



Report to: Cabinet Meeting: 4 November 2024

Portfolio Holder: Councillor Paul Taylor - Public Protection & Community Relations

Director Lead: Matthew Finch, Director - Communities & Environment

Lead Officer: Jenny Walker, Business Manager – Public Protection

Report Summary	
<b>Type of Report</b>	Open Report / Key Decision
<b>Report Title</b>	Cost recovery for re-inspection under the National Food Hygiene Rating Scheme
<b>Purpose of Report</b>	The purpose of the report is to outline a charging system which can be implemented to enable a fee to be levied for a request for a re-score under the Food Hygiene Rating Scheme.
<b>Recommendations</b>	That Cabinet approve: <ul style="list-style-type: none"> <li>a) the introduction of a flat fee charge of <b>£176</b> for re-rating inspection visits on a full-cost recovery basis, with effect from <b>1 April 2025</b> in accordance with the fee calculations; and</li> <li>b) the incorporation of the new fee into the annual fees and charges review to be undertaken each year as part of the budget setting process to ensure the fee continues to be based on cost recovery.</li> </ul>
<b>Alternative Options Considered</b>	Do nothing – Food businesses will continue to receive a re-score but this will be in line with the FHRs Brand guidance and will only be after at least 3 months has expired.
<b>Reason for Recommendations</b>	The re-inspections will provide businesses with an option to request a re-score visit after one month rather than wait for three months. This would be charged on a cost recovery basis and would allow businesses to improve their score quicker.

## 1.0 Background

1.1 The Food Hygiene Rating Scheme (FHRS) was developed by the Food Standards Agency (FSA) to enable food consumers to compare the hygiene standards within different food outlets. A rating of five indicates a very good standard and zero indicates that urgent improvement is necessary. The scheme is popular amongst consumers with a survey conducted by the FSA revealing that 40% of respondents would definitely base their decision to eat out somewhere on the Food Hygiene Rating Score.

- 1.2 FHRs is seen as a key element of improving food safety. The Scheme, which operates in England, Wales and Northern Ireland, provides transparency about hygiene standards in food businesses at the time they are inspected to check their compliance with food safety legislation our Business Compliance team have been successfully administering the FHRs scheme for many years.
- 1.3 Displaying an FHRs sticker enables consumers to make an informed choice about where they choose to eat or shop for food. Widespread display of FHRs ratings gives consumers an instant indication of a food business's hygiene standards in comparison to its neighbours and peers.
- 1.4 The devolved Governments in Wales and Northern Ireland have already enacted legislation making the previously voluntary FHRs display scheme in their administration mandatory for all food businesses. Wales has been operating this way since November 2013 and Northern Ireland commenced in 2016.
- 1.5 The FSA has expressed an intention to extend mandatory display to England and they continue to build the case using evidence from Wales, where there has been a positive impact on hygiene standards compared with England since mandatory display was introduced. Increasing numbers of consumers use the scheme to help them make informed choices.
- 1.6 One of the key differences between the current English voluntary scheme and the two mandatory schemes is that both mandatory schemes enable a charge to be made for re-rating inspections whereas, until recently no provision was made in the English voluntary scheme for such charging.
- 1.7 The Brand Standard is the FSA's guidance for the operation of the FHRs in England and the council is required to apply this guidance in full in operation of the scheme. Following legal advice and a successful trial of charging for FHRs re-inspections the FSA has revised the national scheme conditions (the Brand Standard) for the FHRs and these were re-issued in March 2017. The change now allows local authorities in England to charge for a revisit to a food business to reassess them under the FHRs, when a request is received by a Food Business Operator between their regular routine inspections. The guidance makes clear that it is for each local authority to decide whether to use these charging powers and if so, to set the charge in line with their costs.
- 1.8 Any business that has obtained a rating of less than 5 can request a follow up re-rating inspection once they have made any improvements brought to their attention following the first inspection. The purpose of the re-rating is to establish if a higher rating can be obtained and displayed to the public. Without this, there would be no opportunity for another rating to be given to an improved business until the next planned full inspection.
- 1.9 The frequency of planned food safety inspections varies from every six months to three years. The frequency of inspection is determined by the risks posed by the food business and uses the national Food Law Code of Practice's scoring process to calculate this risk and any follow-up required. It is important to distinguish a re-rating inspection from other official control revisits that might be conducted as part of officer's usual food safety work.

- 1.10 Newark & Sherwood has around 1200 food businesses including pubs and clubs, newsagents, retailers, restaurants and takeaways that are subject to the Food Hygiene Rating Scheme. Each year the Business Compliance Team will undertake between 300 to 500 programmed food inspections, depending on the food inspection programme for the year.
- 1.11 For business that do not achieve the highest level 5 rating there are three possible options open to them which are known as safeguards:
- Appeal, if they do not agree with the score;
  - Submit a right to reply if they believe there were extenuating or mitigating circumstances;
  - Request a rescore once they have made improvements in the hope of an improved score on the second visit. Within the FHS Brand Standard, **3 months must have elapsed** from the initial inspection to consider the application and to arrange a revisit.
- 1.12 It is in the commercial interests of a food business to have a good rating so there is an incentive for them to want to improve hygiene following a poor inspection and request a rescore visit. However, rescore visits create an additional capacity demand and therefore have financial cost for the local authority. This is not a service that the local authority has a statutory duty to provide but the function is necessary in order to comply with the FSA Brand Standard. Whilst a business in England can still choose whether they wish to display a rating sticker in their premises or not under the current voluntary scheme, it is worth emphasising that all ratings are already published by the FSA on their ratings website, so consumers can easily view all the ratings throughout the UK via a PC, tablet or even on a smartphone.
- 1.13 The proposed fee will only apply to re-rating inspections and not if the Authority decide to conduct an official control revisit - e.g. to check on essential work /improvements we have required. Consequently, cost recovery from businesses would occur only where they request a re-rating inspection.
- 1.14 The introduction of charging for the revisit inspections will mean that businesses can request a re-inspection at any time – there will no longer be a three month “standstill” period during which they may not request such an inspection and the business can request any number of re-inspections. However, for each request for a re-inspection, the Council would be able to charge the agreed fee, if Members are minded to agree the recommendations in this report and the fee would be sought in advance of any re-inspection work.

## **2.0 Proposal/Details of Options Considered**

- 2.1 Approval is sought to introduce to food businesses a fixed fee for re-inspection and associated re-score under the Food Hygiene Rating Scheme. The fee charged is based upon a cost recovery calculation. We anticipate that we would receive between 20 to 30 requests for this re-inspection per year.

- 2.2 The proposal to commence charging for re-scoring on a cost recovery basis will enable existing resources to be targeted towards the high risk food hygiene inspection programme. Finance have calculated that the initial re-inspection cost will be **£176** using a total of 4 hours of officer time for each revisit. The calculation is shown in **Appendix A**.
- 2.3 Officers have previously carried out a brief review of charges made by other Districts and Boroughs in Nottinghamshire and these include:
- Ashfield District Council £180
  - Bassetlaw District Council £150
  - Mansfield District Council £160; and
  - Rushcliffe Borough Council £201

Accordingly, Officers feel that our proposed charge is in accordance with other charges made by neighbouring Authorities.

### **3.0 Implications**

In writing this report and in putting forward recommendations, officers have considered the following implications: Data Protection; Digital & Cyber Security; Equality & Diversity; Financial; Human Resources; Human Rights; Legal; Safeguarding & Sustainability and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

#### **Data Protection**

Accepting the recommendations will not increase the volume of data held by the Council. The data will be held and processed in accordance with the data protection principles contained in Schedule 1 to the Data Protection Act 1998.

#### **Equality**

The ability to charge for re- inspection, should the proposal be agreed, will result in a change of process. Whilst this is likely to be seen as an advantage to businesses as they will no longer have to wait a mandatory three months for a re-inspection, it is essential this change in process is communicated well. Any barriers to communications should be considered from an equalities perspective in respect of the protected characteristics.

#### **Financial Implications FIN24-25/9793**

These proposals will ensure that costs for non-statutory re-inspections are recovered and that the council is no longer subsidising activity that is in the commercial interests of food businesses. Under the Localism Act we are not able to profit from the inspections but we are allowed to charge for the cost of the service.

The calculations are based on Budgeted Salaries for 24.25 which include a 5% inflation pay award on 23.24 salaries. It is advised that this is the base for the proposed charge; inflation (as per the annual budget strategy) can be added for a maximum of 3 years before a recalculation is performed using the latest Salary figures.

The money received will only be used to cover the existing costs for this activity. An annual review will be completed by the Public Protection Business Manager and Finance to ensure the cost recovery of the service is calculated only to cover the services completed, and to ensure officer time and costs are reviewed for the process of food hygiene rescores.

In the short term these charges will only generate a modest income given the number of re-inspections that the team are currently asked to undertake. However, it is anticipated that these requests may increase in the future, particularly as there is a recommendation by the Food Standards Agency that the display of scores becomes mandatory as it is currently in Wales and Northern Ireland

### **Human Resources**

There are no immediate human resources issues identified, however if any arose these will be dealt with under Human Resources policies and procedures.

### **Legal**

Powers are available to local authorities in England under the Localism Act 2011 allowing for the recovery of costs of reinspections/re-visits made at the request of a Food Business Operator to re-assess their food hygiene rating. It is for each authority to decide to use these powers and set the charge in line with their costs. When setting the charge the authority has a duty to ensure that taking one financial year with another, income does not exceed the costs of providing the service.

### **Crime & disorder**

These changes to the Brand Standard intend to continue to raise awareness of the food hygiene rating of food businesses in this area. The scores are regularly uploaded to the FSA website. The ability for customers to be able to make a conscious decision where to purchase their food, could help improve general hygiene standards in the district of Newark & Sherwood.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

[Food Hygiene Rating Scheme Brand Standard](#)

## Appendix A

Calculating the costs – rescoring FHRs rating following request using the following hourly overhead rate calculation:

Admin: £28.00

EHO: £46.00

Management: £57.00

Process	Estimated time	Officer level	Rate	Cost
Initial enquiry and supply of application forms or redirection to website. Scan form and send to MGMT	0.25	Admin	£28	£7
Check validation of FHRs rescore request by management	0.25	Management	£57	£14.25
Input application onto database and allocate to an officer	0.25	Admin	£28	£7
Liaison with Food Business Operator to confirm suitability of evidence and explain process/review case file of last inspection	0.25	EHO	£46	£11.50
Travel to and from business	1.0	EHO	£46	£46
Re-inspection or partial re-inspection	1.0	EHO	£46	£46
Completion of inspection report	0.50	EHO	£46	£23
Management validation of new score	0.25	Management	£57	£14.25
Update of file records and database, sending of letter and sticker	0.25	Admin	£28	£7
<b>Totals</b>	<b>4 hours</b>	<b>-</b>	<b>-</b>	<b>£176</b>