

THURSDAY, 27 APRIL 2017

REPORT OF THE PORTFOLIO HOLDER FOR ENVIRONMENT AND CULTURE
CHARGING FOR REQUESTED FOOD HYGIENE RATING SCHEME (FHRS) RE-INSPECTIONS/RE-VISITS

EXEMPT INFORMATION

NIL

PURPOSE

The Food Hygiene Rating Scheme (FHRS) has been in place in Tamworth Borough Council since April 2012. Currently all visits made to premises are conducted at no cost to the business, which includes requested second visits to the business for the sole purpose of increasing their “star” rating, which is to their business benefit.

The Food Standards Agency (FSA) announced on the 13th March 2017 that Local Authorities in England may introduce a charging regime using existing powers available to the Council under the Localism Act to make a charge for requests received for an FHRS re-rating inspection.

RECOMMENDATIONS

That Cabinet approve the introduction of a charge based on the hourly rate of officers for re-rating inspections based upon full cost recovery with effect from 1 June 2017, reviewed in line with the fees and charges policy annually thereafter.

EXECUTIVE SUMMARY

Following the trial of charging for requested FHRS re-inspections/re-visits with some local authorities in England, using existing powers in the Localism Act 2011, the FSA have now confirmed a change in their policy which will allow the use of these powers by local authorities in England to introduce full cost recovery for requested FHRS re-inspections / re-visits.

There are safeguards built into the rating system, Tamworth Borough Council is statutorily obliged to visit premises to assess food safety on the basis of risk. Those posing a high risk being inspected more frequently and often being subject to formal enforcement action. Additionally, visits are conducted in accordance with the FHRS Brand Standard to ensure that businesses receive the correct rating at the time of the initial inspection. Tamworth Borough Council is obliged to provide visits to premises to assess safety and standards under the Food Safety Act 1990. Once the rating has been confirmed and any works completed the business can request a re-rating visit. There will be differences from the existing FHRS scheme. Currently:-

- a) a food business can only make one request for a re-rating visit following each planned statutory food inspection. This can be made at any time provided that any required improvements have been made; and
- b) businesses provide details of the improvements they have made along with their re-rating request, and if it is considered that sufficient evidence has been provided, there is a three month “stand still” period. An unannounced visit will then normally take place within three months from the end of the “stand still” period.

Under the proposed charging regime:-

- a) there is no limit on the number of requests that can be made by individual businesses; and
- b) the "stand-still" period will not be applied and the re-rating inspection must be carried out within three months of the receipt of the request and payment of the fee.

The business would not need to provide evidence as to the current position, however, if the work is not carried out there will be no change to the rating. It is entirely in the interest of the business to demonstrate an increase in their published rating, as it gives the public greater confidence that their food is prepared safely in accordance with the necessary legislation.

RESOURCE IMPLICATIONS

There is a net saving to the Council for this service as it is currently delivered free of charge. The estimated income receivable is £1,400 based on an average fee of £200 for the seven revisits conducted last year. This is likely to increase as the FHS gains popularity. Furthermore it is reasonable to assume that businesses will want to request more re-rating inspections in order to show the best rating & compete for trade.

LEGAL/RISK IMPLICATIONS

Section 1 of the Localism Act 2011 gives local authorities the power to charge for a service which is not a statutory function. The advice refers to re-inspections made at the request of the food business operator to re-assess the food hygiene rating and does not cover interventions carried out as part of statutory duties i.e. the planned interventions that the Borough is required to undertake in accordance with the food law code of practice.

SUSTAINABILITY IMPLICATIONS

An effective Food Safety Service will enable the three corporate priorities, 'Living a quality life in Tamworth', 'Growing Strong in Tamworth' and 'Delivering quality services in Tamworth' to be met. In particular creating a level playing field in ensuring that food sold in Tamworth is safe for the public.

BACKGROUND INFORMATION

The majority of the re-rating work needs to be completed by the officers who are already authorised for official food control work. There were seven (7) requests for revisits in the last financial year. The proposed charge would be set using locally collected data on the time taken for an average re-rating request and the appropriate hourly rates for the officers completing the work including overheads. The charge would need to be reviewed annually taking into account the most recent data unless a mandatory national or regional fee is subsequently prescribed. The FSA has collected data from local authorities, which concludes that, on average a re-rating inspection would take four (4) hours. The latest data from Wales indicates a different picture suggesting the time spent is approximately five hours though this includes a significant travel element and well over an hour to produce the final report. We have collected and analysed data from our re-rating requests, including both the inspection and office administration elements, and the average time spent was four (4) hours.

Any business that has obtained a rating of less than five (5), the top score 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 thence 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.

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 our usual food safety work.

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.

The Food Hygiene Rating Scheme is a key element of improving food safety and standards of food hygiene in food businesses.

One key difference between the current English voluntary scheme and the two mandatory schemes in Wales and Northern Ireland is that both mandatory schemes enable a charge to be made for re-rating inspections.

Cost recovery from businesses would occur only where they make a commercial decision and choose to request a re-rating inspection. The legislation that allows for charges already exists and the preferred charge option is based on full cost recovery using an established model that meets the Borough's Financial Regulations.

REPORT AUTHOR

"If Members would like further information or clarification prior to the meeting please contact Steve Lewis, Head Of Environmental Health. Ext 437"

LIST OF BACKGROUND PAPERS

1. **Food Standards Agency Correspondence Ref: ENF/E/17/020**, dated 13 March 2017

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