government has tabled to ensure that employees of food establishments are aware of the rating. Operators should share that rating with all of their staff, so that there is no potential for confusion when a customer comes into an establishment, or when they are asked by someone over the telephone or by any other means what the rating is. We will also be supporting amendments 15 and 16 tabled by the Government.

[137] **Rebecca Evans:** I echo Mick's comments with regard to amendments 23 and 26, although less so with regard to amendment 30, because, for me, the leaflet is still the point of information and not the point of ordering. I will not be supporting amendment 30, and I remain to be convinced of those arguments.

[138] The Minister has been sympathetic to the displaying of ratings online. I was hoping that she would confirm today that this is a principle that she still at least agrees with, and perhaps offer a commitment to bring forward some Government amendments to this effect at Stage 3.

[139] Finally, I want to particularly welcome amendment 12, on informing staff of hygiene ratings.

[140] **Kirsty Williams:** First, on the issue of online display, I, like Elin Jones, am somewhat surprised that the Government has not come forward with its own amendments on this, given that it was my understanding, following the Plenary debate, that the Minister had accepted the arguments put forward by the committee in its report that the way in which people purchase their food is changing rapidly. Many people order food online, so the ability to see the rating on a website is perfectly sensible. I am not clear why an amendment to achieve that is not desirable now but could be desirable at Stage 3. If we want it to happen, we have the power to make it happen today. I do not see any reason, unless the Minister has some argument that I cannot think of, why it would be better to wait until Stage 3 to ensure that website displays are mandatory.

[141] With regard to promotional literature, like many committee members I was not convinced by the argument about having the rating displayed on a piece of literature, because of issues regarding outdated material and the potential to criminalise people through no fault of their own when someone like me has hung on to a Chinese takeaway leaflet for 10 years. It is not their fault that I do not clear out my kitchen cupboards very often. However, this amendment does not require the rating to be on the leaflet; it is just about directing people to the fact that a rating is available and that they would be able to go on to the Food Standards Agency's website to get an up-to-date rating. On that basis, there is room to make further progress. If it was the rating itself, I would not be supportive, but drawing a person's attention

to the availability of a rating and showing them where they can get that up-to-date rating is a different matter. Therefore, I will be supporting amendment 30 and I will be supporting the principle of website display, although I am happy with either option—of displaying the rating itself or displaying a hyperlink; either would be acceptable to me. However, it is an important principle and I cannot see any reason why it cannot be agreed today and why it would have to be delayed until Stage 3 amendments that the Government may or may not bring forward.

[142] **Vaughan Gething:** I am broadly supportive of what other colleagues have said about website information, and I look forward to hearing what the Minister has to say.

[143] On amendment 30, I understand what Darren is trying to achieve but I do not agree that the amendment, as drafted, captures that single purpose. It refers to including a reference to the food hygiene rating in any marketing or other promotional material. Businesses already advertise with more than just physical literature—marketing goes beyond physical literature—so your requirement would go beyond that too. So, it would not simply be about a statement on a leaflet saying ‘Find out more information about food hygiene ratings at this address’. I would say that the way in which you have drafted the amendment would make it impossible to say that you could not include any marketing or other promotional material, for example, on a Twitter feed. That clearly is other marketing or promotional material. I do not see how you can say that it is not. It is not a website; it is another form of marketing, however, and due to the way in which the amendment is drafted, I do not think that you could say that that would not be included. I do not think that that makes sense, even though it is in the manner prescribed. I do not think that the wording in the middle is appropriate to where we are now in terms of how businesses market themselves in every sphere, let alone when we think ahead to the next five or 10 years and the way in which we expect businesses to continue to market themselves in different ways. Therefore, for practical reasons, I could not support the amendment in any event.

[144] **Mark Drakeford:** Thank you very much. Minister, there are amendments in this group in the names of Elin Jones and Darren Millar for you to address as well as your own amendments.

[145] **Lesley Griffiths:** Thank you, Chair. On amendments 23, 24 and 26, proposed by Elin Jones, as the committee will be aware from statements I made in the general principles debate, I am supportive of placing a requirement on food businesses to publish a statement on their websites regarding the food hygiene rating scheme and directing consumers via a hyperlink to the FSA website where the rating may be viewed. For this reason, I support in principle the intentions behind amendment 23. I consider this to be a practical proposal as it will ensure that consumers are always able to see the most up-to-date valid food hygiene rating relating to a business. It was my intention to table amendments at this stage to seek to amend the Bill to introduce a requirement on food business operators to display the link to the FSA website. However, my legal advisers have raised concerns that creating a duty that applies only to food businesses that operate websites, underpinned by a criminal offence, may be seen as inequitable. For this reason, I also support in principle at least the intention behind Darren Millar’s amendment 30.

[146] Turning to amendments 30 and 31 in the name of Darren Millar, the Government agrees with the push to make information about food hygiene ratings more widely available. However, I am concerned that, as drafted, a requirement to include information on the availability of a food hygiene rating on any marketing or other promotional material produced by or on behalf of a food business would be unduly onerous. Although amendment 31 allows for regulations to prescribe different provisions for different types of materials used for marketing or promotional purposes, and for those provisions to vary for different types of establishment, I see this as creating a very wide and potentially complex set of regulations for Welsh food businesses to comply with and for food authorities to enforce.

[147] Turning back to amendment 23 in the name of Elin Jones, this would require food business operators to display the food hygiene rating on their websites or on websites operated on their behalf. I am not convinced that this is required in addition to the approach in amendment 26. Therefore, although I have every sympathy with the principle behind amendments 23 and 26, like Elin, I do not think that both are required. Having both could lead to inconsistency between the two and confusion for the consumer. The proposed amendments do not allow the operator to choose which to display; they are required by these amendments to display both. If they fail to display one or the other or both, they will have committed one or more offences. Therefore, I remain in favour of a simple requirement that is easy to comply with, and that is to provide a statement and a hyperlink to the FSA website where consumers can find the most up-to-date information.

[148] I ask the committee to oppose amendments 23, 24, 26, 30 and 31 on the understanding that the Government will look to introduce a requirement for food businesses to publish a statement on their websites, and other appropriate publicity material, directing consumers to the FSA website where they can view the food hygiene rating scheme. I intend to do this at Stage 3. The legal complexities that I alluded to earlier will be worked through by that time and I will also be able to set out for Members, at Stage 3, the implementation aspects associated with such a change.

[149] Turning to the amendments in my name in this group, the purpose of amendment 12 is to widen the original provision by requiring the operator of a food business establishment to make relevant employees aware of the establishment's food hygiene rating and the requirements to confirm the rating on request. This amendment makes it clear that employees who are, in the opinion of the operator, likely to be subject to a request to inform a person verbally of an establishment's food hygiene rating must comply with such requests.

10.45 a.m.

[150] Amendment 16 is consequential to amendment 12 and will ensure that the reference to verbally informing a person of a food hygiene rating captures a new rating provided as a result of a re-rating inspection. That makes it clear to the food business operator or an employee who, in the opinion of the operator, would be subject to a request to inform a person verbally of the establishment's food hygiene rating, must also verbally notify of any new rating from a re-rating inspection to anyone who requests it.

[151] Amendment 15 is a technical amendment consequential to amendment 16. I ask the committee to support amendments 12, 15 and 16 and reiterate my commitment to return to the principles raised by the other amendments in this group at Stage 3.

[152] **Mark Drakeford:** I call on Elin Jones to reply to the debate.

[153] **Elin Jones:** Thank you to everyone who has contributed. As I said in my opening remarks, I intend to proceed with only one of the options on providing information on the website—either amendment 23 or amendment 26. From the Minister's response, she had possibly not heard what I had said and assumed that I would be proceeding with both, because she then gave the reason why both could not appear in the same Bill, but that was not my intention, as I said when speaking to the amendments.

[154] I am slightly disappointed, Minister, that you have worked with this committee, provided evidence to it and been scrutinised by it on the issue of website information on food hygiene scores, and that you committed to support the principle of amending the Bill to include a provision on website information during the final discussion on Stage 1, and yet you have not brought amendments here, even though you are now telling us that you still support

the opposition. I have been able to provide these amendments today and it will be unfortunate if there is no support for them at this stage, for the Bill can be amended again by Government at a later stage, in Stage 3, if there is a better way of doing this in the Government's opinion. Therefore, in light of what I said at the start of my contribution on this group and what others have said, including the Minister's continued support for information on the website being available and the reference to the appropriate place, namely the Food Standards Agency, I will proceed with amendment 23 and I will not move amendment 26.

[155] **Mark Drakeford:** We will now proceed to votes on this group. Elin, do you wish to proceed to a vote on amendment 23?

[156] **Elin Jones:** Yes.

[157] **Mark Drakeford:** Amendment 23 introduces a regulation-making power for the Welsh Ministers to include a reference to the availability of a food hygiene rating on a website maintained by the Food Standards Agency in any website maintained by, or on behalf of, the food business establishment. The question is that amendment 23 be agreed to. Does any Member object? I see that you do. I will, therefore, take a vote by a show of hands.

Gwelliant 23: O blaid 5, Ymatal 0, Yn erbyn 5.

Amendment 23: For 5, Abstain 0, Against 5.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Graham, William
Jones, Elin
Millar, Darren
Whittle, Lindsay
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Antoniw, Mick
Drakeford, Mark
Evans, Rebecca
Gething, Vaughan
Neagle, Lynne

Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog Rhif 6.20(ii).

As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order No. 6.20(ii).

Gwrthodwyd gwelliant 23.

Amendment 23 not agreed.

[158] **Mark Drakeford:** As amendment 23 has not been agreed, amendment 25 in group 5 will now fall. We move now to dispose of amendment 26.

[159] Elin, I now ask you formally whether you wish to move amendment 26.

[160] **Elin Jones:** I do not wish to move the amendment, Chair.

[161] **Mark Drakeford:** Does any Member object? I see that there are no objections.

Ni symudwyd gwelliant 26.

Amendment 26 not moved.

[162] **Mark Drakeford:** As amendment 23 was not agreed and amendment 26 has not been moved, amendment 24 in this group will fall.

[163] Darren, would you like to move amendment 30?

[164] **Darren Millar:** Yes. I move amendment 30 in my name and with the name of Kirsty Williams in support.

[165] **Mark Drakeford:** Amendment 30 introduces a regulation-making power to include a reference to the availability of a food hygiene rating in any marketing or other promotional material produced by, or on behalf of, the food business establishment. The question is that amendment 30 be agreed to. Does any Member object? I see that there are objections; therefore, I call for a vote by a show of hands.

*Gwelliant 30: O blaid 3, Ymatal 0, Yn erbyn 7.
Amendment 30: For 3, Abstain 0, Against 7.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Graham, William
Millar, Darren
Williams, Kirsty

Pleidleisiodd yr Aelodau canlynol yn erbyn:
The following Members voted against:

Antoniw, Mick
Drakeford, Mark
Evans, Rebecca
Gething, Vaughan
Jones, Elin
Neagle, Lynne
Whittle, Lindsay

*Gwrthodwyd gwelliant 30.
Amendment 30 not agreed.*

*Methodd gwelliannau 24 a 31.
Amendments 24 and 31 fell.*

[166] **Mark Drakeford:** As a consequence of amendment 30 not being agreed, amendment 31 and amendment 32, which is in group 5, will fall.

[167] Darren, would you like to move amendment 31?

[168] **Darren Millar:** Yes, I move it formally.

[169] **Mark Drakeford:** Amendment 31 proposes that regulations arising from amendment 30—I am sorry; amendment 31 has fallen as a consequence of amendment 30 not being agreed.

[170] The final vote in this group is on amendment 12. Although amendments 15 and 16 appear in this group, the voting on them will take place in group 5, in accordance with the marshalled list.

[171] Minister, would you like amendment 12 in your name to be moved?

[172] **Lesley Griffiths:** Yes.

[173] **Mark Drakeford:** I move amendment 12 in the name of the Minister.

[174] It widens the original provision by requiring the operator to make relevant employees aware of the establishment's food hygiene rating, and of the requirement to confirm that rating on request. The question is that amendment 12 be agreed to. Does any Member object? I see that there are no objections; therefore, amendment 12 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 12.
Amendment 12 agreed.*

*Methodd gwelliannau 25, 27 a 32.
Amendments 25, 27 and 32 fell.*

[175] **Mark Drakeford:** We will return to the remaining amendments in this group later in proceedings, in accordance with the marshalled list.

**Grŵp 5: Troseddau (Gwelliannau 25, 27, 32, 13 ac 14)
Group 5: Offences (Amendments 25, 27, 32, 13 and 14)**

[176] **Mark Drakeford:** The results of all votes taken in group 4 mean that the lead amendment in group 5 has now become amendment 13. This is a group of amendments on offences.

[177] Minister, would you like amendment 13 in your name to be moved?

[178] **Lesley Griffiths:** Yes.

[179] **Mark Drakeford:** I move amendment 13 in the name of the Minister. I invite the Minister to speak to amendment 13 and the other amendment that now remains in the group.

[180] **Lesley Griffiths:** The purpose of making amendment 14 is to put into effect the commitment that I made on 27 September when I gave evidence to this committee. I agreed to consider making it clear on the face of the Bill that it is not only an offence to fail to inform someone verbally of the food hygiene rating, but also to give a false or misleading food hygiene rating. Amendment 14, therefore, makes it clear that it is an offence to give a false or misleading food hygiene rating. Amendment 13 is a technical amendment consequential to amendment 14. I ask the committee to support both amendments.

[181] **Mark Drakeford:** Do any Members wish to speak on these two amendments?

[182] **Darren Millar:** I am minded, Minister, to support this particular amendment, but are you able to provide any further information about what a reasonable excuse might actually be in the event that someone does give out an incorrect food hygiene rating? Perhaps you could give us some advice on what that might mean.

[183] **Mark Drakeford:** Does any other Member wish to speak to the amendments in this group? I see that no-one does, so I will ask the Minister to reply to the debate.

[184] **Lesley Griffiths:** The only reasonable excuse that we could think of was that, despite training, someone gives a rating wrongly.

[185] **Mark Drakeford:** Minister, do you wish to proceed to a vote on amendment 13?

[186] **Lesley Griffiths:** Yes.

[187] **Mark Drakeford:** In that case, the question is that amendment 13, which is a technical amendment, be agreed to. Is there any objection? I see that there is not. Amendment 13 is agreed to in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 13.
Amendment 13 agreed.*

[188] **Mark Drakeford:** Minister, would you like amendment 14 in your name to be moved?

[189] **Lesley Griffiths:** Yes.

[190] **Mark Drakeford:** In that case, I move amendment 14 in the name of the Minister, which makes it clear that it is an offence not only to fail to inform someone verbally of the food hygiene rating, but to give a false or misleading food hygiene rating. The question is that amendment 14 be agreed to. Is there any objection? I see that there is not. In that case, amendment 14 is agreed to in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 14.
Amendment 14 agreed.*

[191] **Mark Drakeford:** We have now disposed of all the amendments in group 5 in accordance with the marshalled list, but we now come to dispose of amendments 15 and 16, which were debated in group 4. Minister, would you like amendment 15 in your name to be moved?

[192] **Lesley Griffiths:** Yes.

[193] **Mark Drakeford:** I move amendment 15 in the name of the Minister. It is a technical amendment. The question is that amendment 15 be agreed to. Is there any objection? I see that there is not. In that case, amendment 15 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 15.
Amendment 15 agreed.*

[194] **Mark Drakeford:** Minister, would you like amendment 16 in your name to be moved?

[195] **Lesley Griffiths:** Yes.

[196] **Mark Drakeford:** I move amendment 16 in the name of the Minister. This amendment will ensure that the reference to verbally informing a person of a food hygiene rating captures a new rating provided by a re-rating inspection. The question is that amendment 16 be agreed to. Is there any objection? I see that there is not. In that case, amendment 16 is agreed to in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 16.
Amendment 16 agreed.*

[197] **Mark Drakeford:** We have disposed of all the amendments that were remaining from group 4.

Grŵp 6: Dyletswyddau yr Asiantaeth Safonau Bwyd (Gwelliant 17) **Group 6: Duties of the Food Standards Agency (Amendment 17)**

[198] **Mark Drakeford:** Gwelliant 17 yw'r prif welliant a'r unig welliant yn y grŵp hwn. Weinidog, a hoffech i welliant 17 yn eich enw chi gael ei gynnig? **Mark Drakeford:** Amendment 17 is the lead and only amendment in this group. Minister, would you like amendment 17 in your name to be moved?

[199] **Lesley Griffiths:** Yes.

[200] **Mark Drakeford:** Cynigiaf welliant 17 yn enw'r Gweinidog. Galwaf ar y Gweinidog i siarad am welliant 17. **Mark Drakeford:** I move amendment 17 in the name of the Minister. I call on the Minister to speak to amendment 17.

[201] **Lesley Griffiths:** Amendment 17 replaces the current section 13 of the Bill. In addition to those duties placed on the FSA by the Bill, this amendment requires the FSA to have regard to guidance issued by Welsh Ministers in exercising its functions under the Act; undertake a review of the implementation of the mandatory scheme after the first year of operation and then every three years; undertake an annual review of the operation of the appeals system; and produce a report containing details of these reviews and provide recommendations for change, if any, no later than three months after the end of the period to which the review relates.

[202] I consider it important that the FSA is required to have regard to guidance issued by Welsh Ministers in relation to the exercise of its functions under the Act. This amendment, therefore, requires this. A corresponding amendment has been made, via amendment 18, to section 22, enabling Welsh Ministers to issue guidance to the FSA. Therefore, this amendment should be read alongside that one.

11.00 a.m.

[203] In order for me to be able to monitor the operation of the mandatory food hygiene scheme, I have decided to require the FSA to undertake a review of the implementation and operation of the mandatory scheme after the first year of operation, and subsequent reviews will take place every three years. Following each review, the FSA will be required to provide a report to Welsh Ministers. Amending the Bill to require a review after the first year will allow Welsh Ministers to identify any issues early with the mandatory scheme, which I can then look to resolve.

[204] The amendment also requires the FSA to produce a report following the review of the appeal system. I am aware that this committee recommended in its report that an independent appeal process would be more robust and transparent. I consider that the changes made to the Bill via this amendment, as well as those introduced by amendments 4 to 9, will enable the FSA to scrutinise and independently monitor the use of the appeal powers by food authorities. The requirement to report annually to Welsh Ministers will ensure that Ministers are able to monitor the use of these powers and will provide evidence of how the appeal system is working. If the current appeal system is shown to be insufficient, an amendment to the system can be introduced via regulations as detailed in amendment 6. I ask the committee to support this amendment.

[205] **Mark Drakeford:** Diolch yn fawr. A oes unrhyw berson arall eisiau siarad am y gwelliant yn y grŵp hwn? Gwelaf nad oes, felly nid oes rhaid imi ofyn i'r Gweinidog ymateb i'r ddadl. Weinidog, a hoffech chi symud i bleidlais ar welliant 17? **Mark Drakeford:** Thank you. Does anyone else wish to speak to the amendment in this group? I see not, therefore I do not need to ask the Minister to respond to the debate. Minister, do you wish to move to a vote on amendment 17?

[206] **Lesley Griffiths:** Yes.

[207] **Mark Drakeford:** Y cwestiwn yw a ddylid derbyn gwelliant 17. A oes unrhyw wrthwynebiad? Gwelaf nad oes. Felly, derbynnir gwelliant 17 yn unol â Rheol Sefydlog Rhif 17.34(i). **Mark Drakeford:** The question is that amendment 17 be agreed to. Are there any objections? I see that there are not. Therefore, amendment 17 is agreed in accordance with Standing Order No. 17.34(i).

Derbyniwyd gwelliant 17.
Amendment 17 agreed.

[208] **Mark Drakeford:** Rydym wedi gwaredu'r gwelliant yng ngrŵp 6 felly symudwn yn awr at grŵp 7.

Mark Drakeford: We have disposed of the amendment in group 6, therefore we will now move to group 7.

Grŵp 7: Canllawiau (Gwelliant 18)
Group 7: Guidance (Amendment 18)

[209] **Mark Drakeford:** Mae grŵp 7 yn ymwneud â chanllawiau. Gwelliant 18 yw'r prif welliant, a'r unig welliant, yn y grŵp hwn. Weinidog, a hoffech i welliant 18 yn eich enw chi gael ei gynnig?

Mark Drakeford: Group 7 is to do with guidance. Amendment 18 is the lead and only amendment in this group. Minister, do you wish for amendment 18 in your name to be moved?

[210] **Lesley Griffiths:** Yes.

[211] **Mark Drakeford:** Cynigiai welliant 18 yn ffurfiol. Galwaf ar y Gweinidog i siarad am welliant 18.

Mark Drakeford: I formally move amendment 18. I call on the Minister to speak to amendment 18.

[212] **Lesley Griffiths:** Amendment 18 makes an amendment to section 22 to enable Welsh Ministers to issue guidance to the FSA in addition to food authorities. It is my intention to use this power to guide the FSA in relation to the exercise of its functions under the Act. The guidance will also be used to detail how the FSA should engage with food authorities during its review of the implementation and operation of the scheme, and how the appeal system should be reviewed. A corresponding amendment—amendment 17—has been tabled to amend section 13 to require the FSA, in exercising its functions under the Act, to have regard to guidance issued by Welsh Ministers. I ask the committee to support this amendment.

[213] **Mark Drakeford:** Diolch yn fawr. A hoffai unrhyw un arall gyfrannu at y ddadl hon? Gwelaf nad oes neb am wneud hynny, felly nid oes rhaid i mi ofyn i'r Gweinidog ymateb i'r ddadl. Weinidog, a hoffech symud i bleidlais ar welliant 18?

Mark Drakeford: Thank you. Does anyone else wish to contribute to this debate? I see not, therefore I do not need to ask the Minister to respond to the debate. Minister, do you wish to move to a vote on amendment 18?

[214] **Lesley Griffiths:** Yes.

[215] **Mark Drakeford:** Y cwestiwn yw a ddylid derbyn gwelliant 18. A oes unrhyw wrthwynebiad? Gwelaf nad oes. Felly, derbynnir gwelliant 18 yn unol â Rheol Sefydlog Rhif 17.34 (i).

Mark Drakeford: The question is that amendment 18 be agreed to. Are there any objections? I see not. Therefore, amendment 18 is agreed in accordance with Standing Order No. 17.34(i).

Derbyniwyd gwelliant 18.
Amendment 18 agreed.

[216] **Mark Drakeford:** Rydym wedi gwaredu'r gwelliant yng ngrŵp 7, felly symudwn yn awr i grŵp 8.

Mark Drakeford: We have disposed of the amendment in group 7, therefore we will now move to group 8.

Grŵp 8: Pŵer i ddiwygio amserlenni (Gwelliant 19)
Group 8: Power to amend timescales (Amendment 19)

[217] **Mark Drakeford:** Mae grŵp 8 yn ymwneud â'r pŵer i ddiwygio amserlenni. Gwelliant 19 yw'r prif welliant, a'r unig welliant, yn y grŵp hwn. Weinidog, a hoffech i welliant 19 yn eich enw chi gael ei gynnig?

Mark Drakeford: Group 8 is to do with the power to amend timescales. Amendment 19 is the lead and only amendment in this group. Minister, do you wish for amendment 19 in your name to be moved?

[218] **Lesley Griffiths:** Yes.

[219] **Mark Drakeford:** Cynigiaf welliant 19 yn ffurfiol. Galwaf ar y Gweinidog i siarad am welliant 19.

Mark Drakeford: I formally move amendment 19. I call on the Minister to speak to amendment 19.

[220] **Lesley Griffiths:** In your Stage 1 report, this committee recommended that consideration should be given to bringing forward an amendment that provides Welsh Ministers with powers through regulations to amend the timescales detailed in section 5 of the Bill on the right to appeal. Amendment 19 gives effect to this recommendation, but goes further to introduce a provision to enable Welsh Ministers to amend any of the timescales specified on the face of the Bill. This power will be subject to the affirmative resolution procedure, as required by amendment 21, as I consider it important to have the appropriate level of scrutiny from Members for a change to timescales that may adversely affect food businesses or food authorities. While it is envisaged that this will be a reserved power that will futureproof the Bill, it will also provide flexibility should there be a need to amend these timescales in response to changing circumstances. I ask the committee to support this amendment.

[221] **Mark Drakeford:** A oes unrhyw aelod arall o'r pwyllgor eisiau cyfrannu at y ddadl? Gwelaf nad oes.

Mark Drakeford: Does any other member of the committee wish to contribute to the debate? I see that no-one wishes to do so.

[222] Weinidog, a hoffech chi symud i bleidlais ar welliant 19?

Minister, do you wish to proceed to a vote on amendment 19?

[223] **Lesley Griffiths:** Yes.

[224] **Mark Drakeford:** Y cwestiwn yw a ddylid derbyn gwelliant 19. A oes unrhyw wrthwynebiad? Gwelaf nad oes. Felly, derbynnir gwelliant 19 yn unol â Rheol Sefydlog Rhif 17.34(i).

Mark Drakeford: The question is that amendment 19 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 19 is agreed, in accordance with Standing Order No. 17.34(i).

Derbyniwyd gwelliant 19.
Amendment 19 agreed.

[225] **Mark Drakeford:** Rydym wedi gwaredu'r gwelliant yng ngrŵp 8, ac felly symudwn at grŵp 9.

Mark Drakeford: We have disposed of the amendment in group 8, so we now move on to group 9.

Grŵp 9: Rheoliadau (Gwelliannau 20 a 21)
Group 9: Regulations (Amendments 20 and 21)

[226] **Mark Drakeford:** Y prif welliant yn

Mark Drakeford: The lead amendment in

y grŵp hwn yw gwelliant 20. Weinidog, a hoffech i welliant 20 yn eich enw chi gael ei gynnig?

this group is amendment 20. Minister, would you like amendment 20 in your name to be moved?

[227] **Lesley Griffiths:** Yes.

[228] **Mark Drakeford:** Cynigiaf welliant 20. Galwaf ar y Gweinidog i siarad am welliant 20 a'r gwelliant arall yn y grŵp hwn.

Mark Drakeford: I move amendment 20. I call on the Minister to speak to amendment 20 and the other amendment in the group.

[229] **Lesley Griffiths:** Amendments 20 and 21 change the group of regulation-making powers that are subject to the affirmative procedure. These amendments provide that the procedure applied to the regulation-making powers in section 6(2) and paragraph 3 of the Schedule is to be affirmative rather than negative. The procedure to be applied to the new regulation-making powers in sections 5(8) and 23, as introduced by amendments 6 and 19, is to be affirmative.

[230] Following its consideration of the Bill, the Constitutional and Legislative Affairs Committee recommended that two of the regulation-making powers in the Bill should be subject to an affirmative rather than a negative resolution procedure. These powers are the power at section 6(2) for the Welsh Ministers to prescribe in regulations what further information the food authority must provide to the FSA, and the power in Part 1(3) of the Schedule to prescribe different limits for the fixed and discounted penalties. I agree that these powers should be subject to the affirmative procedure and therefore I have brought forward these amendments to give effect to that committee's recommendations.

[231] The two other powers to which these amendments will require the affirmative resolution procedure to apply are those inserted by amendments 6 and 19 at sections 5(8) and 23. Both of these powers will have the affirmative resolution procedure applied, since both could have significant implications for food business operators and food authorities. The regulation-making power at section 5(8) enables the Welsh Ministers to provide for an appeal to be determined by a person other than the food authority, and the power at section 23 enables Welsh Ministers to amend the timescales detailed on the face of the Bill. As such, as I have said, I believe it appropriate to require the Assembly to scrutinise the detail and, proportionally, any regulations sought under these powers before they are brought into force. I ask the committee to support these amendments.

[232] **Mark Drakeford:** A oes unrhyw Aelod arall eisiau siarad am y grŵp hwn? Gwelaf nad oes. Weinidog, a hoffech symud i bleidlais ar welliant 20?

Mark Drakeford: Does any other Member wish to speak about this group? I see not. Minister, do you wish to proceed to a vote on amendment 20?

[233] **Lesley Griffiths:** Yes.

[234] **Mark Drakeford:** Y cwestiwn yw a ddylid derbyn gwelliant 20. A oes unrhyw wrthwynebiad? Gwelaf nad oes. Felly, derbynnir gwelliant 20 yn unol â Rheol Sefydlog Rhif 17.34(i).

Mark Drakeford: The question is that amendment 20 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 20 is agreed, in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 20.
Amendment 20 agreed.*

[235] **Mark Drakeford:** Weinidog, a hoffech i welliant 21 yn eich enw chi gael ei

Mark Drakeford: Minister, would you like amendment 21 in your name to be moved?

gynnig?

[236] **Lesley Griffiths:** Yes.

[237] **Mark Drakeford:** Cynigiaf welliant 21. Y cwestiwn yw a ddylid derbyn gwelliant 21. A oes unrhyw wrthwynebiad? Gwelaf nad oes. Felly, derbynnir gwelliant 21 yn unol â Rheol Sefydlog Rhif 17.34(i).

Mark Drakeford: I move amendment 21. The question is that amendment 21 be agreed to. Are there any objections? I see that there are none. Therefore, amendment 21 is agreed, in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 21.
Amendment 21 agreed.*

[238] **Mark Drakeford:** A ninnau wedi gwaredu'r gwelliannau yng ngrŵp 9, symudwn yn awr at grŵp 10.

Mark Drakeford: Having disposed of all the amendments in group 9, we now move to group 10.

Grŵp 10: Cychwyn (Gwelliant 22) Group 10: Commencement (Amendment 22)

[239] **Mark Drakeford:** Gwelliant 22 yw'r prif welliant a'r unig welliant yn y grŵp hwn. Weinidog, a hoffech i welliant 22 gael ei gynnig yn eich enw chi?

Mark Drakeford: The lead and only amendment in this group is amendment 22. Minister, would you like amendment 22 in your name to be moved?

[240] **Lesley Griffiths:** Yes.

[241] **Mark Drakeford:** Cynigiaf welliant 22 yn ffurfiol yn enw Lesley Griffiths. Galwaf ar y Gweinidog i siarad am welliant 22.

Mark Drakeford: I formally move amendment 22 in the name of Lesley Griffiths. I call on the Minister to speak to amendment 22.

[242] **Lesley Griffiths:** Amendment 22 replaces section 25 of the Bill. This new section 25 specifies that the power to make commencement Orders takes effect two months after the Act receives Royal Assent, which, should the Assembly pass the Bill, is anticipated to be February 2013. The amendment also allows flexibility for the phased commencement of different provisions in the Bill, if required. While I expect almost all the Bill's provisions to come into force on the same day, currently expected to be in November 2013, there are some provisions that I may need to delay, for example the application of the scheme to businesses involved in food business-to-business trade. As the FSA voluntary scheme does not currently apply to these businesses, I anticipate that a longer lead-in time may be required for businesses in this sector and for food authorities to prepare. I ask the committee to support this amendment.

[243] **Mark Drakeford:** A oes unrhyw berson arall eisiau cyfrannu o dan y grŵp hwn? Gwelaf nad oes. Weinidog, a hoffech symud i bleidlais ar welliant 22?

Mark Drakeford: Does anyone else wish to contribute under this group? I see that no-one does. Minister, would you like to proceed to a vote on amendment 22?

[244] **Lesley Griffiths:** Yes.

[245] **Mark Drakeford:** Y cwestiwn yw a ddylid derbyn gwelliant 22. A oes unrhyw wrthwynebiad? Gwelaf nad oes. Felly,

Mark Drakeford: The question is that amendment 22 be agreed to. Are there any objections? I see that there are none.

derbynnir gwelliant 22 yn unol â Rheol Sefydlog Rhif 17.34(i). Therefore, amendment 22 is agreed in accordance with Standing Order No. 17.34(i).

*Derbyniwyd gwelliant 22.
Amendment 22 agreed.*

[246] **Mark Drakeford:** For the record, all sections of the Bill have been agreed by the committee. As we have disposed of all amendments, Stage 3 begins tomorrow. The deadline for tabling amendments will be notified to Members in due course. Under Standing Order No. 26.27, if a Bill is amended at Stage 2 proceedings so as to insert a section or Schedule, or substantially alter any existing provision, the committee considering Stage 2 proceedings may request that the Member in charge prepare a revised explanatory memorandum. As such, do Members agree that the Welsh Government should prepare a revised explanatory memorandum? I see that that is agreed. That concludes the Stage 2 proceedings of the Food Hygiene Rating (Wales) Bill. Thank you all very much indeed.

11.13 a.m.

**Cynnig dan Reol Sefydlog Rhif 17.42(vi) i Benderfynu Gwahardd y Cyhoedd
o'r Cyfarfod
Motion under Standing Order No. 17.42(vi) to Resolve to Exclude the Public
from the Meeting**

[247] **Mark Drakeford:** Cynigiaf

Mark Drakeford: I move that

yn unol â Rheol Sefydlog Rhif 17.42(vi), fod y pwyllgor yn penderfynu cwrdd yn breifat ar gyfer gweddill y cyfarfod.

in accordance with Standing Order No. 17.42(vi), the committee resolves to meet in private for the remainder of the meeting.

[248] A yw'r Aelodau i gyd yn fodlon?
Gwelaf eich bod.

Are all Members content? I see that you are.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11.13 a.m.
The public part of the meeting ended at 11.13 a.m.*