

**Charging Food Businesses for Hygiene Rating Scheme Rescore Inspections**

<b>Final Decision-Maker</b>	Communities, Housing and Environment Committee
<b>Lead Head of Service/Lead Director</b>	John Littlemore, Head of Housing and Communities
<b>Lead Officer and Report Author</b>	Tracey Beattie, Mid Kent Environmental Health Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

The national Food Hygiene Rating Scheme introduced nationally from 2010 has been successful in promoting food hygiene for the public in Maidstone. This report presents the considerations surrounding the introduction of a charge for re-inspection under the scheme for both businesses and the authority. The fee has been set to cover the cost of re-inspection and allows food businesses the opportunity of reducing the current (up to) six month re-inspection period to no more than three months once the request and fee are received.

**This report makes the following recommendations to this Committee:**

1. To approve the introduction of a charge for re-inspections for rescoring from 1 April 2018.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Communities, Housing and Environment Committee	20 March 2018

# Charging Food Businesses for Food Hygiene Rating Scheme Rescore Inspections

## 1. INTRODUCTION AND BACKGROUND

- 1.1 In 2010 the Food Standards Agency (FSA) introduced a national Food Hygiene Rating Scheme to make public food business' compliance with food hygiene standards. The scores are published on a national website and by local authorities issuing certificates for businesses to display in their premises. The scores range from five (best) to zero (worst).
- 1.2 The scheme has safeguards for businesses either not satisfied with the score they have been issued (anything below 5), or have completed the work required by the inspecting food officer. Businesses can appeal, have a 'right to reply' or request a re-inspection following a mandatory three month gap between the initial inspection (and initial score) and the re-inspection and rescore.
- 1.3 The FSA have recently enabled local authorities to charge businesses the cost of undertaking these rescoring inspection visits under the Localism Act 2011 on a cost recovery basis.

### Current Process

- 1.4 The FSA's Brand Standard provides local authorities in England with advice and guidance on all aspects of implementation and operation of the Food Hygiene Rating Scheme. All authorities must adhere to the process and guidance.
- 1.5 Following a food hygiene inspection a business is advised of its hygiene rating and how it has been derived. Both the written report left with the food business and any letter sent to them clearly state the process for appeals, 'right to reply' mechanism or requests for re-inspection and rescore. The score is published on the FSA website (<http://ratings.food.gov.uk/>) 29 days after the inspection with a 'right of reply' offered to all businesses.
- 1.6 Should a business request a re-inspection they need to demonstrate that they have improved the hygiene conditions since the original inspection. There is a maximum wait of 6 months before the rescore occurs, consisting of an initial mandatory three month 'standstill' period followed by a three month period for the local authority to undertake the re-inspection. The re-inspection is unannounced and the business is informed that their rating may go up, down or remain the same dependent on what is observed at the re-inspection.
- 1.7 An appeal against a FHRS score has a different process. These may occur when a business does not agree with the score given to them by the

inspecting officer and must be made within 21 days of the inspection with the appeal decision made by both MKEH Food & Safety Team Leaders.

### **Proposed Arrangement**

- 1.8 The proposed changes are in line with the FSA Brand Standard guidance for the Food Hygiene Rating Scheme with the following changes identified below.
- 1.9 Introducing a charge for the re- inspection will allow businesses to apply for a re-inspection before the three month 'standstill' period. The re-inspection must be carried out within three months of receipt of the request and fee. There is no limit on the number of requests for re-inspection a business can make, but a fee will apply to each one. The local authority has the discretion of agreeing to such a request.
- 1.10 Where conditions warrant a more formal process officers will continue to undertake enforcement re-visits to food businesses to check food hygiene standards for public safety, these are part of our statutory duties in accordance with the Food Law Code of Practice. Such cases may lead to more formal action being undertaken (hygiene improvement notices, prosecutions).
- 1.11 Cost recovery for the re-inspection visits have been in place in Wales for some time and a number of English local authorities including; Sevenoaks & Dartford, Medway, Canterbury, Dover and Tonbridge & Malling. The FSA have produced guidance for setting cost recovery and it is proposed that the fee should be £160, which is consistent with the majority of other authorities adopting the charge facility. This fee has been approved by the Fees and Charges Report in November 2017 and should the proposal be approved by the Communities, Housing and Environment Committee will be subject to annual review.
- 1.12 Since 2015 the service has seen an increase in requests for re-inspection as businesses become conscious of the impact that publicity of having FHRS scores of 0 – 2 have in local media and an increasing public awareness of the FHRS. Requests appear to average at 20 per year per authority.

## **2. AVAILABLE OPTIONS**

- 2.1 Option 1 – Not adopting this discretionary fee for re-inspections will leave the situation as it is with no charge for such visits. The cost of re-inspection will continue to be absorbed across the Food & Safety service. As such the process described in paragraphs 1.5 and 1.6 will remain in place. The disadvantage of this option is businesses will have to adhere to the three month 'standstill' period and continue to wait up to 6 months for a re-inspection and may only apply once. The authority will not be able to recover the cost of carrying out a re-inspection which is unnecessary for food safety reasons. There will also be a disparity with other neighbouring authorities who have already taken to option to charge for re-inspections.

- 2.2 Option 2 – Adopt the principle of charging for re-inspections. This would place the cost of the request onto non-complying food businesses who seek the confidence and marketing benefit of having a higher FHR score (5) although this is not guaranteed. Under the recharge process food businesses have the opportunity to apply for multiple re-inspections subject to payment of a fee each time and receive the visit within three months of applying.

Introducing a charge will also provide businesses with a motivation to ensure that high standards are achieved at the initial inspection as many businesses within the borough already do, in order to avoid paying for a re-inspection.

The disadvantage of the charge is that it places additional demand on officers to respond to the request within the three month time period, which may impact on other routine work. However the demand for such requests is currently manageable and workloads should be able to accommodate this. Payment may deter some businesses from seeking a rescore which could have a financial impact on their business publicity.

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### **3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 3.1 The preferred option is Option 2. To introduce a charge for re-inspection. This option establishes the principle of businesses paying for services that benefit them and are part of the Brand Standard process for FHR score but are not essential to protect public safety. Re-inspecting and rescore benefits the business by avoiding negative publicity and increases public confidence.

Charging will encourage businesses to achieve a 5 score and 'get it right' the first time. It also gives the businesses the opportunity to have the re-inspections within a much shorter time frame and possibly repeat the process should this be necessary.

Businesses are likely to consider whether they apply for a request for re-inspections, as they will ensure that any work required by the first inspection is completed before the officer returns. This should result in more efficient use of officer time and improved public safety.

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### **4. RISK**

- 4.1 An assessment of the risk impact of the preferred option indicates a minimal impact on the MKEH Service and Maidstone BC. The process of re-inspection will occur in both options and introducing a charge will have minimal effect on service delivery, reputation, and legal risks. There is no impact on environment and financial risk is reduced. The likelihood of this impact is assessed as being rare.

## 5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 No consultation has been carried out for the report.

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## 6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 Prior to charges being introduced the Maidstone Borough Council website will be updated with the information. Reports and letters used in the inspection process will also be changed to reflect the new procedure and fee charge. A press release will also be arranged with the Communications Team.

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## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims as set out in section 3 [preferred alternative].	Tracey Beattie  MKEH Manager
<b>Risk Management</b>	The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown in this report at paragraph 4.1. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.	Tracey Beattie  MKEH Manager
<b>Financial</b>	We anticipate that accepting the recommendations will result in net extra income of £3,200. This income is above amounts already accounted within the	[Section 151 Officer & Finance Team]

	Council's financial planning.	
<b>Staffing</b>	We will deliver the recommendations with our current staffing	John Littlemore
<b>Legal</b>	Powers are available to local authorities in England under the Localism Act 2011 allowing for the recovery of costs of re-inspections/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.	Keith Trowell, Interim Team Leader (Corporate Governance)
<b>Privacy and Data Protection</b>	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.	Keith Trowell, Interim Team Leader (Corporate Governance)
<b>Equalities</b>	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	Equalities and Corporate Policy Officer

	of the protected characteristics.	
<b>Crime and Disorder</b>	The recommendations have no implications for crime and disorder.	Tracey Beattie  MKEH Manager
<b>Procurement</b>	The recommendation will not require procurement of any service.	[Head of Service & Section 151 Officer]

## **8. REPORT APPENDICES**

**None**

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## **9. BACKGROUND PAPERS**

**None**