

## Summary Sheet

### Name of Committee and Date of Committee Meeting

Cabinet and Commissioners' Decision Making Meeting – 15 January 2018

### Report Title

Introduction of a charging scheme for Food Hygiene Rating re-inspection visits

### Is this a Key Decision and has it been included on the Forward Plan?

Yes

### Strategic Director Approving Submission of the Report

Damien Wilson, Strategic Director of Regeneration and Environment

### Report Author(s)

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### Ward(s) Affected

All

### Summary

The food hygiene rating displayed at food premises reflects the standards of food hygiene found on the date of inspection or visit by the Council. The food hygiene rating is not a guide to food quality, but rather to the standards at the premises. Very often, where a business has received a low food hygiene rating, the owners request a re-visit from the Council following improvements to standards.

The Food Standards Agency has issued guidance which allows Councils to charge for undertaking requested re-inspections under the Food Hygiene Rating Scheme.<sup>1</sup> It is proposed that a fee of £150 is charged for such re-inspections. The South Yorkshire Food Liaison Group, which is attended by the Food Hygiene Principal Officers considered the introduction of a re-inspection fee and it was agreed by the group that a county wide re-inspection fee should be considered. Sheffield City Council already introduced charging for re-visits (£150) in accordance with the revised Brand Standard. The Brand Standards is guidance set by the Food Standards Agency which Local Authorities are required to follow when they operate the Food Hygiene rating Scheme.

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<sup>1</sup> Food Standards Agency, *The Food Hygiene Rating Scheme: Guidance for local authorities on implementation and operation – the Brand Standard*, version 6, June 2017

Adopting this charging scheme brings with it advantages to business in that the time scale for re-inspections shortens, and more than one re-inspection can be requested.

### **Recommendations**

1. That a charging scheme for re-inspections of food businesses be introduced, when requested, in respect of the Food Hygiene Rating Scheme, with effect from 1 February 2018.
2. That the fee for re-inspections of food business, upon request as part of the Food Hygiene Rating Scheme, be set at £150 per inspection.

### **List of Appendices Included**

None

### **Background Papers**

Food Standards Agency, The Food Hygiene Rating Scheme: Guidance for local authorities on implementation and operation – the Brand Standard, version 6, June 2017

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Overview and Scrutiny Management Board – 10 January 2018

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## **Introduction of a charging scheme for Food Hygiene Rating re-inspection visits**

### **1. Recommendations**

- 1.1 That a charging scheme for re-inspections of food businesses be introduced, when requested, in respect of the Food Hygiene Rating Scheme, with effect from 1 February 2018.
- 1.2 That the fee for re-inspections of food business, upon request as part of the Food Hygiene Rating Scheme, be set at £150 per inspection.

### **2. Background**

- 2.1 Hygiene standards within food businesses are critical to the health and well-being of all. It is important that residents can readily identify those standards to allow informed choice.
- 2.2 The Food Hygiene Rating Scheme, a partnership between the Food Standards Agency and local authorities, provides consumers with a valuable indication of the standards of any particular food business, at the point of the most recent inspection. The frequency of these inspections is risk based, with the highest risk premises visited on a six monthly basis.
- 2.3 The scheme is a national initiative, which Councils can operate on a voluntary basis. In Rotherham, the scheme, formerly known as 'Scores on the Doors', provides consumers with website information, together with displays at the premises themselves. These ratings do not reflect the quality of the food, but rather the hygiene standards within the food business.<sup>2</sup>
- 2.4 The scheme informs public perceptions of individual food businesses, which consequently encourages higher standards from operators to generate positive perceptions. Key to this is the re-inspection of businesses following the initial determination.

### **3. Key Issues**

- 3.1 Food Standards Agency guidance advises that the re-inspection of food businesses, upon the request of the operator, conform with circumstances where there is no statutory requirement to provide that re-inspection, and so falls within the general power that allows for the recovery of costs within the provisions of the Localism Act 2011.<sup>3</sup>
- 3.2 The proposed fees would only apply where a food business operator requests a re-inspection to re-assess a food hygiene rating.
- 3.3 To ensure fairness to businesses, the Council must have a procedure in place for undertaking re-inspections at the request of the operator for re-assessing the food hygiene rating of their establishment.

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<sup>2</sup> <https://www.scoresonthedoors.org.uk/council/rotherham-metropolitan-borough-council>

<sup>3</sup> Food Standards Agency, *The Food Hygiene Rating Scheme: Guidance for local authorities on implementation and operation – the Brand Standard*, version 6, June 2017, p 50

- 3.4 Where fees for re-inspections upon request are introduced, the Council will be required to meet tighter timescales for re-visits and re-assessment. Additionally, the Council will be required to offer multiple re-visits if required, whereas previously only one revisit was allowed.
- 3.5 It should be noted that where premises, following any food hygiene inspection, are closed by Officers, or voluntarily closed by the Business owner, the Council would ensure that this is appropriately publicised on the news section of the Council's website as a minimum.

#### **4. Options considered and recommended proposal**

- 4.1 Option 1: The Council can adopt a charging scheme to recover the costs of re-inspections made at the request of food business operators to re-assess the food hygiene rating. Within this arrangement the Council must undertake the re-inspection within three months of the request.
- 4.2 Option 2: The Council can maintain its current process of undertaking requested re-inspection visits without charging. With this option the re-inspection should not usually take place until three months have elapsed from the initial inspection, after which, the re-inspection must take place within three months. Consequently, the Council is allowed a maximum of six months to undertake the re-inspection.
- 4.3 Option 1 at 4.1 is the preferred option. This approach will recover expended costs whilst also ensuring a speedier service to business operators.

#### **5. Consultation**

- 5.1 The proposals have been developed in consultation with the South Yorkshire Food Liaison Group, which is attended by the Food Hygiene Principal Officers from Barnsley, Doncaster, Rotherham and Sheffield City Council.

#### **6. Timetable and Accountability for Implementing this Decision**

- 6.1 If agreed, arrangements will be put in place from the first day of the month following the decision.
- 6.2 The Assistant Director for Community Safety and Street Scene will be responsible for the delivery and implementation of this proposal.

#### **7. Financial and Procurement Implications**

- 7.1 The Localism Act 2011 and Foods Standards Agency Guidance confirms that in any given financial year, any fee charged should be limited to covering the costs of re-inspections/re-visits made at the request of the Food Business Operator. On this basis, the fee for re-inspection will be £150 for each requested re-inspection in respect of food hygiene ratings. It is proposed to implement this new charge from 1<sup>st</sup> February 2018. After which the fee will be reviewed annually in accordance with the Council's fees and charges setting process.

7.2 Up to the end of September 2017 there have been twenty-one requests made to undertake such re-visits during this financial year. Under the proposed £150 charge, this would have generated income of £3,150. Based on a similar number of requests in the rest of the year, this would generate estimated income of £6,300. The fee will cover the full cost associated with carrying out the re-inspection.

7.3 There are no procurement implications arising from this proposal.

## **8. Legal Implications**

8.1 Section 1 of the Localism Act 2011 confers on councils a general power of competence, which would allow them to carry out a re-inspection of a food business for re-rating purposes at the request of the operator. Section 3 of the 2011 Act would permit councils to charge a fee for that service as it is not a service councils are statutorily required to provide, as long as the recipient of the service has agreed to the service being provided.

8.2 In making a charge for this service, the Council has a duty to secure that in any given financial year, the charges should not exceed the costs of providing the service. In addition, it is important that once introduced that the scheme is managed in accordance with the Council's collection and debt recovery procedures and policies.

8.3 The Food Standards Agency's revised Brand Standard guidance states:

*Legal advice received by the FSA indicates that powers available to local authorities in England under the Localism Act 2011 allows for the recovery of costs of reinspections/re-visits made at the request of the FBO [Food Business Operator] to re-assess the food hygiene rating. It is for each authority to decide to use these powers and set the charge in line with their costs.*

## **9. Human Resources Implications**

9.1 There are no human resources implications related to this initiative and re-inspections can be carried out with existing staffing resources.

## **10. Implications for Children and Young People and Vulnerable Adults**

10.1 There are no implications for Children and Young People or Vulnerable Adults.

## **11. Equalities and Human Rights Implications**

11.1 There are no equalities or human rights implications.

## **12. Implications for Partners and Other Directorates**

12.1 There are no implications for partners or other directorates.

## **13. Risks and Mitigation**

13.1 There is a risk that the number of appeals against rating decisions will increase and that the number of requests for a re-inspection may consequently decrease.

13.2 Businesses may choose to wait until the next inspection to receive a new rating rather than pay for a re-inspection. Nevertheless, non-compliant premises will still receive a revisit to ensure that the risk to the public would be minimised, although the rating displayed may not reflect the condition of the premises.

**14. Accountable Officer(s)**

Ajman Ali, Interim Assistant Director of Streetscene and Community Safety

Approvals obtained on behalf of:-

	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance & Customer Services	Judith Badger	21/12/2017
Assistant Director of Legal Services	Dermot Pearson	21/12/2017
Head of Procurement (if appropriate)	Not applicable	
Head of Human Resources (if appropriate)	Not applicable	

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