

REPORT TO SCRUTINY COMMITTEE – PLACE and EXECUTIVE

Date of Meeting: 11 January 2018 and 13 February 2018

Report of: Environmental Health and Licensing Manager

Title: Charging for Food Hygiene Rating Scheme Revisits

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

- 1.1 In partnership with the Food Standards Agency, Environmental Health & Licensing participate in the delivery of the national Food Hygiene Rating Scheme (FHRS). The scheme, which has been in place in Exeter since 2011, encourages businesses to improve hygiene standards and assists consumers in making informed choices about where to eat.
- 1.2 Businesses are rated between 0 (*urgent improvement necessary*) and 5 (*very good*). Those with a food hygiene rating of 4 or below can request a re-rating inspection. There is currently no charge for this visit but there are costs, in terms of officer and administration time, which are currently absorbed by the service.
- 1.3 Following a trial of charging for requested FHRS re-rating inspections with some local authorities in England using existing powers in the Localism Act 2011, the Food Standards Agency has now confirmed a change in policy allowing use of these powers by local authorities in England to introduce fees on a cost recovery basis only for re-rating inspections.
- 1.4 Members are requested to recommend to Council the introduction of a cost recovery fee for food hygiene rating scheme re-rating inspections.

2. Recommendation

- 2.1 That Scrutiny Committee – Place note the change in the Food Standards Agency charging policy and request Executive to recommend approval by Council the proposal to introduce a cost recovery fee of £160 for Food Hygiene Rating Scheme re-rating inspections which are requested by the Food Business Operator, with effect from 1st April 2018.

3. Reasons for the recommendation:

- 3.1 The Food Standards Agency (FSA) has overall responsibility for the official control of food law enforcement in England. The Food Standards Agency run the Food Hygiene Rating Scheme in England, Wales and Northern Ireland.

- 3.2 Environmental Health & Licensing is responsible for carrying out inspections of food businesses to check they meet the requirements of food hygiene law. Officers give businesses food hygiene ratings based on the findings of inspections and this information is subsequently published on the Food Standards Agency website.
- 3.3 Ratings are given to places where the public eat out such as restaurants, takeaways, pubs and hotels, other places where the public eat away from home such as schools, hospitals and residential care homes and places where one can shop for food such as supermarkets, bakeries and delicatessens.
- 3.4 Some businesses are exempt from the scheme. This is generally because they are low risk in terms of food hygiene requirements - for example a newsagent selling only wrapped sweets. Also exempt are those businesses that do not sell food directly to the consumer for example a food manufacturer.
- 3.5 Once a rating has been awarded, food businesses scoring below the maximum rating of 5 (*very good*) have the opportunity to request a re-rating inspection.
- 3.6 Generally speaking, a re-rating inspection will not take place within three months of the initial inspection and must be carried out within three months of the request being made. Therefore, the longest period a Food Business Operator would have to wait for a re-rating inspection is six months.
- 3.7 Currently, Food Business Operators can only request one re-rating inspection between due periodic inspections. The re-rating inspection is carried out unannounced and takes the form of a full inspection, partial inspection or audit. If standards of hygiene have not improved, the score may remain the same or even go down.
- 3.8 Legal advice received by the Food Standards Agency indicates that powers available to local authorities in England under the Localism Act 2011 allow for the recovery of costs for re-inspection requested by businesses to re-assess their food hygiene rating.
- 3.9 Under the proposed fee paying scheme, all requested revisits will be carried out *within* three months of the fee being paid and there is no limit on the number of requests a business may make.
- 3.10 It is proposed that Environmental Health & Licensing introduce a cost recovery fee for requested revisits only. No fee is allowed to be charged for the initial inspection of the business which is carried out as part of the Council's statutory duties.
- 3.11 There is no prescribed fee for undertaking this work and the recently published Food Standards Agency guidance indicates each local authority must set a fee having regard to HM Treasury 'managing public money' and other relevant guidance. The fee set should cover, but not exceed, the cost of delivery.
- 3.12 Appendix 1 of this report includes a table showing how a fee of £160 has been calculated for a revisit. It takes into account the time taken to process the application, carry out the inspection and update the environmental health database.

- 3.13 Plymouth City Council has already approved charging for re-rating request inspections and charges £160. A discussion at Octobers' Devon and Cornwall Food Liaison Group meeting revealed that the majority of other Devon authorities plan to bring in charging in 2018 ranging from £150 to £170.

4. What are the resource implications including non-financial resources.

- 4.1 In 2016/17, Environmental Health & Licensing received **28** requests for a re-rating inspection. Each request needs to be processed by the Environment Support Team and allocated to an Environmental Health Officer for a visit.
- 4.2 There is currently no charge for this work, despite each revisit request taking a considerable period of time (see Appendix 1) and diverting an Environmental Health Officers' focus away from routine programmed food hygiene interventions (608 of which were undertaken in 2016/17).
- 4.3 Based on 2016/17 data, charging £160 for revisit requests would recover £4480. Though this figure will vary slightly from year to year.
- 4.4 There will be differences from the existing scheme; as explained at 3.9, above, there will be no limit to the number of requests that can be made and the re-rating inspection must be made within three months.

5. Section 151 Officer comments:

The contents of the report are noted. As the value is low and the number uncertain, no budget will be added in the forthcoming year to allow time for monitoring. The value of any income received will of course be included in the quarterly budget monitoring reports.

6. What are the legal aspects?

- 6.1 Legal advice received by the Food Standards Agency indicates that powers are available to local authorities in England under the section 1 of the Localism Act 2011 allowing for the recovery of costs for food hygiene rating scheme re-inspections requested by food business operators.

7. Monitoring Officer's comments

This report raises no issues for the Monitoring Officer.

8. Report Details

- 8.1 The Food Hygiene Rating Scheme (FHRS) is 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.
- 8.2 The Food Standards Agency (FSA) consider FHRS to be a good example of using incentives to drive businesses to behave in ways that benefit consumers, and FSA research demonstrates that it is working and driving up food hygiene standards.

- 8.3 Displaying a 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' hygiene standards in comparison to its neighbours and peers.
- 8.4 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. FSA has expressed an intention to extend mandatory display to England but, in the meantime, if a business does not display a sticker, ratings can be checked online (<http://ratings.food.gov.uk/>)
- 8.5 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 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.
- 8.6 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 Practices' 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.
- 8.7 Legislation passed in England and Wales in the form of the Localism Act 2011 affected local authorities' powers to charge and the FSA have now re-visited the question of whether local authorities in England have power to charge for FHRs re-rating inspections. They now consider that local authorities can charge because a re-rating inspection can be properly described as a "service" which they can provide on a non-commercial basis.
- 8.8 The proposed charge will only apply to re-rating inspections and not if we 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.

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1 The Food Hygiene Rating Scheme supports the purpose of 'keep me / my environment safe and healthy' and 'building a stronger city'. By providing consumers with information about standards of hygiene in a readily-available and easy to understand format, the scheme allows people eating out or buying food in Exeter to make informed choices about where to go.
- 9.2 Food businesses with a low hygiene rating are now in the public eye (not least of all through regular press coverage and online). There is a greater incentive to improve standards and so the request for a re-inspection scheme is particularly important.

10. What risks are there and how can they be reduced?

10.1 Businesses may not wish to pay for a service that was previously provided free of charge. It should be explained to food business operators that the service is provided on a non-commercial basis and that cost-recovery for requests to re-inspect has now been included in the Food Standard Agency's 'Brand Standard' (the Agency's guide to the operation of the Food Hygiene Rating Scheme). Report of inspections, follow-up letters and the council's website will be amended to include this information.

10.2 Environmental Health will need to be adequately resourced to deliver the requested number of revisits within a three-month period. Whilst there is no accurate means of predicting demand, it is not anticipated to increase significantly from previous years' figures (2016/17 – 28, 2015/16 – 22, 2014/15 – 22, 2013/14 – 29)

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

There shouldn't be any impact here – the Food Hygiene Rating Scheme, which is a key element in driving up standards, will continue to operate; the only difference will be charging for requested revisits. If an officer inspects a food business and finds significant non-compliance, the business will be revisited regardless to ensure that matters are put right. Note that this visit is **not** a re-rating visit – re-rating requests must be made by the Food Business Operator (and, from April 2018, accompanied by the appropriate fee, if this report is agreed)

12. Are there any other options?

Requests for re-inspections are part of the Food Hygiene Rating Scheme Brand Standard and the option must be made available to Food Business Operators with a business scoring 4 or below for the correct operation of the scheme. Up until now, Environmental Health & Licensing has not charged for these visits; we could continue in this way but having now been given the opportunity to recover the costs, it would be prudent to do so, particularly as requests for revisits take up officers' time which could be otherwise used for inspecting the city's considerable number of food businesses.

Simon Lane
Environmental Health and Licensing Manager

Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:-

Food Standards Agency Report ENF/E/12/020 (13 March 2017): *Charging for requested Food Hygiene Rating Scheme (FHRS) re-inspections/re-visits.*

Contact for enquires:
Democratic Services (Committees)
Room 2.3
01392 265275

Appendix 1 – Cost Recovery Calculation

	Process	Indicate TIME estimates in minutes used for your local authority	Indicate OFFICER responsible for each process in your local authority	Cost estimated for you local authority
a	Initial Enquiry and supply of forms/advice	10	Environmental Support Officer	£3.30
b	Receipt of fee and checking of applications.	5	Environmental Support Officer	£1.65
c	Enter onto LA database	5	Environmental Support Officer	£1.65
d	Pre-inspection file checks	20	EHO	£16.60
e	Travel to and from business (average)	45	EHO	£37.35
f	Rescore visit (full inspection)	90	EHO	£74.70
g	Completion of inspection report	20	EHO	£16.60
h	Printing/completion of stickers and inspection letter	5	EHO	£4.15
i	Input onto LA database	5	Environmental Support Officer	£1.65
	TOTAL (a - i) - do not enter details as this will automatically calculate	205		£157.65

Additional costs (insert any additional processes/costs identified not included in a - i above)				
	Process	Indicate TIME estimates in minutes used for your local authority	Indicate OFFICER responsible for each process in your local authority	Cost estimated for you local authority
j	Mileage 5 @ 0.35			1.75
k				
o				
	TOTAL (j - o) - do not enter details as this will automatically calculate	0		£1.75

p	GRAND TOTAL (a - o) - do not enter details as this will automatically calculate	205		£159.40
---	--	------------	--	----------------

Costs used

q	Environmental Health Officer (£50 hourly rate) (0.83/min)
r	Environment Support Officer (£20 hourly rate) (0.33/min)