Food Standards Agency
food.gov.uk

FOOD HYGIENE RATING

The Food Hygiene Rating Scheme: Guidance for local authorities on implementation and operation - the Brand Standard

Revision 6 – June 2017

Contents

Abbreviations

The following acronyms/abbreviations are used in this document.

BEIS	Department for Business, Energy and Industrial Strategy
CIM	Confidence in management/control procedures
FBO	Food business operator
FHIS	Food Hygiene Information Scheme
FHRS	Food Hygiene Rating Scheme
FSA	Food Standards Agency
HACCP	Hazard Analysis Critical Control Points
IMS	Information management system
LA	Local authority
LAEMS	Local Authority Enforcement Monitoring System
Q&A	Question and answer
SFBB	Safer food better business

Introduction

Status and purpose of the Guidance

This Guidance represents the Brand Standard for the Food Hygiene Rating Scheme (FHRS). Local authorities in England operating the FHRS are expected to follow it in full.

The purpose is to ensure consistency in implementation and operation of the FHRS by local authorities. The aim is to ensure that where food business establishments are rated under the FHRS and where consumers see FHRS branding, they can be confident that the local authority is operating the FHRS as the Food Standards Agency (FSA) intends.

This Guidance does not apply to local authorities in Wales and Northern Ireland where legislation has been introduced to put the FHRS on a statutory footing. Guidance for local authorities on the operation of the statutory schemes have been issued under the relevant legislation for each country.

Food Hygiene Rating Scheme

1. The FHRS, which is for England, Wales and Northern Ireland, is a Food Standards Agency (FSA)/local authority partnership initiative.[1] This national scheme currently operates on a voluntary basis in England (and on a statutory basis in Wales and Northern Ireland). It provides consumers with information about hygiene standards in food business establishments at the time they are inspected to check compliance with legal requirements on food hygiene. The food hygiene rating given reflects the inspection findings.[2]

2. The purpose of the FHRS is to allow consumers to make informed decisions about the places where they eat out or shop for food and, through these decisions, encourage businesses to improve their hygiene standards. The overarching aim is to reduce the incidence of food-borne illness and the associated costs to the economy.

3. There are six different food hygiene ratings ('0' up to '5') - the top rating represents a 'very good' level of compliance with legal requirements and all businesses irrespective of the nature or size of their operation should be able to achieve this. Food hygiene ratings are published online at food.gov.uk/ratings,[3] and businesses are encouraged to display stickers showing their food hygiene ratings at their premises where consumers can easily see them.

4. The FHRS incorporates safeguards to ensure fairness to businesses. This includes an appeal procedure, a 'right to reply' for publication (together with the food hygiene rating) at food.gov.uk/ratings, and a mechanism for requesting a re-inspection/re-visit for the purposes of re-rating when improvements have been made.

---

1 A different scheme – the Food Hygiene Information Scheme - operates in Scotland. Food Standards Scotland is responsible for this scheme and provides guidance relating to the implementation and operation of the scheme to local authorities in Scotland.

2 The basis for the FHRS is the 'food hygiene intervention rating scheme' set out in the *Food Law Code of Practice.*

3 An application programming interface (API) provides open access to FHRS data to third parties.

Development of the FHRS

5. The FHRS was developed on the basis of advice and guidance from the Food Hygiene Ratings Steering Group.[4] This Group continues to advise on the operation of the scheme. It is independently chaired and includes local authority, consumer and food industry representatives as well as officials from the FSA, and the Regulatory Delivery Directorate of the Department for Business, Energy and Industrial Strategy (BEIS).

Local authority guidance - the FHRS Brand Standard

6. This Guidance, which has been endorsed by the Food Hygiene Ratings Steering Group, is in question & answer (Q&A) format. It covers all aspects of implementation and operation of the FHRS. This includes:
   - Formal partnership agreements (Section 1);
   - Scope (Section 2);
   - Scoring using the food hygiene intervention rating scheme set out in the *Food Law Code of Practice* (Section 3);[5]
   - Mapping of intervention rating scores to the food hygiene rating (Section 4);
   - Notification of food hygiene ratings (Section 5);
   - Appeals (Section 6);
   - 'Right to reply' (Section 7);
   - Requests for re-inspections/re-visits for re-rating purposes (Section 8);
   - Use of Food Hygiene Rating Scheme branding (Section 9);
   - Use of the Food Hygiene Rating Scheme IT platform (Section 10); and
   - Establishing and operating a Consistency Framework (Section 11).

Resource materials

7. The FSA has developed a range of resources to help local authorities implement and operate the FHRS. These are updated regularly to reflect feedback from local authorities and any relevant developments and will be supplemented as necessary on an ongoing basis. These are available at: www.food.gov.uk/fhrsresources.

8. The current range of resources includes:
   - ***Communications Toolkits*** - these are issued to coincide with campaigns and seasonal events to provide advice and guidance on promoting the FHRS at the local level and generally include template press releases and details of other promotional materials.[6]
   - ***Information for elected members and Food Safety Teams*** - template briefings and presentations on the FHRS and on embedding its use in council business.
   - ***Information for businesses*** - template letters and presentations, and leaflets and a 'how to' guide to help businesses use their rating as a marketing tool.
   - ***Standard forms*** - inspection form, appeal form, 'right to reply' form, and request for a re-visit form.

---

4 Detailed information about the Food Hygiene Ratings Steering Group and its work can be found at: http://www.food.gov.uk/enforcement/enfcomm/fhrssteeringgroup/

5 See: http://www.food.gov.uk/enforcement/enforcework/foodlawcop/

6 See: http://www.food.gov.uk/enforcement/enforcework/hygienescoresresources/fhrscommstoolkit

- ***Standard website text*** - this provides local businesses and local consumers with information on the scheme, and also advice to businesses about improving their ratings.
- ***User Documentation for the IT platform*** - guidance to help local authorities upload data to the website and to run reports on this.
- ***Top tips*** - these are issued with the aim of improving and maintaining data accuracy and consistency of application of the Brand Standard.
- ***Consistency training materials*** - materials used for national consistency exercises are available for use with new officers or contractors[7].

Legal issues

9. The various legal questions relating to the implementation and operation of the FHRS, together with the FSA's views on these, are set out in 'Food Hygiene Rating Scheme/Food Hygiene Information Scheme - Legal issues' (September 2010).

FHRS evaluation

10. The FSA is committed to monitoring and evaluating the FHRS to assess:
    - consumer awareness and understanding of the scheme and its impact on consumer behaviour;
    - the impact on local authority intervention-rating programmes and on resources;
    - business understanding of the scheme, levels of voluntary display, and the impact on compliance levels, and business growth; and
    - the effectiveness of the scheme as a public health protection measure.

    The FSA Board, the Food Hygiene Ratings Steering Group and stakeholders more generally are kept up to date on a regular basis on progress and all research/evaluation reports are published on the FSA website.

Review and revision of the Guidance

11. The FSA will keep this Guidance under review on an ongoing basis and will revise and update it, as necessary and appropriate, to reflect the experience of local authorities, any feedback from food businesses or from consumers, or other developments. It will also be reviewed and revised as and when appropriate in the light of findings of any research/evaluation that the FSA commissions.

Further information

12. For further advice or information –please contact: Alex Lisle 020 7276 8692 alex.lisle@foodstandards.gsi.gov.uk or hygieneratings@foodstandards.gsi.gov.uk.

[7] https://www.food.gov.uk/enforcement/enforcetrainfund/onlinetraining/local-authority-consistency-exercise

Section 1: Formal partnership agreements

Introduction

1.1 Consistent implementation and operation of the FHRS are critical to ensure that consumers are able to make meaningful comparisons of food hygiene ratings for businesses both within a single local authority area and across different local authority areas. They are also critical to ensuring that businesses are treated fairly and equitably.

1.2 The FSA and local authorities participating in the FHRS both have a role to play in achieving such consistency. In order to demonstrate their commitment to working in partnership and fulfilling their respective responsibilities, the FSA and each participating local authority have entered into a formal agreement. The agreement is based on the Brand Standard for the FHRS which, in effect, is the guidance provided in the other sections of this document. The aim is to ensure that where establishments are rated under the FHRS and where consumers see the FHRS branding, they can be confident that the local authority is operating the FHRS as the FSA intends.

1.3 Guidance on the partnership agreement is set out in Q&A format below.

Question and answer guidance

Q1. Why are local authorities required to 'sign up' formally to the FHRS given that its adoption is voluntary?

A1. In order to demonstrate their commitment to operating the FHRS in a consistent and fair manner, it is appropriate that participating local authorities agree to specified conditions in order to safeguard the credibility and integrity of the scheme.

Q2. What form does 'sign up' take and who are the signatories to the agreements?

A2. Each participating local authority and the FSA sign an 'agreement' - an example is provided at Appendix 1.

Agreements with local authorities in England are signed on behalf of the FSA by the Director with responsibility for the FHRS.

Agreements are signed on behalf of the local authority at a senior level, for example, by the Chief Executive, Leader of the Council or Portfolio Holder.

Q3. What are the FSA's commitments?

A3. The FSA is committed to keeping the guidance on implementation and operation of the FHRS under review. It revises and updates it as necessary to reflect the experience of local authorities operating the FHRS and any feedback from food businesses or consumers, and in order to ensure that its application does not compromise public health protection.

The FSA is also committed to fulfilling its role in monitoring and auditing the implementation and operation of the FHRS (see Section 11), and to working with local authorities to resolve any issues identified through this.

Q4. What are the commitments of each local authority?

A4. Local authorities are required to follow in full the FHRS Brand Standard.

Q5. What is meant by the FHRS Brand Standard?

A5. The Brand Standard, in effect, is the guidance provided in the other sections of this document.

Q6. Do agreements with individual local authorities differ in content?

A6 No. The agreement with each participating local authority is the same.

Q7. What if a local authority subsequently wishes to withdraw from the FHRS?

A7. As it is voluntary for local authorities to participate, they can withdraw their participation if they wish to do so.

Authorities that are considering withdrawing should contact the FSA as early as possible to discuss the reasons for this. They should also give at least 14 days[8] prior notice before formally terminating the partnership agreement. This will provide an opportunity to try to resolve any issues/concerns and, where appropriate, to discuss whether additional support can be provided to allow the local authority to continue operating the FHRS.

Q8. What will happen if a local authority is unable to fulfil its responsibilities under its agreement?

A8. The agreement between the local authority and the FSA highlights the responsibilities of each with regard to the operation of the FHRS.

Where local authorities encounter difficulties in following the Brand Standard in full, the FSA is committed to working with them to resolve matters to ensure that the credibility and integrity of the FHRS is not compromised. In this respect, local authorities are encouraged to give early warning of any emerging problems so that advice and support may be offered.

Support may also be offered by other authorities through Food Liaison Groups, the Local Authority FHRS User Group or the Local Government Association.

The FSA is also committed to reviewing and evaluating the FHRS in conjunction with local authority partners.

Where issues cannot be resolved by the above means the FSA may, as a last resort, consider terminating the agreement such that the local authority will be unable to use the FSA's brand. In such circumstances, unless there are immediate risks to public health protection, the FSA will give the local authority at least 14 days prior notice that it is considering this option. This will provide a further opportunity to work together to resolve any issues.

Q9. In what circumstance will the FSA consider terminating the agreement?

A9. The FSA will consider terminating the agreement only when there is a failure to resolve matters informally – see above. Such circumstances may, for example, be where there is evidence that the local authority is failing to follow the FHRS Brand Standard in full such that the credibility and integrity of the FHRS is compromised (for instance where businesses are being treated unfairly or inequitably, or consumers are being misled).

Q10. What is the process for terminating the agreement and what actions will follow?

A10. Where the local authority has made a decision to terminate the agreement, it should notify the FSA in writing outlining the reasons for this.

[8] Where reference to numbers of 'days' are made in this guidance, it includes weekends and bank holidays.

Where the FSA has decided to terminate the agreement, the local authority will be notified in writing of the FSA's decision and the reasons for this. The local authority can appeal this decision – see Q&A 11 – but it should be noted that termination of the agreement is not suspended during the period in which such an appeal can be made or pending the outcome of an appeal once lodged.

Irrespective of which party terminates the agreement, the following steps must also be taken to ensure that the credibility and integrity of the FHRS is not compromised and to ensure that the reputations of the FSA, of the local authority concerned and of businesses in the relevant area are safeguarded.

- The FSA will:
  - immediately notify stakeholders that the local authority is no longer participating in the FHRS by means of an announcement at food.gov.uk/ratings on both the home page and on the local authority's own page;
  - immediately suspend the local authority's access to the national database so that no further ratings can be published; and
  - within 14 days, remove the local authority's existing ratings from public access.
- The local authority will:
  - if it also publishes ratings on its own website, immediately notify local stakeholders that the authority is no longer operating the FHRS by means of an announcement on an appropriate website page, and within 14 days, remove any published ratings from its site;
  - remove any FHRS branding from its website;
  - suspend distribution of any marketing and advertising material that incorporates FHRS branding;
  - remove stickers (and any remaining certificates) from display in food business establishments as soon as possible and at the next planned intervention of that establishment at the latest;
  - advise businesses in the area that the FHRS no longer operates and that the continued use of any branded materials for marketing and advertising purposes may constitute an offence under trading standards legislation, and
  - confirm to the FSA that these actions have been taken.

Q11. What if the local authority disagrees with the FSA's decision to terminate its agreement?

A11. If the local authority considers that this decision is unjust, it can within 14 days of being notified of the FSA's decision ask for the matter to be referred to an Advisory Disputes Panel (see Q&A 12).

The Advisory Panel will be convened and will investigate the matter and report its findings and recommendations within six weeks.

The FSA will review the Panel's report and within 14 days will notify the local authority of its decision as to whether it accepts the Panel's view.

If the local authority remains dissatisfied its Chief Executive can within 14 days request that the dispute be referred to the FSA's Chief Executive.

The FSA's Chief Executive will review the case and the Panel's report and issue a final decision that will be notified to the local authority within 14 days.

Q12. What will be the membership of the Advisory Disputes Panel?

A12. Membership will comprise representatives from or nominated by the Local Government Association and the Chartered Institute of Environmental Health as well as consumer and food industry representatives. The Panel will elect its own chair and the Secretariat function will be provided by the FSA.

Section 2: Scope

Introduction

2.1 The **scope** of the FHRS in England **extends to establishments supplying food direct to consumers**. This includes restaurants, cafes, takeaways, sandwich shops and other places where people eat food prepared outside of the home, as well as food retailers. The aim is to provide information on hygiene standards to consumers in circumstances where they are making a choice about eating or purchasing food. Certain businesses that supply food direct to consumers are, however, not given a rating because specific circumstances apply.

2.2 Guidance in Q&A format is provided below to assist local authorities in determining if establishments should be rated under the FHRS. Establishments fall into three broad categories:

- those that supply food direct to consumers (fall within the scope of the FHRS) and should be rated;
- those that supply food direct to consumers (fall within the scope of the FHRS) but are not rated because specific circumstances apply; and
- those that do not supply food direct to consumers (fall outside the scope of the FHRS) and are, therefore, not rated.

2.3 The decision tree at page 18 may also assist local authorities when considering which establishments should be rated (guidance on the status of each establishment for the purposes of IT is provided in Section 10).

2.4 Local authorities may also get an initial steer on how to categorise food business establishments from the FSA's Local Authority Enforcement Monitoring System (LAEMS) guidance.

Question and answer guidance

Q1. How is the scope of the FHRS defined?

A1. The scope extends to all food establishments to which registration requirements apply and which supply food directly to consumers for consumption either on or off the premises.[9] Each registered food business establishment within the scope should receive a food hygiene rating under the FHRS when they are inspected unless specific circumstances apply (see Q&A 17 to 19).

Approved establishments may have a retail element. Although this retail element does not require a separate registration, it will fall within the scope of the FHRS and so the establishment should receive a food hygiene rating when it is inspected unless specific circumstances apply (see Q&A 17 to 19). The food hygiene rating should be determined from the intervention rating for the establishment as a whole (and local authorities should not start registering separately the retail element of the establishment and giving it a separate intervention rating to that for the non-retail element of the operation).

[9] Food business operators must register new food business establishments at least 28 days before food operations commence.

Q2. What categories of food business establishments fall within the scope?

A2. The categories include:

- caterers such as restaurants, cafes, takeaways, sandwich shops, mobile traders, and other places where people eat food prepared/cooked/served outside of the home;
- food retailers such as supermarkets; and
- establishments where public access is limited but where food is prepared, cooked, or handled and served to consumers, such as schools, nurseries and residential care homes.

Some establishments within these categories will not be given a food hygiene rating because specific circumstances apply (see Q&A 17 to 19).

Q3. What categories of food business establishment are outside the scope?

A3. Establishments that do not supply food direct to consumers fall outside the scope and should not be rated under the FHRS – they are 'excluded' from scope. This includes primary producers, manufacturers and packers, importers and exporters, distributors (including wholesalers, and other inter-business suppliers) and transporters. Examples of the types of business included in these categories may be found in the LAEMS Guidance.

Where wholesalers, e.g. cash & carries, are supplying food direct to consumers as well as to other businesses, they fall within the definition of scope and should be rated.

Q4. How should local authorities deal with requests from food business operators (FBOs) of 'excluded' establishments (such as manufacturers) to opt into the FHRS?

A4. It is the FSA's intention to keep extension of the scope of the scheme to such businesses under review (in Wales, these businesses have been included in the statutory scheme since November 2014).

In the meantime, businesses that request to 'opt in' should be advised that they are outside of the FHRS at present.

Q5. Are mobile food units included within the scope and, if so, which food authority should be responsible for rating them?

A5. Mobile food units (both retail and catering units) fall within the definition of scope and should, therefore, be rated unless any of the specific circumstances set out at Q&A 17 to 19 apply.

As a general rule, it is the responsibility of the 'registering authority' to determine the food hygiene ratings of mobile food units and publish them at food.gov.uk/ratings, to deal with appeals against ratings, to deal with requests to publish a 'right to reply' and to deal with requests for re-inspections/re-visits.

In cases where the mobile unit operates only within the area in which it is registered this is straightforward.

In other cases, the key point is that 'inspecting authorities' must liaise with the 'registering authority' in order to avoid duplication of interventions and ratings. The 'inspecting authority' should send the 'registering authority' a copy of any documentation such as the inspection report at the same time as this is sent to the FBO. If the FBO is provided with documentation at the time of intervention, a copy should be forwarded to the 'registering authority as soon as possible afterwards.

The 'registering authority' must take account of information supplied to it by 'inspecting authorities' in determining the rating and in deciding when this should be revised, and also in dealing with appeals against ratings, dealing with requests to publish a 'right to reply' and dealing with requests for re-inspections/re-visits.

The 'registering authority' may transfer its responsibility for rating the mobile unit and the associated activities to an 'inspecting authority' with that authority's agreement. This may occur, for example, where a mobile trader is registered with the 'registering authority' but never trades within that authority's area but trades exclusively or predominantly in another authority's area. In these cases, the authority that has accepted responsibility as the 'responsible authority' will publish the rating and 'right to reply' submissions on food.gov.uk/ratings and take account of information supplied by other 'inspecting authorities' (if applicable) in determining the rating, dealing with appeals and requests for re-inspections/re-visits. Confirmation of any such agreement should be made in writing and the 'registering authority' should record on file that an agreement is in place. If the 'registering authority' receives any requests for information on the mobile food unit from other 'inspecting authorities', it can refer these to the 'responsible authority'.

This reflects the advice given on the registration of mobile food establishments at Section 3.2.7.4 of the *Food Law Code of Practice* and Section 3.2.5.2 of the *Food Law Practice Guidance*.

For mobile units that have been registered in Scotland and have been assessed as part of the Food Hygiene Information Scheme (FHIS), but are trading elsewhere in the UK, the 'inspecting authority' should contact the local authority in Scotland that issued the FHIS sticker or certificate if significant issues are identified so that the authority in Scotland may take this information into account.

Local Food Liaison Groups may provide a suitable forum for discussion and agreement of arrangements.

Template letters and other materials are available on the FSA website to help local authorities apply this guidance.

Q6. Are market stalls and occasional markets included within the scope and should they be rated?

A6. Market stalls and occasional markets fall within the definition of scope and should, therefore, be rated where this is feasible and practical unless any of the specific circumstances set out at Q&A 17 to 19 apply.[10]

Given the range in nature of these market stalls/markets, arrangements for undertaking interventions and rating are best determined at the local level but the key point is that the 'inspecting' authority must liaise with the 'registering' authority to avoid duplication of interventions and rating. Again, local Food Liaison Groups may provide a suitable forum for discussion and agreement of arrangements.

Q7. Are public houses and bars included within the scope of the FHRS and should they be rated?

A7. Yes, public houses fall within the definition of scope and should, therefore, be rated. This includes those that only serve drinks - 'wet pubs'.

Similarly, bars and clubs with bars that only serve drinks fall within the definition of scope and should be rated.

[10] It is acknowledged that because there is usually only short advance notice of occasional markets taking place, and that such events are usually of short duration, it is not always feasible to inspect, rate and issue an FHRS sticker.

Q8. Are bed and breakfast establishments, guest houses and hotels within the scope of the FHRS and should they be rated?

A8. Unless any of the specific circumstances set out at Q&A 17 to 19 apply, these are included within the scope of the FHRS and should be given a rating. This applies even if the establishment is only open for a few months a year. In such cases, the rating should appear on the FSA website all year round as holiday plans are made pre-season.

As is the case for other 'low-risk' establishments that should receive a food hygiene rating, local authorities may have used historical data at launch to give ratings or may be taking a staged and gradual approach to bringing them into the scheme in which case, they can be rated at their next appropriate intervention.

Q9. Do village halls, community centres and similar establishments fall within the scope of the FHRS and should they be rated?

A9. Arrangements at these establishments vary significantly so it is difficult to be prescriptive and each set of circumstances should be considered on its merits and professional judgement exercised. In doing so, the following can be taken into account:

- Is it a registered food business?[11]
- Does it supply food direct to the consumer?
- Is the hall or centre a 'low risk' establishment not generally recognised by the consumer as a food business?

The scheme is not intended to change which entities should be registered as a food business and, therefore, require an intervention.

Where the hall or centre's owners do not provide food, only facilities, the business would be excluded from the scheme as it is not supplying food direct to the consumer.

If only 'low risk' foods, e.g. teas/coffees and biscuits, are being provided as a peripheral part of a business's activities, it would not be rated. If regular full meals are being provided, e.g. a luncheon club, it would be given a rating.

In some circumstances, there may be more than one registered food business using the same hall and being rated as part of the scheme (they should be distinguished by the name of the food business).

Q10. Do Armed Forces, Police and Crown establishments fall within the scope of the FHRS and should they be rated?

A10. Armed Forces, Police and Crown establishments are, like other food business establishments, subject to the requirements of food hygiene legislation and inspected in accordance with the *Food Law Code of Practice*. They also fall within the defined scope of the FHRS.

The inherent security sensitivities, however, should be taken into account in deciding whether or not to rate the establishment.

As regards the Armed Forces, the issue can be discussed with the Head of Establishment or Unit Commander.

[11] FSA guidance on how food law applies to food provision in village halls and to other community activities should be considered when determining whether registration is appropriate or not – see: http://food.gov.uk/business-industry/caterers/food-hygiene/charity-community-groups/

Where a decision is made not to rate, but the FBO requests it, a food hygiene rating and a corresponding sticker may still be issued.

Information on these establishments should be uploaded to the local authority portal of the IT platform. No information should be published at food.gov.uk/ratings unless specifically requested by the FBO.

Q11. Should ships and vessels be rated?

A11. If a vessel is registered as a food business and is intervention rated (using the food hygiene intervention rating scheme set out in the *Food Law Code of Practice*) then it would be appropriate for it to be given a hygiene rating, e.g. ferries which go back and forth from the same points (including river ferries, ferries going between UK ports and cross-channel ferries), river boats and floating restaurants.

The decision to rate each of these vessels may depend on how often they are in an area (like mobile traders).

For ferries, where more than one UK port is involved, it is important that the relevant authorities agree on which should rate the vessel so that each has only one rating.

Not all vessels, however, are intervention rated, e.g. cruise liners that have ship's sanitation certificates, and are subject to a different inspection strategy to the intervention rating scheme. In such cases, local authorities are not required to change their existing practices and start using the food hygiene intervention rating scheme but case by case consideration can be given to these vessels. The important thing will be to justify why a particular vessel is not included if the FBO requests this.

Q12. Should trains be rated?

A12. The Food Law Practice Guidance (England) highlights that individual trains and coaches are not subject to separate registration but rather that the main establishment should be registered.

The local authority with responsibility for the main establishment should, at the time of intervention, also include assessment of a representative number of trains or coaches where the food service units across the stock are of similar design and operate to common food safety management procedures. The intervention rating, and hence the food hygiene rating, should reflect the standards within the main establishment and the representative trains and coaches.

Q13. Are businesses with internet sales covered?

A13. If supplying food direct to the consumer, it does not matter whether consumers actually visit the premises. Consequently, these companies fall within the scope of the FHRS and should be rated (where the local authority can properly apply the intervention rating scheme) unless any of the specific circumstances set out at Q&A 17 to 19 apply.

Q14. When should new establishments be rated?

A14. New establishments should be informed they can have an 'awaiting inspection' sticker when they register, and should be rated under the FHRS at the first inspection, partial inspection or audit unless any of the specific circumstances set out at Q&A 17 to 19 apply. The aim is to ensure fairness to businesses and aid consumer understanding.

In cases of a change in FBO, the establishment should be registered and treated as new, and a new food hygiene rating should be given at the first inspection, partial inspection or audit. It is important that the food hygiene rating for the previous FBO

is removed from food.gov.uk/ratings, and it is clear that the 'new' establishment is 'awaiting inspection'.

In cases where there is solely a change to the name of the establishment but the FBO is the same, a new sticker should be issued in the new name but a new food hygiene rating should not be given.

In cases where the FBO moves to new premises, the new establishment should be registered by the appropriate local authority and a new food hygiene rating given at the first inspection, partial inspection or audit.

It is recommended that local authorities take account of this in their 'closures' procedure.

Q15. Where establishments falling within the scope comprise different units, should each unit be rated separately?

A15. Each registered food business establishment should receive a rating. Thus, where the individual units are registered as a single food business establishment – for example, a supermarket with an in-house bakery or butchers or in-house coffee shop or restaurant, or co-located petrol station with a mini-supermarket function - a single food hygiene rating should be given. Local authorities should wherever possible intervention rate the establishment as a single entity at an inspection, partial inspection or audit and providing that sufficient information is obtained by the officer to make a judgement on compliance rather than deal with different units separately. The authority may then focus on different areas/aspects when they carry out other interventions.

Where the units are registered as separate food business establishments – for example, a supermarket with a coffee shop or restaurant under the control of a different FBO, or a co-located petrol station with a mini-supermarket function covered by a different registration - separate food hygiene ratings should be given.

Q16. What action should be taken regarding the rating of a food business where legal action is being considered?

A16. If the establishment has been closed (either through formal action or voluntarily) because of an imminent risk to public health, it should not have a food hygiene rating whilst it remains closed, i.e. is not trading, and no information about the business should be published. If and when the establishment re-opens, it should have a rating - generally, the rating should be based on the most recent inspection, partial inspection or audit undertaken.

If the establishment is still trading and still supplying food to the public, it should have a food hygiene rating which should be published at food.gov.uk/ratings. Where the existing rating no longer reflects current hygiene standards, local authorities must reconsider the intervention rating and hence the food hygiene rating.

Specific advice on ratings for establishments linked to food poisoning outbreaks is given at Section 5, Q&A 6.

Q17. What are the specific circumstances that mean some establishments within the scope should not be rated?

A17. In line with decisions made by the FSA's Board when the framework for the scheme was agreed, where the following specific circumstances apply, no rating should be given:

- 'low-risk' establishments which are not generally recognised by consumers as being food businesses (see Q&A 18); and
- certain establishments operating from private addresses (see Q&A 19).

This point will be kept under review and the guidance revised if appropriate.

Q18. What types of businesses constitute 'low-risk' establishments which are not generally recognised by consumers as being food businesses?

A18. Some types of business operations are required to register as food business establishments but their primary business or activity is not food-related and they are not recognised as food businesses by consumers, as the food activity is only a small element of the businesses in comparison with its main activity. Each set of circumstances should be considered on a case by case basis and on its merits taking into account the type of foods sold and the type of controls required to ensure food safety. Examples include:

- visitor centres and similar establishments selling tins of biscuits or other wrapped goods amongst a range of other goods;
- leisure centres with only food vending machines selling only drinks or low-risk foods;
- newsagents only selling pre-packed confectionery (and petrol stations with a retail element akin to such newsagents rather than a small supermarket);
- chemist shops selling only pre-packed confectionery and/or health foods; and
- off licences selling only drinks and wrapped goods.

Q19. What is meant by 'certain establishments operating from private addresses'?

A19. This covers mainly child-minders, but also includes other establishments where caring services are being provided in the home environment as part of a family unit (as opposed to residential care as referred to in Q&A 2).[12] These establishments should not be rated (guidance on the status that should be assigned for the purposes of IT is provided in Section 10).

This does not include home caterers. They should be given a food hygiene rating as consumers would very much expect them to be part of the FHRS. As regards publishing these ratings at food.gov.uk/ratings, careful handling is required and only partial address details should be published unless the FBO gives express permission for full address details to be published.

Q20. How should local authorities deal with requests for a food hygiene rating from FBOs where their establishment is not rated because the specified circumstances set out at Q&A 17 to 19 apply?

A20. Businesses that request a rating should be advised that they are outside of the FHRS and will not be rated.

This ensures consistency with the statutory FHRS schemes operating in Wales and Northern Ireland and it means that all businesses in these categories are on a level playing field in the three countries operating the scheme.

[12] Guidance for local authorities on the application of food hygiene regulations in relation to domiciliary care, assisted living and care homes, and on registration and inspection requirements

This represents a change in policy that was introduced at Revision 3 of the Brand Standard, so where a business 'opted in' before July 2014, the rating given may be retained as long as it is valid. This means until a new inspection, partial inspection or audit is undertaken.

Q21. Should all establishments be listed at food.gov.uk/ratings, and what details should be published?

A21. No. The following types of establishments should not be listed:

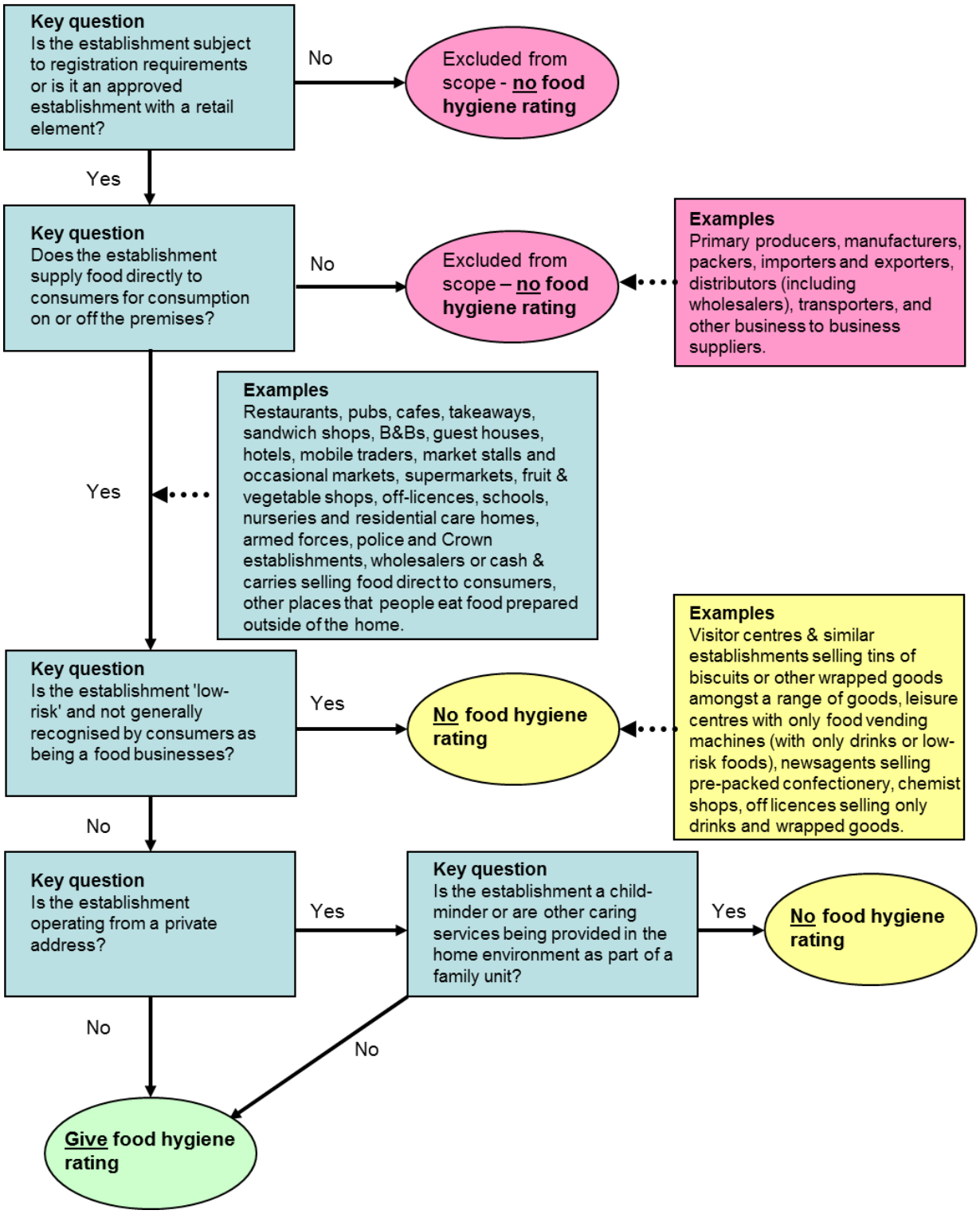
- those that fall outside the scope of the scheme;
- Armed Forces, Police and Crown establishments (unless express permission has been given); and
- child-minders that still have a valid rating (see Q&A 20) and other establishments where caring services are being provided in the home environment.

All other establishments that fall within the scope of the FHRS should be listed but if they operate from a private address, only partial address information should be published (see Section 10, Q&A 4) unless the FBO has given express permission for the full address to be published.

The 'Frequently Asked Questions' Section at food.gov.uk/ratings describes the types of businesses that are included in the scope of the FHRS and also highlights the reasons why some will not get a rating and why some will not be listed on the site.

Decision tree for determining which types of establishments should receive a food hygiene rating

See also Section 10 on use of the Food Hygiene Rating Scheme IT platform



Section 3: Scoring using the food hygiene intervention rating scheme set out in the *Food Law Code of Practice*

Introduction

3.1 The basis for the FHRS is the 'food hygiene intervention rating scheme' set out in the *Food Law Code of Practice*. As establishments can only be given an intervention rating at an inspection, partial inspection or audit, it follows that a food hygiene rating may only be given following this type of intervention. The exception is where a re-assessment of the food hygiene rating is requested by the FBO and this is covered in Section 8). **No rating can be based or changed on the basis of self-assessment by the FBOs, e.g. by questionnaire**.

3.2 The following elements of the 'food hygiene intervention rating scheme' are relevant to calculating the food hygiene rating:

- level of (current) compliance with food hygiene and safety procedures (including food handling practices and procedures, and temperature control);
- level of (current) compliance with structural requirements (including cleanliness, layout, condition of structure, lighting, ventilation, facilities etc.); and
- confidence in management/control procedures (CIM).

3.3 The table below sets out the guidance in the *Food Law Code of Practice* on scoring for the purposes of intervention rating for each of these three elements, and specifically for each of the scores from 30 to 0. The intervention rating for an establishment must be based on this guidance in the *Food Law Code of Practice*.

3.4 The table also includes descriptions of the standards that would, in practice, be expected of a business in order to achieve the *Code of Practice* scores for the purposes of intervention rating. These standards are provided to illustrate and complement the guidance in the *Food Law Code of Practice* and **not** to supplement it or replace it. The *Food Law Code of Practice* should always be referred back to for more detailed information. The standards are summarised in the 'at a glance' chart at pages 35 to 37.

3.5 The table highlights that in judging whether a business requires documented food safety management procedures and, if so, the level of documentation required, the flexibilities provided by Article 5 of Regulation (EC) 852/2004 on food hygiene and related European Commission Guidance Document should be taken into account. The level of documentation will vary between businesses depending on the types and complexity of operations being undertaken and on the level of controls being implemented.[13]

3.6 The *Code of Practice* guidance on scoring was drawn up in such a way that the measures that some businesses have put in place that are over and above the legal obligations are recognised – such businesses receive the lowest scores and, therefore, are subject to less frequent interventions. These measures which are apparent at scores of '0' are highlighted in ***bold italicised red text***. It should be noted that an establishment can achieve a top food hygiene rating by scoring '5' for each of the three elements used for the FHRS.

[13] Implementation of procedures based on the HACCP principles, and facilitation of the implementation of the HACCP principles in certain food businesses

3.7 It is important to note that one of the basic principles underlying use of the intervention rating scheme is that officers should use the full range of scores available within the system, as its purpose will be frustrated by cautious marking or by a reluctance to recognise effective management/control systems.

3.8 It is also important to note that the *Code of Practice* states that the confidence in management/control procedures assessment is not meant to reconsider specific issues taken into account in assessment of compliance with food hygiene and safety procedures and structural requirements. It does, however, require a judgement on the likelihood of satisfactory compliance being maintained in the future. One of the factors to be taken into account includes satisfactory HACCP-based procedures and they cannot be termed 'satisfactory' (in terms of maintaining compliance) if they are not being properly implemented. Food hygiene and safety procedures and structural issues that reflect non-adherence to HACCP-based procedures will affect the confidence in management/control procedures score, alongside the other factors detailed in the *Code*.

3.9 In considering confidence in management, 'management' covers the system as a whole. For a multi-site business, the company-wide management system and procedures are a key element of this but local store level management is also important as that will influence how these systems and procedures are applied.

3.10 The general assessment of hygiene procedures during an inspection should include consideration of the control of cross-contamination, including any allergen-related contamination identified in preparing food specifically for consumers with a food allergy or intolerance. These controls should be part of a business's food safety management system and should be taken into account when completing the assessment.[14]

3.11 Where there is a Primary Authority Agreement, enforcing authorities must follow any Primary Authority Inspection Plan so that HACCP-based procedures are not subject to unnecessary further assessment. Enforcing authorities should, however, consider implementation of the HACCP-based procedures in the same way as for independent 'single outlet' businesses.

3.12 As regards *Industry guides to good hygiene practice*, it is important to note that these include guidance on compliance with legal requirements and advice on good practice.[15]

[14] See Chapter 5 of the Food Law Practice Guidance (England), issued October 2015.

[15] Further information at: http://www.food.gov.uk/about-us/publications/industrypublications/industry-guides/.

Description of the standards

Notes – text in ***bold italicised red text*** indicates potential 'gold-plating'.

Level of (current) compliance with food hygiene and safety procedures

Code of Practice - General guidance

The score should reflect compliance observed during the inspection according to the specific guidance for each score.

In circumstances where the failure to comply involves both elements of the establishment's structure and procedures, this non-compliance should be reflected in the scores awarded for both 'hygiene' and 'structural' factors.

Code of Practice - Specific guidance on score of 25

Almost total non-compliance with statutory obligations.

Description of what 25 might be expected to look like in practice

Evidence of almost total non-compliance with legal requirements.

Imminent and serious risks.

Follow-up action by the local authority in accordance with its enforcement policy using a graduated approach but likely to include consideration of prohibition procedures where there is imminent risk and ongoing formal enforcement action, and re-visits within a short timescale to secure compliance.

Follow-up action identified for food business operator - immediate and significant action required in respect of all serious risks. Address all other matters within stipulated timescale.

Very poor food hygiene practices, serious food contamination risks, inadequate temperature control for high-risk foods and major improvement needed in all areas.

Almost total non-compliance in food hygiene and safety procedures (e.g. evidence of actual cross-contamination, food kept out of temperature control, fridge not operating at correct temperature).

Failure to apply any of (i.e. all) the control measures required to prevent cross-contamination.

Almost total non-compliance with requirements for safe food preparation, cooking, re-heating, cooling or storage of food identified.

Evidence of almost total non-compliance with the compliance elements of industry guides to good hygiene practice (that have been recognised formally by the FSA) on food handling practices and procedures, staff personal hygiene and temperature control.

Code of Practice - Specific guidance on score of 20

General failure to satisfy statutory obligations – standards generally low.

Description of what 20 might be expected to look like in practice

Evidence of major and widespread non-compliance with legal requirements in relation to food hygiene and safety procedures.

Widespread and significant risks.

Follow-up action by the local authority in accordance with its enforcement policy using a graduated approach but likely to include commencement of formal enforcement action, including consideration of prohibition procedures where control measures required to prevent cross-contamination are not in place and re-visiting the establishment to secure compliance.

Follow-up action identified for food business operator – to address all identified non-compliances as a matter of urgency within stipulated timescale.

Poor standard of hygienic food handling, temperature control and staff personal hygiene and major improvements required.

Inadequate implementation of many of the control measures required to prevent cross-contamination.

Major and widespread non-compliance with requirements for safe food preparation, cooking, re-heating, cooling or storage of food identified (e.g. inadequate cooking times).

Evidence of major and widespread non-compliance with the compliance elements of industry guides to good hygiene practice (that have been recognised formally by the FSA) on food handling practices and procedures, staff personal hygiene and temperature control.

Code of Practice - Specific guidance on score of 15

Some major non-compliance with statutory obligations – more effort required to prevent fall in standards.

Description of what 15 might be expected to look like in practice

Evidence of some major non-compliance with legal requirements in relation to food hygiene and safety procedures.

Some significant risks.

Follow-up action by the local authority in accordance with its enforcement policy using a graduated approach but likely to include a warning letter, and consideration of formal enforcement, including prohibition procedures where control measures required to prevent cross-contamination are not in place, and re-visiting the establishment to secure compliance.

Follow-up action identified for food business operator – to address all identified non-compliances within stipulated timescale.

Examples of non-compliance may include poor stock rotation or poor personal hygiene.

Inadequate implementation of some of the control measures required to prevent cross-contamination.

Some major non-compliance with requirements for safe food preparation, cooking, re-heating, cooling or storage of food identified.

Evidence of some major non-compliance with the compliance elements of industry guides to good hygiene practice (that have been recognised formally by the FSA) on food handling practices and procedures, staff personal hygiene and temperature control.

Code of Practice - Specific guidance on score of 10

Some non-compliance with statutory obligations and ***industry codes of recommended practice**** that are not considered significant in terms of risk (but may become significant if not addressed). Standards are being maintained or improved.

Standards are being maintained or improved.

*where a relevant code/ industry guide has been published.

Description of what 10 might be expected to look like in practice

Evidence of some non-compliances that are not significant in terms of risk (but may become significant if not addressed) but overall generally satisfactory standard of compliance with legal requirements.

Not likely to put consumers at unacceptable risk in relation to hygienic food handling, temperature control and staff personal hygiene but may do so if non-compliances not addressed.

Follow-up action by the local authority in accordance with its enforcement policy but likely to be considering informal action (report of inspection/letter identifying issues). Establishment unlikely to be a priority for a re-visit.

Some follow-up action identified for food business operator (in relation to issues that are not critical to food safety and not likely to put consumers at unacceptable risk but which may do so if not addressed) in relation to food handling practices and procedures, staff personal hygiene or temperature control.

Standards being maintained or improving.

Some lapses in food hygiene and safety procedures identified (e.g. high-risk food held under refrigeration generally below 8°C but some evidence of rising above such as when busy, some lapses in monitoring of critical control points).

Adequate control measures in place to prevent cross-contamination.

Generally satisfactory food preparation, cooking, re-heating, cooling and storage of food demonstrated but some lapses may be evident over short periods.

Evidence of generally satisfactory compliance with the compliance elements of industry guides to good hygiene practice (that have been recognised formally by the FSA) on food handling practices and procedures, staff personal hygiene and temperature control.

Code of Practice - Specific guidance on score of 5

Good standard of compliance with statutory obligations and **industry codes of recommended practice*** with only minor contraventions.

*where a relevant code/ industry guide has been published.

Description of what 5 might be expected to look like in practice

Evidence of good compliance with legal requirements, with only some minor non-compliances that are not critical to food safety.

No follow-up action by local authority apart from report of inspection provided to food business operator. No re-visit necessary before next planned intervention.

Only minor follow-up action identified for food business operator (in relation to issues that are not critical to food safety) in relation to food handling practices and procedures, staff personal hygiene or temperature control.

Only minor lapses in food hygiene and safety procedures (e.g. some protective clothing not very clean and needs cleaning).

All necessary control measures in place to prevent cross-contamination. Safe food preparation, cooking, re-heating, cooling and storage of food demonstrated.

Evidence of good compliance with the compliance elements of industry guides to good hygiene practice (that have been recognised formally by the FSA) on food handling practices and procedures, staff personal hygiene and temperature control.

Code of Practice - Specific guidance on score of 0

High standard of compliance with statutory obligations and ***industry codes of recommended practice****; ***conforms to accepted good practices in the trade***.

*where a relevant code/ industry guide has been published.

Description of what 0 might be expected to look like in practice

Evidence of meeting legal requirements ***or exceeding legal requirements***.

No follow-up action by local authority apart from report of inspection provided to food business operator. No re-visit necessary before next planned intervention.

No follow-up action identified for food business operator in relation to food handling practices and procedures, staff personal hygiene, or temperature control.

All necessary control measures in place to prevent cross-contamination.

Safe food preparation, cooking, re-heating, cooling and storage of food demonstrated.

Evidence of meeting or exceeding good practices in the trade and/or good practice requirements included in industry guides to good hygiene practice (that have been recognised formally by the FSA) in relation to food handling practices and procedures, staff personal hygiene, or temperature control.

Level of (current) compliance with structural requirements

Code of Practice - General guidance

The score should reflect compliance observed during the inspection according to the specific guidance for each score.

In circumstances where the failure to comply involves both elements of the establishment's structure and procedures, this non-compliance should be reflected in the scores awarded for both 'hygiene' and 'structural' factors.

Code of Practice - Specific guidance on score of 25

Almost total non-compliance with statutory obligations.

Description of what 25 might be expected to look like in practice

Evidence of almost total non-compliance with legal requirements.

Imminent and serious risks.

Follow-up action by the local authority in accordance with its enforcement policy using a graduated approach but likely to include consideration of prohibition procedures where there is imminent risk and ongoing formal enforcement action, and re-visits within a short timescale to secure compliance.

Follow-up action identified for food business operator - immediate and significant action required in respect of all serious risks. Address all other matters in relation to structural requirements including cleanliness, layout, condition of structure, lighting, ventilation, facilities within stipulated timescale.

Dirty establishment and equipment, major structural problems.

Insufficient space in which to operate safely.

Almost total non-compliance with structural requirements (e.g. problems with hot water supply or problems with drainage, absence of essential wash hand basin or sink, dirty establishment with old food debris on floors, dirt engrained on work surfaces).

Evidence of widespread pest infestation or totally unsatisfactory waste disposal provision.

Almost total non-compliance with the compliance elements of industry guides to good hygiene practice (that have been recognised formally by the FSA) in relation to structural requirements.

Code of Practice - Specific guidance on score of 20

General failure to satisfy statutory obligations – standards generally low.

Description of what 20 might be expected to look like in practice

Evidence of major and widespread non-compliance with legal requirements.

Widespread and significant risks.

Follow-up action by the local authority in accordance with its enforcement policy using a graduated approach but likely to include commencement of formal enforcement action, and re-visiting the establishment to secure compliance.

Follow-up action identified for food business operator – to address all identified non-compliances in relation to structural requirements including cleanliness, layout, condition of structure, lighting, ventilation, facilities, as a matter of urgency within stipulated timescale.

Poor standard of structural and equipment cleaning. Poorly maintained and in poor repair. Not all appropriate hand and equipment washing facilities provided.

Poor design layout that is likely to lead to cross-contamination and to food safety being compromised.

Major and widespread non-compliance with structural requirements (e.g. some structural disrepair or poor work surfaces, inadequate number of wash hand basins or sinks, accumulations of dirt).

Evidence of pest infestation or inadequate waste disposal provision.

Evidence of major and widespread non-compliance with the compliance elements of industry guides to good hygiene practice (that have been recognised formally by the FSA) in relation to structural requirements.

Code of Practice - *Specific guidance on score of 15*

Some major non-compliance with statutory obligations – more effort required to prevent fall in standards.

Description of what 15 might be expected to look like in practice

Evidence of some major non-compliance with legal requirements.

Some significant risks.

Follow-up action by the local authority in accordance with its enforcement policy using a graduated approach but likely to include a warning letter, and consideration of formal enforcement, and giving the establishment priority for re-visit to secure compliance.

Follow-up action identified for food business operator – to address all identified non-compliances, in relation to structural requirements including cleanliness, layout, condition of structure, lighting, ventilation, and hand and equipment washing facilities, within stipulated timescale.

Significant improvements needed in standard of structure, equipment cleaning, maintenance and repair, or hand and equipment washing facilities.

Poor design layout potentially leading to cross-contamination and to food safety being compromised.

Major non-compliance with structural requirements (e.g. may be some damaged work surfaces, some significant dirt).

Evidence of current pest activity or inadequate waste disposal provision.

Evidence of some major non-compliance with the compliance elements of industry guides to good hygiene practice (that have been recognised formally by the FSA) in relation to structural requirements.

Code of Practice - Specific guidance on score of 10

Some non-compliance with statutory obligations and ***industry codes of recommended practice**** that are not considered significant in terms of risk (but may become significant if not addressed). Standards are being maintained or improved.

Standards are being maintained or improved.

*where a relevant code/ industry guide has been published.

Description of what 10 might be expected to look like in practice

Evidence of some non-compliances that are not significant in terms of risk (but may become significant if not addressed) but overall generally satisfactory standard of compliance with legal requirements.

Not likely to put consumers at unacceptable risk but may do so if non-compliances not addressed.

Follow-up action for local authority in accordance with its enforcement policy but likely to be considering informal action (report of inspection/letter identifying issues) with establishment unlikely to be a priority for a re-visit.

Some follow-up action identified for food business operator in relation to issues that are not critical to food safety (but which may become so if not addressed) in relation to structural requirements including cleanliness, layout, condition of structure, lighting, ventilation, facilities.

Generally satisfactory standard of structural and equipment cleaning. Fairly well maintained and in reasonable repair. Appropriate facilities provided with some issues of non-compliance.

Standards being maintained or improving.

Some repairs may be required (e.g. some cracked and missing wall tiles near to a food preparation surface, evidence of food contact surfaces being thoroughly cleaned but some areas where cleaning inadequate and needs to be improved).

Evidence of satisfactory pest control (e.g. there may be minor pest proofing required but no evidence of current pest activity).

Evidence of satisfactory waste disposal provision (tidy, lidded bins and adequate collection arrangements).

Evidence of generally satisfactory compliance with the compliance elements of industry guides to good hygiene practice (that have been recognised formally by the FSA) in relation to structural requirements.

Code of Practice - Specific guidance on score of 5

Good standard of compliance with statutory obligations and ***industry codes of recommended practice**** with only minor contraventions.

*where a relevant code/ industry guide has been published.

Description of what 5 might be expected to look like in practice

Evidence of good compliance with legal requirements, with only some minor non-compliances that are not critical to food safety.

No follow-up action by local authority apart from report of inspection provided to food business operator. No re-visit necessary before next planned intervention.

Only minor follow-up actions identified for food business operator (in relation to issues that are not critical to food safety) in relation to structural requirements including cleanliness, layout, condition of structure, lighting, ventilation, facilities.

Only minor repairs required (e.g. a few cracked wall tiles in a non-critical area, a minor lapse in cleaning of a hard to reach/inaccessible area).

Evidence of adequate pest control and waste disposal provision.

Evidence of good compliance with compliance elements of industry guides to good hygiene practice (that have been recognised formally by the FSA) in relation to structural requirements.

Code of Practice - Specific guidance on score of 0

High standard of compliance with statutory obligations and ***industry codes of recommended practice****; ***conforms to accepted good practices in the trade***.

*where a relevant code/ industry guide has been published.

Description of what 0 might be expected to look like in practice

Evidence of meeting legal requirements ***or exceeding legal requirements***.

No follow-up action by local authority apart from report of inspection provided to food business operator. No re-visit necessary before next planned intervention.

No follow-up action identified for food business operator in relation to structural requirements including cleanliness, layout, condition of structure, lighting, ventilation, facilities.

No repairs required and no potential improvements identified, or robust procedures in place for ongoing rectification of minor repairs.

Premises and equipment clean and in good condition.

Evidence of effective pest control and waste disposal provision.

Evidence of meeting or exceeding good practices in the trade and/or good practice requirements included in industry guides to good hygiene practice (that have been recognised formally by the FSA) in relation to structural requirements.

Confidence in management/control procedures

Code of Practice - general guidance

This score should assess whether a business' food safety management/control procedures are appropriate, with the identification of the correct hazards and controls, whilst the assessment of the level of current compliance achieved as a result of practices being carried out should be considered as part of the compliance with food hygiene and safety procedures element in Part 2.

Where management has an effective food safety management system in place which is well understood by the workforce, they should achieve a good standard in Part 2, and consequently a low score for that risk factor.

Confidence in management is not meant to reconsider this aspect. It is to elicit a judgement on the likelihood of satisfactory compliance being maintained in the future.

Assessment of "Management" may include two elements; corporate management (any company-wide systems and processes for food controls) and local management (implementation by local management of corporate systems and separate branch or "in store" systems and processes).

Where the establishment has a Primary Authority, the Primary Authority may assess and indicate an indicative score for Confidence in Management based on corporate management systems being properly implemented. Officers should not attempt to reassess the corporate management element but should consider the score based upon the degree of local implementation by local management.

Officers should also reflect the level of reassurance provided by checks undertaken on the food safety management systems directly at an individual establishment via an independent third party as part of an assurance scheme which address applicable legislation.

The confidence in management/control procedures score is not solely about documented procedures and their implementation. Factors that will influence the officer's judgement include:

- the "track record" of the company, its willingness to act on previous advice and enforcement, and the complaint history;
- the attitude of the present management towards hygiene and food safety; and
- hygiene and food safety knowledge, including hazard analysis/HACCP and the control of critical points;
- satisfactory food safety management based procedures;

In determining 'satisfactory' in respect of HACCP based procedures, officers should consider, based on the principle of proportionality, the need for a permanent procedure or procedures based on HACCP principles[16], i.e. commensurate with the nature and size of the food business. In some food businesses there are not critical control points and in some cases good hygiene practices can replace the monitoring of critical control points. The requirement for businesses to retain records also needs to be flexible in order to avoid undue burdens for very small businesses.

For small businesses which present only basic hygiene hazards, it may be sufficient that the business has in place good hygiene practices and understands and applies it i.e. meets the prerequisites. The requirement for records needs to be balanced with the nature and size of the business. Documentation and record keeping may not be necessary under the flexibility afforded by Article 5 of Regulation (EC) 852/2004. Officers should consider guidance in relation to the application of Article 5 in order to make a judgement on whether the business

[16] The European Commission Notice 2016/C/278/01 - *Guidance document on the implementation of procedures based on the HACCP principles, and on the facilitation of the implementation of the HACCP principles in certain food businesses*

requires documented food safety management procedures, and if so on the level of documentation required. The level of documentation will vary between businesses depending on the types and complexity of operations being undertaken and on the level of controls being implemented.

Code of Practice - *Specific guidance on score of 30*

Poor track record of compliance.

Little or no food safety knowledge and understanding.

Little or no appreciation of hazards, risks or quality control.

No food safety management procedures.

Does not recognise or accept the need for food safety and hygiene controls.

Description of what 30 might be expected to look like in practice

Follow-up action by the local authority likely to include prohibition procedures where there is imminent risk and ongoing formal enforcement, using a graduated approach in accordance with local authority enforcement policy and re-visiting the establishment within a short timescale to secure compliance.

Follow-up action identified for food business operator - immediate and significant action required in respect of all serious risks. Address all other matters in relation to development of food safety management/procedures, supervision, instruction and training, within stipulated timescale.

No evidence of food safety management/documented procedures as appropriate for size and nature of the business (e.g. SFBB), taking into account the flexibilities provided by Article 5 of Regulation (EC) 852/2004 on food hygiene and the related European Commission Guidance Document on *Implementation of procedures based on HACCP principles, and facilitation of the HACCP principles in certain food businesses*.

Significant hazards not understood and no effective controls in place.

Major improvements in food safety procedures/implementation of controls required.

No or totally inadequate food safety management procedures.

Staff not suitably supervised, instructed and/or trained in food hygiene and no appreciation of food hazards, risks or controls.

Appropriate staff not adequately trained in application of HACCP principles.

Poor track record, may be some evidence of previous problems.

Code of Practice - *Specific guidance on score of 20*

Significantly varying record of compliance.

Insufficient food safety knowledge and understanding.

Poor appreciation of hazards, risks and control measures.

No food safety management procedures or unsatisfactory progress in terms of developing, documenting and implementing food safety management procedures, commensurate with type of business, since the last intervention rating.

Some reluctance in recognising or accepting the need for food safety and hygiene control procedures.

Description of what 20 might be expected to look like in practice

Follow-up action by the local authority likely to include commencement of formal enforcement action, using a graduated approach in accordance with local authority enforcement policy and re-visiting the establishment to secure compliance.

Follow-up action identified for food business operator – to address all identified non-compliances in relation to development of food safety management/procedures, supervision, instruction and training, as a matter of urgency within stipulated timescale.

Food safety management/documented procedures inappropriate or inadequate for size and nature of the business (e.g. SFBB), taking into account the flexibilities provided by Article 5 of Regulation (EC) 852/2004 on food hygiene and the related European Commission Guidance Document on *Implementation of procedures based on HACCP principles, and facilitation of the HACCP principles in certain food businesses*; or little or no progress made in developing, documenting and implementing food safety management procedures, commensurate with type of business, since the last intervention rating.

Significant hazards not fully understood and not all controls in place.

Significant improvements in food safety procedures/implementation of controls required.

Some staff not suitably supervised, instructed and/or trained in food hygiene.

Appropriate staff not adequately trained in application of HACCP principles.

Varying track record, may be some evidence of previous problems.

Code of Practice - Specific guidance on score of 10

Satisfactory record of compliance.

Access to relevant food safety advice source and/or Guides to Good Practice or assurance schemes commensurate with type of business.

Understanding of significant hazards and control measures in place.

Has implemented satisfactory food safety management procedures or is making satisfactory progress towards documented food safety management procedures commensurate with type of business.

Officers will need to ensure that a business is demonstrating it is actually 'making satisfactory progress' towards food safety management procedures. A score of 10 can be awarded for more than one intervention cycle if:

- *the previous non-compliances have been addressed but different non-compliances have arisen; **and***
- *the overall risk has not increased.*

Description of what 10 might be expected to look like in practice

Follow up action for local authority in accordance with its enforcement policy but likely to be considering informal action (report of inspection/letter identifying issues) with establishment unlikely to be a priority for a re-visit.

Some follow-up action identified for food business operator in relation to further development and completion of documented procedures where these were are commensurate with the size and nature of the business and where issues are not critical to food safety but may become so if not addressed, and not likely to put consumers at unacceptable risk.

Generally satisfactory food safety controls in place and appropriate for size and nature of the business, or making satisfactory progress, taking into account the flexibilities provided by Article 5 of Regulation (EC) 852/2004 on food hygiene and the related European Commission Guidance Document on *Implementation of procedures based on HACCP principles, and facilitation of the HACCP principles in certain food businesses.*

All significant hazards understood and controls in place.

Generally, food safety management procedures satisfactorily cover all activities but some further development/completion needed.

Food safety management records appropriate for size and nature of business, and are generally maintained but with some deficiencies/gaps identified.

Staff generally suitably supervised, instructed and/or trained in food hygiene but there may be some minor issues e.g. not all staff fully aware.

Appropriate staff adequately trained in application of HACCP principles.

Satisfactory track record but new businesses or those existing businesses where there has been a change in circumstances (e.g. a change in management) should not be penalised on track record where they have food safety management procedures in place. This might include existing businesses with a good previous track record but with some minor recent lapses.

Code of Practice - *Specific guidance on score of 5*

Good record of compliance.

Food safety advice available in-house or access to, and use of, technical advice from a Primary or Home Authority, trade associations and/or from Guides to Good Practice or assurance scheme commensurate with type of business.

Effective management control of hazards.

Having effective self-checks with satisfactory documented food safety management procedures commensurate with type of business.

Audit by Competent Authority confirms general compliance with procedures with minor non-conformities not identified as critical to food safety.

Description of what 5 might be expected to look like in practice

No follow-up action by local authority apart from report of inspection provided to food business operator. No re-visit necessary before next planned intervention.

Only minor follow-up actions (not critical to food safety) identified for food business operator in relation to food safety management system (e.g. minor record keeping issues that are being dealt with by management).

Food safety management/procedures in place and appropriate for size and nature of the business (e.g. SFBB), taking into account the flexibilities provided by Article 5 of Regulation (EC) 852/2004 on food hygiene and the related European Commission Guidance Document on *Implementation of procedures based on HACCP principles, and facilitation of the HACCP principles in certain food businesses*.

Hazards understood, properly controlled, managed and reviewed with supporting evidence.

Food safety management procedures adequately cover all activities.

Food safety management records appropriate for size and nature of business are generally maintained – but some minor deficiencies/gaps.

Food safety advice available in-house or access to, and use of, technical advice from a Primary or Home Authority, trade associations or assurance scheme or other sources such as the local authority enforcement officer and/or from Guides to Good Practice.

Staff suitably supervised, instructed and/or trained in food hygiene with good general staff knowledge and new staff receiving induction training.

Appropriate staff adequately trained in application of HACCP principles.

Good track record but new businesses or those existing businesses where there has been a change in circumstances (e.g. a change in management) should not be penalised on track record where they have food safety management procedures in place.

Code of Practice - *Specific guidance on score of 0*

Excellent record of compliance.

Food safety advice available in-house or access to, and use of, technical advice from a Primary Authority or Home Authority, trade associations and/or from Guides to Good Practice or assurance schemes commensurate with type of business.

Food Business Operator/ Manager knowledgeable and competent.

Has effective self checks with satisfactory documented food safety management procedures commensurate with type of business, and ***may have external audit processes in place***.

Audit by Competent Authority confirms good compliance with food safety procedures.

Description of what 0 might be expected to look like in practice

No follow-up action by local authority apart from report of inspection provided to food business operator. No re-visit necessary before next planned intervention.

No follow-up action identified for food business operator in relation to food safety management procedures.

Food safety management/procedures in place and appropriate for size and nature of the business (e.g. SFBB), taking into account the flexibilities provided by Article 5 of Regulation (EC) 852/2004 on food hygiene and the related European Commission Guidance Document on *Implementation of procedures based on HACCP principles, and facilitation of the HACCP principles in certain food businesses*.

External audit of food safety management procedures.

Hazards understood, properly controlled, managed and reviewed with supporting evidence.

Food safety management procedures adequately cover all activities.

Food safety management records appropriate for size and nature of business are maintained.

Access to food safety advice within organisation.

All staff suitably supervised, instructed and/or trained in food hygiene.

Appropriate staff trained in application of HACCP principles.

Excellent track record but new businesses or those existing businesses where there has been a change in circumstances (e.g. a change in management) should not be penalised on track record where they have food safety management procedures in place.

Description of the standards – 'at a glance'

Score	Standards			Compliance	Risk to public health	FBO action	LA action
	Hygiene	Structure	CIM				
25 CIM =30	Very poor food hygiene practices, serious food contamination risks, inadequate temperature control for high-risk foods and major improvement needed in all areas. Failure to apply any (i.e. all) of the control measures required to prevent cross-contamination. Almost total non-compliance with requirements for safe food preparation, cooking, re-heating, cooling or storage of food identified.	Almost total non-compliance with structural requirements. Insufficient space in which to operate safely. Evidence of widespread pest infestation or totally unsatisfactory waste disposal provision.	No evidence of food safety management/documented procedures. Significant hazards not understood and no effective controls in place. Staff not suitably supervised, instructed and/or trained and no appreciation of food hazards or controls. Poor track record. Does not to recognise or accept need for food safety hygiene and controls.	Almost total non-compliance.	Imminent and serious risks.	Immediate and significant action required in respect of all serious risks. Address all other matters within stipulated timescale.	In accordance with LA enforcement policy using a graduated approach but likely to include consideration of prohibition procedures where there is imminent risk and ongoing formal enforcement action, and re-visits within short timescale to secure compliance.
20	Poor standard of hygienic food handling, temperature control and staff personal hygiene and major improvements required. Inadequate implementation of many of the control measures required to prevent cross-contamination. Major and widespread non-compliance with requirements for safe food preparation, cooking, re-heating, cooling or storage of food identified.	Major and widespread non-compliance with structural requirements. Poor design layout that is likely to lead to cross-contamination and to food safety being compromised. Evidence of pest infestation or inadequate waste disposal provision.	Food safety management/ documented procedures inappropriate or inadequate or little or no progress made since the last intervention. Significant hazards not fully understood and not all controls in place. Significant improvements in food safety procedures/ implementation of controls required. Some staff not suitably supervised, instructed and/or trained. Varying track record Some reluctance to recognise and accept need for food safety and hygiene controls.	Major and widespread non-compliance.	Widespread and significant risks.	Address all identified non-compliances as a matter of urgency within stipulated timescale.	In accordance with LA enforcement policy using a graduated approach but likely to include commencement of formal enforcement action, including consideration of prohibition procedures where control measures required to prevent cross-contamination are not in place, and re-visiting the establishment to secure compliance.

Score	Standards			Compliance	Risk to public health	FBO action	LA action
	Hygiene	Structure	CIM				
15	Inadequate implementation of some of the control measures required to prevent cross-contamination. Some major non-compliance with requirements for safe food preparation, cooking, re-heating, cooling or storage of food identified.	Significant improvements needed in standard of structure and equipment cleaning, maintenance and repair, and in hand and equipment washing facilities. Poor design layout potentially leading to cross-contamination and to food safety being compromised. Major non-compliance with structural requirements (e.g. may be some damaged work surfaces, some significant dirt.) Evidence of pest activity or inadequate waste disposal provision.	Not applicable.	Some major non-compliance.	Some significant risks.	Address all identified non-compliances within stipulated timescale.	In accordance with LA enforcement policy using a graduated approach but likely to include warning letter and consideration of formal enforcement, including prohibition procedures where control measures required to prevent cross-contamination are not in place, re-visiting the establishment to secure compliance.
10	Standards being maintained or improving. Some lapses in food hygiene and safety procedures. Adequate control measures in place to prevent cross-contamination. Generally satisfactory food preparation, cooking, re-heating, cooling and storage of food demonstrated but some lapses may be evident over short periods.	Generally satisfactory standard of structural and equipment cleaning. Fairly well maintained and in reasonable repair. Appropriate facilities provided with some issues of non-compliance. Standards being maintained or improving. Some repairs may be required. Evidence of satisfactory pest control. Evidence of satisfactory waste disposal provision.	Generally satisfactory food safety controls in place. All significant hazards understood and controls in place. Food safety management records appropriate and are generally maintained but some deficiencies/gaps identified. Staff generally suitably supervised, instructed and/or trained but there may be some minor issues. Satisfactory track record.	Evidence of some non-compliances that are not critical to food safety (i.e. are not significant but may become so if not addressed)	No unacceptable risks identified.	Some follow-up action in relation to issues that are not critical to food safety (i.e. are not significant but may become so if not addressed).	In accordance with LA enforcement policy but likely to be considering informal action (report of inspection/letter identifying issues) with establishment unlikely to be a priority for a re-visit.

Score	Standards			Compliance	Risk to public health	FBO action	LA action
	Hygiene	Structure	CIM				
5	Only minor lapses in food hygiene and safety procedures. All necessary control measures in place to prevent cross-contamination. Safe food preparation, cooking, re-heating, cooling and storage of food demonstrated.	Only minor repairs required. Evidence of adequate pest control and waste disposal provision.	Food safety management/procedures in place. Hazards understood, properly controlled, managed and reviewed. Food safety management records appropriate and are generally maintained. Staff suitably supervised, instructed and/or trained with good general staff knowledge and new staff receiving induction training. Good track record.	Good with only some minor non-compliances not critical to food safety.	No risks identified.	Only minor follow-up action in relation to issues that are not critical to food safety.	Report of inspection provided to FBO.
0	All necessary control measures in place to prevent cross-contamination. Safe food preparation, cooking, re-heating, cooling and storage of food demonstrated.	No repairs required and no potential improvements identified, or robust procedures in place for ongoing rectification of minor repairs. Premises and equipment clean and in good condition. Evidence of effective pest control and waste disposal provision.	Food safety management/procedures in place. Hazards understood, properly controlled, managed and reviewed. Food safety management records appropriate and maintained. All staff suitably supervised, instructed and/or trained. Excellent track record.	Meeting or exceeding legal requirements.	No risks identified.	None identified.	Report of inspection provided to FBO.

Section 4: Mapping of intervention rating scores to the food hygiene rating

Introduction

4.1 The following elements of the 'food hygiene intervention rating scheme' set out in the *Food Law Code of Practice* are relevant to calculating the food hygiene rating following an inspection, partial inspection or audit:

- level of (current) compliance with food hygiene and safety procedures (including food handling practices and procedures, and temperature control),
- level of (current) compliance with structural requirements (including cleanliness, layout, condition of structure, lighting, ventilation, facilities etc.), and
- confidence in management/control procedures.

4.2 Each element is numerically scored against the relevant criteria on the basis of guidance given in the Code and in Section 3 of this document.

Mapping intervention rating scores to the six food hygiene ratings of the FHRS

4.3 The intervention rating numerical scores are then 'mapped' to the six food hygiene ratings which range from ‘0’ at the bottom to ‘5’ at the top. Any business should be able to achieve the top rating as it requires no more than compliance with food hygiene law.

4.4 The rating depends on the overall level of compliance – the total intervention score for the three elements – but also reflects the level of compliance for each of the individual areas by taking account of the highest of the three scores – the additional scoring factor.

4.5 The table below outlines this mapping.

Mapping of numerical scores from the intervention-rating scheme in the *Food Law Code of Practice* to the six FHRS food hygiene ratings						
Total intervention rating scores	0 - 15	20	25 - 30	35 - 40	45 - 50	> 50
Additional scoring factor	No individual score greater than 5	No individual score greater than 10	No individual score greater than 10	No individual score greater than 15	No individual score greater than 20	-
Food hygiene rating	0 1 2 3 4 **5**	0 1 2 3 **4** 5	0 1 2 **3** 4 5	0 1 **2** 3 4 5	0 **1** 2 3 4 5	**0** 1 2 3 4 5
Descriptor	Very good	Good	Generally satisfactory	Improvement necessary	Major improvement necessary	Urgent improvement necessary

4.6 This means that where an individual intervention rating score exceeds the additional scoring factor, the food hygiene rating of the establishment will drop down the scale to the rating where it no longer exceeds the additional scoring factor. This is illustrated by the examples below.

Individual intervention rating scores	Total intervention rating score	Highest score – additional scoring factor	Food hygiene rating
5, 5, 5	15	5	5
0, 5, 10	15	10	4
5, 5, 20	30	20	1

4.7 The decision to use numbers with simple word descriptors for the ratings was based on the findings of independent research with consumers.[17]

4.8 The FHRS branding is designed to represent the ratings in a way it is easy for consumers to understand and use as illustrated below.

[17] The report of this research is published at: http://www.food.gov.uk/news/newsarchive/2010/jun/research.

Section 5: Notification of food hygiene ratings

Introduction

5.1 Guidance on the process for notifying FBOs of their food hygiene rating is given in Q&A format below.

Question and answer guidance

Q1. What types of intervention are required before a food hygiene rating can be given?

A1. As the food hygiene intervention rating scheme of the *Food Law Code of Practice* is used as the basis of the FHRS, it follows that food hygiene ratings can only be given when the intervention rating of the establishment is determined, i.e. following an inspection, partial inspection or audit.

The only possible exception is where a re-visit is undertaken in response to a request from an FBO for a re-rating, in which case the FHRS rating can be changed on the basis of other types of intervention (see Section 8).

In all cases, however, there must be a visit to the establishment - ratings cannot be given or changed on the basis of documentary evidence only or on self-assessment by the FBO.

Q2. Should the food hygiene rating be notified to an FBO at the end of the intervention or at a later date?

A2. Local authorities operating the FHRS must have a policy for communicating the food hygiene rating to businesses. The decision on when a business should be notified of its food hygiene rating must be in accordance with that policy. Notifying the FBO of its rating at the time of intervention and issuing the sticker at the same time provides a good opportunity to highlight to the FBO the advantages of displaying the rating in a prominent position so that potential customers can see it. Local authorities may wish to consider this when establishing or revising the policy.[18]

The food hygiene rating must be provided in writing whether it is notified at the time of intervention (this must be an inspection, partial inspection or audit) or afterwards.

If not notified at the time of intervention, the food hygiene rating must be communicated in writing without undue delay and within 14 days[19] from the date of the intervention.

Irrespective of when the FBO is notified of the food hygiene rating, information should be provided in writing about how to appeal it. This must make clear that the notification of the food hygiene rating triggers the start of the 'appeal' period.[20]

---

[18] See FHRS 'Top Tips' on increasing visibility of the FHRS at: www.food.gov.uk/fhrsresources.

[19] Where reference to numbers of 'days' are made in this guidance it includes weekends and bank holidays.

[20] The rule established by section 7 of the Interpretation Act 1978 will be applied for the purposes of notifying the food hygiene rating to food business operators. Section 7 is concerned with the service of documents by post. Under that rule as applied for the purposes of notifying the food hygiene rating to food business operators, notification will be regarded as having been given by properly addressing, pre-paying and posting a letter informing the food business operator of the food hygiene rating. It will be regarded as being effective at the time at which the letter would be delivered in the ordinary course of post.

Q3. What and who should be notified in the case of multi-site businesses?

A3. For multi-site businesses, as well as notifying the outlet, local authorities **must** ensure that the food hygiene rating is also communicated to the head office by sending a copy of the notification letter, together with a copy of any other documents, such as a separate inspection report, sent to the outlet or left on-site. The sticker should be sent to the outlet rather than the head office.

If the outlet is notified at the time of intervention, the head office should be notified as soon as possible afterwards. In such cases the date at which the outlet is notified triggers the appeal period.

Q4. What information should the local authority provide to an FBO with the notification of the establishment's food hygiene rating following the intervention at which a rating was determined?

A4. The following information should be provided in writing:

- the food hygiene rating itself and details of the intervention rating scheme scores from which this was determined (the template letters provided by the FSA provide an explanation of the scores and how they are used to determine the food hygiene rating);
- details of why the establishment was rated as it was and, in cases where the top rating has not been achieved, the actions needed in order to achieve legal compliance for each of the three intervention rating scheme elements that are used for the FHRS. Details recorded must be sufficient to support the score given for each element to inform the FBO and to facilitate internal monitoring or enable review where an appeal is made. (see Q&A 6);
- details of when the food hygiene rating will be published at food.gov.uk/ratings (see Section 10, Q&A 8), and when the FBO will receive a sticker to voluntarily display the food hygiene rating at the establishment;
- in cases where the top rating has not been achieved:
  - details of the appeals process and the deadline by which an appeal to the Lead Officer for Food must be made (see Section 6);
  - contact details (name, telephone number) for the 'inspecting officer' and Lead Officer for Food; and
  - a weblink to food.gov.uk/ratings highlighting that this is where more information on appeals, as well as information on the 'right to reply' and re-inspections/re-visits mechanisms, and template forms for lodging an appeal, for requesting a re/inspection/re-visit, and for submitting a 'right to reply', can be obtained.[21]

Q5. Should the sticker for the existing rating be removed at the time of intervention at which a 'new' rating is given?

A5. The sticker for the previous rating or the 'awaiting inspection' sticker can be removed if a rating of 5 is given.

Otherwise, the sticker should not be removed as the 'new' rating does not become valid until the end of the appeal period. Removal of the sticker potentially compromises the FBOs right to appeal.

This is consistent with the operation of the statutory schemes in Wales and Northern Ireland.

[21] In addition to being able to access information electronically, FBOs should have the option of requesting hard copies of information and template forms from the local authority.

The business should be requested to destroy any sticker it has for the previous rating at the end of the appeal period and reminded that to continue to display this may constitute an offence under trading standards legislation for example an offence under the Consumer Protection from Unfair Trading Regulations 2008.

The local authority is not expected to routinely re-visit businesses specifically to check that stickers have been removed. Where hygiene standards have deteriorated significantly, it is likely that an enforcement re-visit will be undertaken and if the sticker for the previous rating is still on display, it can be removed then.

Reports from the public of businesses displaying an incorrect rating should receive an appropriate response in order to maintain consumer confidence in the scheme.

Q6. How should details of why the establishment was rated as it was and on what actions are needed to achieve legal compliance be presented to the FBO?

A6. The information should be presented for each of three elements assessed - hygiene, structure and confidence in management/control procedures.[22] Sufficient details must be included to support the score given for each element to inform the FBO and to facilitate internal monitoring or review where an appeal is made. It is important that actions that are required to ensure compliance with legal requirements are clearly differentiated from those that are recommendations of good practice (see section 6.3.14 of the *Food Law Code of Practice*).

Q7. Where an establishment is being linked to an outbreak of food poisoning, what rating should be given and when?

A7. The local authority's primary focus should be on the outbreak and the steps necessary to safeguard public health until the case has been resolved and the outbreak control team has reported.

In terms of the FHRS, if the establishment is still trading, it should still have a rating.

If the local authority considers that the existing rating is no longer relevant, it should re-rate the establishment at the earliest opportunity and without compromising the primary focus. The need to provide consumer information should be taken into account. The new rating should be based on an inspection, partial inspection or audit. It should be notified to the FBO and published in the usual way. As for any business receiving a new rating, the sticker for the previous rating should not be removed until the appeal period has elapsed.

In terms of the score for confidence in management/control procedures, the important thing is that this is based on the inspecting officer's professional judgement with due regard to the guidance in the *Food Law Code of Practice* and that the decision made is justified and documented.

If the establishment is closed, it should not have a rating whilst it remains closed, i.e. is not trading, and no information about the business should be published and any sticker (or certificate) on display should be removed (there is no appeal pending in such cases). If and when the establishment re-opens, it should have a food hygiene rating. Generally, the rating will be based on the most recent inspection, partial inspection or audit undertaken.

[22] A standard template intervention report (to use in place of the Report of Inspection Form at Annex 6 of the *Food Law Code of Practice)* is provided at Appendix 2

Section 6: Appeals

Note on Revision 5 of the Brand Standard: extending appeal periods

From October 2016 the appeal period has been extended from 14 to 21 days, and the determination period from 7 to 21 days to align with the statutory schemes in Wales and Northern Ireland.

Introduction

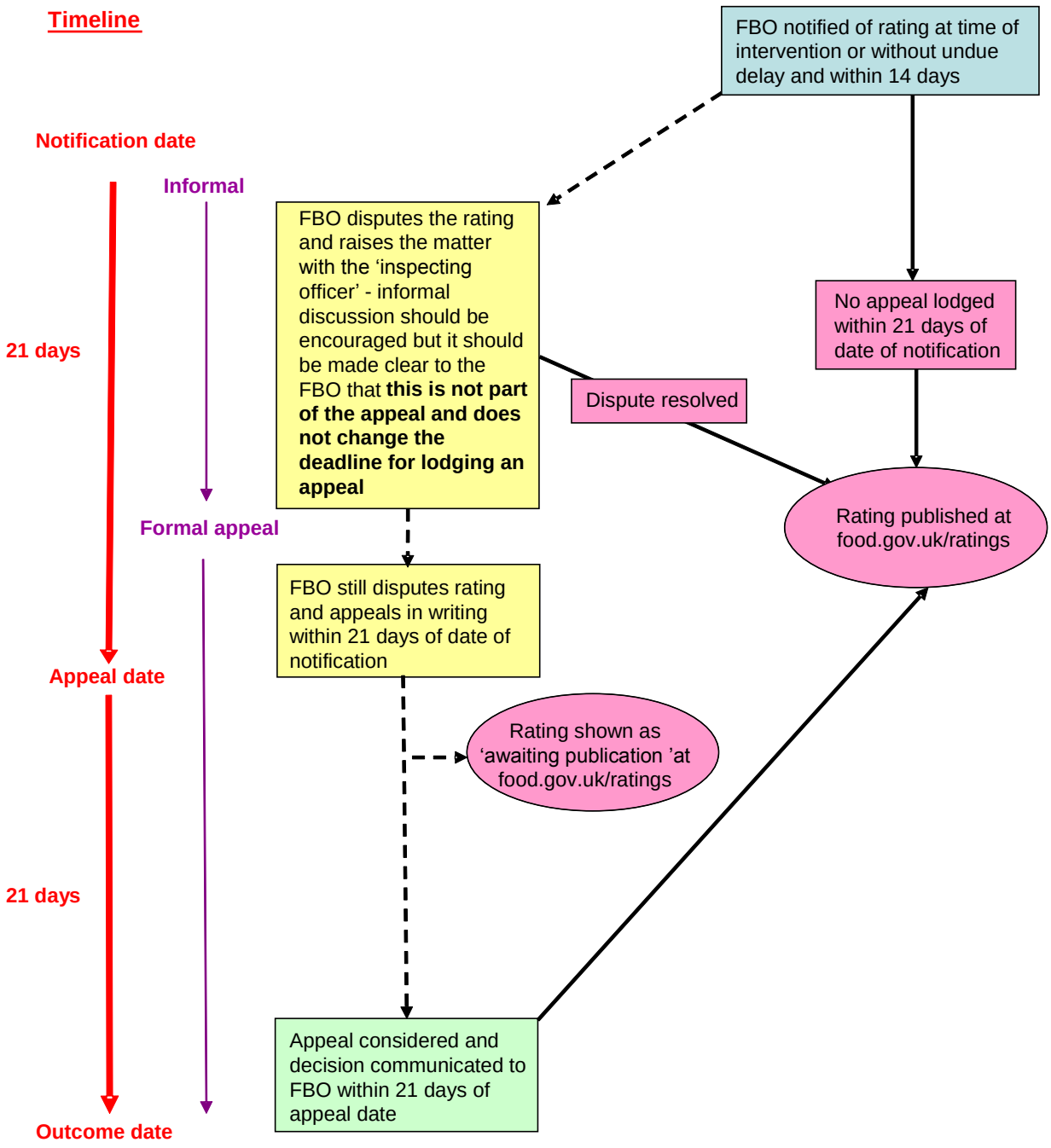
6.1 To ensure fairness to businesses, local authorities must have an appeal procedure in place for FBOs to dispute the food hygiene rating given in respect of their establishment.

6.2 The FHRS appeal procedure is illustrated in the following flow chart. In essence, if an FBO wishes to dispute the food hygiene rating given by the 'inspecting officer' (i.e. the officer undertaking the intervention) on behalf of the local authority, the FBO may appeal this. The appeal should be determined either by the local authority's Lead Officer for Food or by a designated deputy or by the Lead Officer for Food or a designated deputy in another authority. No officer involved in the production of the rating, or in the inspection on which the rating is based should consider the appeal.

6.3 An FBO disputing a rating should be encouraged to discuss this informally first with the 'inspecting officer' so that there is an opportunity to help explain to the FBO how the rating was worked out as this may help resolve the matter without the FBO having to lodge an appeal. Any such discussions do not form part of the formal appeal process and do not change the deadline within which an appeal must be lodged. This should be made clear to the FBO so that they may lodge an appeal, and may subsequently withdraw it, if they wish.

6.4 Guidance in Q&A format is provided below to assist local authorities in operating the appeals procedure and in providing information to businesses about this.

Flowchart illustrating the appeals procedure



Notes

Any reference to numbers of 'days' includes weekends and bank holidays.

Sufficient legal protection is given to FBOs if appeals against a disputed food hygiene rating are determined by the Lead Officer for Food or a designated deputy (or by the Lead Officer for Food or a designated deputy in another authority). There is no legal requirement for the local authority's complaints procedure to form part of the FHRS appeals procedure. This does not, however, prevent an FBO from using the complaints procedure where s/he is dissatisfied with any aspect of the authority's services.

Q1. When is it appropriate for an FBO to use the appeal procedure?

A1. The appeal procedure is relevant where the FBO wishes to dispute the food hygiene rating given, as not reflecting the hygiene standards and management controls found at their establishment at the time of intervention.

Q2. When is it not appropriate for an FBO to use the appeal procedure?

A2. An appeal is **not** appropriate in circumstances where an FBO has accepted the food hygiene rating but has requested a re-inspection/re-visit for re-rating on the basis that non-compliance(s) identified at the time of the initial intervention have been rectified. The FBO can be reminded that pending a requested re-inspection/re-visit taking place, a 'right to reply' may be submitted to tell consumers about improvements that have been made.

An appeal may be made after a re-inspection/re-visit if the FBO disputes the 'new' food hygiene rating given as it does not reflect the hygiene standards and management controls found at their establishment at the time of the re-inspection/re-visit (see Q&A 12).

Q3. How long does an FBO have to appeal the food hygiene rating before it is published?

A3. The appeal has to be made in writing within the period of 21 days beginning with the date of notification.[23] The numbers of 'days' includes weekends and bank holidays.

A standard template form that FBOs may use to appeal the food hygiene rating is available here. A version for co-branding is available at www.food.gov.uk/fhrsresources so that local authorities may download it, add their logo and relevant contact details, and provide it to FBOs via their own websites or in hardcopy form if requested to do so - a copy is provided at Appendix 2.

After the 21 day period has elapsed, the food hygiene rating will be published at food.gov.uk/ratings if no appeal has been lodged.

Q4. Should appeals lodged later than 21 days after the notification of the food hygiene rating be considered?

A4. No. Appeals must be made within 21 days of the notification of the food hygiene rating. After this time, the rating should be published at food.gov.uk/ratings.

For multi-site businesses, the start of the appeal period is triggered by the date of notification of the rating to the outlet.

Q5. Is there scope for informal discussion about ratings?

A5. Yes. It may be possible for the 'inspecting officer' to resolve any dispute about the food hygiene rating in an informal manner by further clarifying and explaining how it was derived. Although not a pre-requisite, FBOs should be encouraged to do this and every effort should be made to resolve the matter at this stage before resorting to the appeal procedure.

[23] The rule established by section 7 of the Interpretation Act 1978 will also be applied in respect of lodging of an appeal by the food business operator with the local authority Lead Officer for food (see also footnote15). Under that rule as applied for the purposes of appealing the food hygiene rating, an appeal will be regarded as having been made by properly addressing, pre-paying and posting a letter informing the local authority Lead Officer for Food that an appeal is being made. It will be regarded as being effective at the time at which the letter would be delivered in the ordinary course of post.

Any such discussions do not form part of the formal appeal process and do not change the deadline within which an appeal must be lodged. This should be made clear to the FBO so that they are clear the appeal period does not commence only when informal discussions are completed and so that they may lodge an appeal, and may subsequently withdraw it, if they wish.

Q6. Where the food hygiene rating is being appealed, should the rating in dispute be published at food.gov.uk/ratings and displayed at the establishment?

A6. Until the outcome of the appeal is determined, food.gov.uk/ratings should show that, for the establishment in question, the assessment of hygiene standards is 'awaiting publication'.

At the time of notification of the rating that is now in dispute, the business should be requested to destroy any sticker (and certificate) they have for the previous rating and reminded that to continue to display these after the appeal period may constitute an offence under trading standards legislation for example an offence under the Consumer Protection from Unfair Trading Regulations 2008 (see Section 9, Q&A 4).

Q7. Who should determine appeals?

A7. Appeals should be considered by the Lead Officer for Food or a designated deputy. Local authorities are encouraged to consider establishing a reciprocal arrangement with another authority to consider each other's appeals by the respective Lead Officer for Food or a designated deputy.

Q8. What role does the 'inspecting officer play in determining the appeal?

A8. None. No officer involved in the production of the rating or in the inspection on which the rating is based should consider the appeal.

Q9. How is the appeal determined?

A9. The paperwork associated with the intervention and the food hygiene rating given should be considered.

In some circumstances, a further visit to the establishment may be required. This will depend on the nature of the dispute and whether a decision can or cannot be made on the basis of the paperwork associated with the intervention and the food hygiene rating given.

Q10. How should the decision be communicated to the FBO?

A10. The decision of the officer determining the appeal should be communicated in writing to the FBO as early as possible and within a maximum of 21 days from the date that the appeal was received (the numbers of 'days' includes weekends and bank holidays). Once the decision has been notified to the FBO, the food hygiene rating should be published at food.gov.uk/ratings.

Q11. When will the food hygiene rating be published at food.gov.uk/ratings following an appeal?

A11. The food hygiene rating will be published when the appeal has been determined and the outcome of the appeal has been communicated to the FBO.

Q12. Can an FBO appeal a 'new' food hygiene rating given following a re-inspection/re-visit that they have requested?

A12. Yes. As with the initial assessment, an FBO may appeal in such cases if the 'new' food hygiene rating is disputed. Appeals must be made within 21 days of the notification of the rating. After that period has expired, the food hygiene rating should be published at food.gov.uk/ratings if no appeal has been lodged.

Q13. What happens if the FBO disagrees with the outcome of the appeal?

A13. The FBO can challenge the local authority's decision by means of judicial review.

The FBO has recourse to the local authority complaints procedure (including taking the matter to the Local Government Ombudsman where appropriate) if they consider that a council service has not been properly delivered.

The FSA's Independent Business Appeals Panel, which applies to businesses in England (see http://food.gov.uk/business-industry/how-to-make-an-appeal/panel/), is not a route for redress in cases of disputed food hygiene ratings.

Q14. If an FBO challenges a decision via judicial review, what should be published at food.gov.uk/ratings?

A14. Following determination of the appeal, the rating should be published at food.gov.uk/ratings and this should continue to be displayed until the judicial review is determined.

Q15. Is the local authority's complaints procedure part of the appeal process?

A15. No. Sufficient legal protection is given to FBOs if appeals against a disputed food hygiene rating are determined by the Lead Officer for Food or a designated deputy or the Lead Officer for Food or a designated deputy from another local authority. There is no legal requirement for the local authority complaints procedure to form part of the FHRS appeals procedure.

This does not, however, prevent an FBO from using the local authority's complaints procedure where s/he wishes to complain about the process followed in delivery of a service.

Section 7: 'Right to reply'

Introduction

7.1 To ensure fairness to businesses, local authorities must have a procedure in place to provide for a 'right to reply' to FBOs and for this to be published with their rating. The purpose is to provide FBOs with an opportunity to explain to potential customers any actions that have taken to improve hygiene standards after a food hygiene rating has been given or to say if there were particular circumstances at the time of the inspection that might have affected the rating.

7.2 Guidance in Q&A format is provided below to assist local authorities in operating the 'right to reply' safeguard and in providing information to businesses about this.

Question and answer guidance

Q1. Do FBOs' have a 'right to reply' and what is the purpose of this?

A1. Yes, FBOs have a right to reply', and local authorities must publish this at food.gov.uk/ratings together with the business's rating.

The purpose is to enable the FBO to give an explanation of actions that have been taken to rectify non-compliances subsequent to the intervention at which the rating was given or mitigation for the circumstances at the time of the intervention, rather than to complain or criticise the FHRS or 'inspecting officer'.

Given this purpose, the 'right to reply' is intended to apply to those businesses that do not achieve the top rating.

Q2. How should the 'right to reply' be submitted?

A2. The 'right to reply' comments should be made in writing and submitted to the local authority electronically or sent by post.

A standard template form that FBOs may use to submit a 'right to reply' is available here. A version for co-branding is available on the FHRS resources page of the FSA website at www.food.gov.uk/fhrsresources so that local authorities may download it, add their logo and relevant contact details, and provide it to FBOs via their own websites or in hardcopy form if requested to do so - a copy is provided at Appendix 2.

Q3. Can the text of the 'right to reply' comments be amended?

A3. The text may be edited by the local authority before being published at food.gov.uk/ratings in order to remove any offensive, defamatory, clearly inaccurate or irrelevant remarks.

If the text is edited, the local authority should provide a copy of the revised text to the FBO and provide an opportunity to comment on this prior to its publication.

Q4. Where are the 'right to reply' comments published?

A4. The comments should be published at food.gov.uk/ratings together with the rating. The 'right to reply' will remain on the website until a new food hygiene rating is given.

Q5. When should ‘right to reply’ comments be published?

A5**.** Once received by the local authority, ‘right to reply’ submissions should be processed and published as soon as possible and without undue delay.

Section 8: Requests for re-inspections/re-visits for re-rating purposes

Note on Revision 5 of the Brand Standard: charging for re-inspections/re-visits

The FSA has reviewed its guidance on charging a fee for requested re-inspections/re-visits to re-assess food hygiene ratings, in consideration of the general power under the Localism Act (2011).

The Agency considers that providing a re-inspection upon request by a food business operator, in circumstances where there is no statutory requirement to provide that re-inspection, falls within the general power that allows for the recovery of costs. (See Q&A 15 for further information)

Introduction

8.1 To ensure fairness to businesses, local authorities must have a procedure in place for undertaking re-inspections or re-visits at the request of the FBO for re-assessing the food hygiene rating of their establishment.

8.2 The re-inspection/re-visit mechanism applies in cases where FBOs with ratings of '0' to '4' have made the necessary improvements to address non-compliances identified during the local authority's planned intervention (this must be an inspection, partial inspection or audit) of the establishment.

8.3 The Guidance is designed to outline the procedure for dealing specifically with requests from FBOs to be assessed for a new rating. It also aims to clarify the position on re-inspections/re-visits undertaken in the course of normal follow-up enforcement action and how these impact on the food hygiene rating of these establishments. Local authorities can include re-inspections/re-visits undertaken in response to requests from FBOs to be assessed for a new rating in their LAEMS returns.

8.4 The Guidance highlights that where the response to a request from an FBO to be re-rated involves an inspection, partial inspection or audit, the intervention rating should be reviewed and revised if deemed appropriate by the local authority officer in accordance with the provisions of the *Food Law Code of Practice*.

8.5 Guidance in Q&A format is provided below to assist local authorities in the application of this safeguard mechanism.

8.6 The Guidance reflects the need to balance the operation of this safeguard mechanism against the potentially adverse effects on the control and enforcement regime in the way it is designed to protect public health.

8.7 The Guidance will be kept under review and will be revised and updated as necessary to reflect the experience of local authorities operating the FHRS and, in order to ensure that its application does not compromise public health protection.

Question and answer guidance

Q1. When does the re-inspections/re-visits mechanism apply?

A1. It applies where, following an appropriate planned intervention (an inspection, partial inspection or audit) by the local authority where an establishment is given a food hygiene rating (other than the top rating), an FBO has accepted the rating, taken

action to rectify non-compliances identified and makes a request to the authority to be re-assessed with a view to receiving a higher rating.

Q2. What is meant by 're-inspections/re-visits' in the context of FBO requests for a re-rating?

Q2. The terms relate to the type of intervention that can be carried out when assessing an establishment following a request for a re-rating.

A re-inspection in this context means an inspection, partial inspection or audit and a re-visit means an intervention that is an official control other than an inspection, partial inspection or audit.

Q3. If an appropriate intervention is undertaken, can the intervention-rating also be changed?

A3. Yes. In line with the *Food Law Code of Practice*, if an inspection, partial inspection or audit has been undertaken, the intervention-rating should be reviewed and revised if deemed appropriate by the local authority officer.

If an official control intervention other than an inspection, partial inspection or audit is carried out the intervention rating cannot be changed. This is the only situation where a food hygiene rating can be changed without determining the intervention rating. When a re-rating has been given on this basis, there will be no change to the date of the next planned intervention.

Q4. Is there a time limit within which a request for a re-inspection/re-visit/must be made?

A4. No. The FBO can make a request for a re-inspection/re-visit at any time after the planned intervention as long as the actions necessary to rectify the non-compliances have been carried out. The FBO cannot, however, dictate when the re-inspection/re-visit will take place (see Q&A 5).

Q5. Where the case for a re-inspection/re-visit is substantiated, when should this take place?

A5. The FBO can make the request at any time after the planned intervention. If a charge is not to be made for, the re-inspection/re-visit, it should not in general take place until three months have elapsed (the 'standstill' period) since the intervention at which the original food hygiene rating was given.

At the local authority's discretion, the requested re-inspection/re-visit can be undertaken during the 'standstill' period in cases where the priority actions identified at the time of the planned intervention in order to improve the level of compliance, and which have since been taken, concerned only the need for permanent structural improvements or repairs or upgrading of equipment.

The re-inspection/re-visit must, however, take place within three months of the end of the three month 'standstill' period, or within three months of the request where this is made after the 'standstill' period. This means that six months is the maximum amount of time a business should have to wait for a re-inspection/re-visit after making a request (provided the local authority agrees to the request - see Q&A 10).

Where the local authority charges a fee for the re-inspection/re-visit the 'standstill' period is not applicable. The re-inspection/re-visit should be carried out within three months of receipt of the request or, where payment is required in advance, the receipt of the payment (whichever is later).

Q6. What happens if the re-inspection/re-visit is not carried out within the three month window?

A6. The FBO can raise the issue with the Lead Officer for Food. If the matter cannot be resolved, the FBO has recourse to the local authority complaints procedure.

Q7. How many requested re-inspections/re-visits can an FBO have?

A7. Where no fee is charged for the requested re-inspection/re-visit, for each planned intervention where a food hygiene rating has been given by the local authority, an FBO can have only one requested re-inspection/re-visit, other than in duly justified exceptional circumstances.

Where a fee is charged for the requested re-inspection/re-visit, no limit applies on the number of requests the FBO can make.

The request should be made when the FBO is of the opinion that the actions needed to improve legal compliance have been taken.

It may be appropriate for the local authority officer to discuss progress by telephone to establish what remedial action has been taken to ensure that the re-inspection/re-visit is appropriately timed and to confirm that the actions needed to improve the level of compliance have been addressed.

Q8. Can the food hygiene rating be changed if the local authority re-visits the establishment without a request from the FBO?

A8. It is expected that for poorer performing establishments, re-visits will take place in the course of normal follow-up enforcement action in accordance with the local authority's enforcement policy. In these cases, if an assessment of the level of compliance overall is made (i.e. where an inspection, partial inspection or audit has been conducted) and has changed, the food hygiene rating can be changed in line with this. If the authority is charging a fee for requested re-inspections/re-visits it should consider whether it would be more appropriate and consistent for the business to be re-rated at a separate requested re-inspection/re-visit.

Although the standstill period – which is part of the requested re-inspection/re-visit safeguard where no fee is charged – was incorporated to try to ensure that local authorities risk based approach to intervention was not compromised by re-visiting premises which they would otherwise not have gone back to until the next planned intervention, it was also incorporated to allow officers to have greater confidence in management that improvements in food hygiene could be maintained over time. The exception to this relates to cases where the non-compliances identified at the time of the planned intervention, and which have since been rectified, concerned only the need for permanent structural improvements or repairs or upgrading of equipment. This guidance should be considered where enforcement re-visits occur within the standstill period.

Where an authority that is charging a fee for requested re-inspections/re-visits receives a request shortly after a planned intervention and the improvements that have been made are issues concerned with confidence in management/control procedures, it would be reasonable for the inspection for re-rating to take place towards the end of the three month period in order to establish that the improvements are fully implemented and sustained.

Q9. What form should the request for a re-inspection/re-visit take?

A9. The request should be made in writing (including by email) and should outline the case for a re-inspection/re-visit, i.e. it should indicate the actions that have been taken by the FBO to improve the level of compliance since the planned intervention and, where appropriate, should include supporting evidence.

The supporting case should refer to those actions that the local authority informed the FBO would need to be made in order to achieve legal compliance (see Section 5, Q&A 3).

A standard template form that FBOs may use to request a re-rating is available here. A version for co-branding is available on the FHRS resources page of the FSA website at www.food.gov.uk/fhrsresources so that local authorities may download it, add their logo and relevant contact details, and provide it to FBOs via their own websites or in hardcopy form if requested to do so - a copy is provided at Appendix 2.

Q10. Must the local authority accede to all requests for re-inspections/re-visits?

A10. No. If the case made by the FBO is not substantiated or insufficient evidence is provided, the local authority can refuse to undertake a re-inspection/re-visit on that basis. In doing so, the local authority must explain why the request is being refused at this stage and should re-emphasise the priority actions that must be taken in order to improve the level of legal compliance and indicate what evidence will be required for agreement to a re-inspection/re-visit to be made on further request.

If the FBO disagrees with the local authority's decision to refuse a request for a re-inspection/re-visit, they can raise the issue with the Lead Officer for Food. If the matter cannot be resolved, the FBO has recourse to the local authority complaints procedure.

Q11. Where there is a supporting case, must a re-inspection/re-visit be made or can a new food hygiene rating be given on the basis of documentary evidence?

A11. A re-inspection/re-visit must be made. A new food hygiene rating should not be given on the basis of documentary evidence only.

Q12. Where a re-inspection/re-visit is to be undertaken, should this be unannounced?

A12. Yes. Such a visit should be unannounced unless it is necessary to ensure that certain staff are present, or unless an unannounced visit would compromise food safety.

Q13. Are powers of entry/authorisation required for requested re-inspections/re-visits?

A13. By virtue of making a request, the FBO is inviting the local authority onto their premises. Clearly, where entry onto premises is with the consent of the FBO, formal powers of entry/authorisation are not being exercised. It should be made clear, however, that the officer is still authorised under the Food Safety and Hygiene (England) Regulations 2013 and as such retains powers of entry and has the powers to take enforcement action where appropriate.

Q14. If hygiene standards have not improved or have deteriorated at the time of the re-inspection/re-visit, should a lower food hygiene rating be given?

A14. At the time of the re-inspection/re-visit, the local authority officer should not only check that the required improvements have been made, but should also assess the

level of compliance overall. This means that the food hygiene rating could go up, down or remain the same if deemed appropriate by the local authority officer.

Q15. Can a fee be charged?

A15. 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 re-inspections/re-visits made at the request of the FBO 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.

Section 9: Use of Food Hygiene Rating Scheme branding

Introduction

9.1 Proper use of FHRS branding is critical to ensuring that the credibility and integrity of the FHRS are maintained. It also safeguards against reputational damage to the scheme's partners – the FSA, participating local authorities and food businesses that receive ratings.

9.2 Guidance on the use of FHRS branding is set out in Q&A format below.

Question and answer guidance

Q1. What is meant by FHRS branding?

A1. The branding comprises:

- FHRS logos;
- FHRS stickers - one for each rating from 0 to 5 and one for establishments 'awaiting inspection'.[24]

Examples are shown in Appendix 3.

Details of where to order stickers are available on the FSA website at: http://www.food.gov.uk/enforcement/enforcework/hygienescoresresources/fhrsbranding

Q2. Should stickers be issued for all establishments rated under the FHRS?

A2. All establishments rated as part of the FHRS must be provided with a sticker and should be encouraged to display this in the window or on the door. Where no window, door or other transparent surface is available a business may be provided with a 'sticky-on-the-back' version that can be mounted on another suitable surface where consumers can see it; however these should not be provided as an alternative when a window sticker can be displayed. The information written on the reverse of the regular sticker should be included on the peel off part of these stickers to be retained by the business.

Generally only one sticker should be provided per establishment but for those with multiple entrances, additional stickers may be provided if the local authority considers it appropriate or if requested by the FBO.

Q3. If a business requests a certificate, can this be provided?

A3. No. Policy on the FHRS display materials provided to businesses was revised in July 2014 such that certificates are no longer part of the scheme. Certificates that were issued before 16 July 2014 remain valid until a new rating is given.The change in policy has been made to provide better clarity for businesses about what to display and to make recognition of the FHRS easier for consumers.

It also brings the scheme operating in England in line with the statutory Schemes in Wales in Northern Ireland.

[24] There are two options for stickers: one showing the FSA logo and the statement 'This scheme is operated in partnership with your local authority'; and one showing the FSA logo with a space for the local authority logo to be added. Local authorities choosing the latter option will be required to fund the costs for the commercial printers producing the stickers to amend the artwork to include the local authority logo on the front, and to pre-print batches of the stickers). .

If businesses wish to use FHRS branding to promote their rating in other ways, they may be directed to the online business toolkit at http://food.gov.uk/business-industry/caterers/hygieneratings/toolkit/

Q4. When should the stickers be given?

A4. FBOs must be notified of their rating in writing at the time of the intervention or within 14 days[25] from the date of the intervention.

Where the rating is notified at the time of the intervention, a new sticker for the new rating should be provided at the time.

The sticker for the previous rating or the 'awaiting inspection' sticker can be removed if a rating of 5 is given.

If a rating below '5' is given, any sticker on display should not be removed as the appeal period still applies.

The FBO should be reminded that to continue to display this after the appeal period may constitute an offence under trading standards legislation, for example an offence under the Consumer Protection from Unfair Trading Regulations 2008, and that they should be destroyed,

Where the rating is notified at a later date (this must be within 14 days of the date of intervention – see Section 5), the new sticker should be provided with the notification of the rating. The FBO should be requested to destroy any sticker they have for the previous rating and reminded that to continue to display these after the appeal period may constitute an offence under trading standards legislation for example an offence under the Consumer Protection from Unfair Trading Regulations 2008. Only one rating – the most recent – can be displayed at any point in time.

Where there has been a change to the name of an establishment but the FBO is the same, a new sticker should be issued in the new name (but a new rating should not be given).

When stickers are issued, FBOs should be reminded that the stickers remain the property of the local authority and that all rights are reserved.

Q5. When should 'awaiting inspection' stickers be issued?

A5. In the following circumstances the FBO should be informed that may have an 'awaiting inspection' sticker if they wish so that this can be displayed until a rating can be given:

- Where a 'new' establishment is registered;
- Where there is a change of FBO such that the establishment should be registered and treated as 'new';
- Where the FBO moves to new premises, the new establishment should be registered by the appropriate local authority and a new rating given at the first inspection, partial inspection or audit;

The aim is to ensure fairness to businesses and aid consumer understanding.

[25] Where reference to numbers of 'days' are made in this Guidance, it includes weekends and bank holidays.

Q6. How are the stickers authenticated?

A6. The local authority should add the following information on the reverse side of the pre-printed sticker:

- the name of the business;
- the date of the hygiene rating OR date of issue for establishments 'awaiting inspection';
- the local authority name; and
- an authorising signature (the inspecting or other officer allocated responsibility to sign them on behalf of the Council).

The local authority may also add a sticker/stamp of its own logo to the top right hand corner of the reverse side of the pre-printed sticker if it wishes (this is in addition to the logo on the front if option 2 stickers are being used – see footnote 23).

Local authorities should also ensure that supplies of stickers are kept in a secure place.

Q7. What action should be taken if a sticker (or certificate) has been defaced, tampered with or altered in any way?

A7. Local authorities should only use stickers from the suppliers listed at http://www.food.gov.uk/enforcement/enforcework/hygienescoresresources/fhrsbranding and should not attempt to reproduce or amend these in any way other than adding the details highlighted at Q&A 5 above.

If the original condition of the sticker (or any certificate that remains valid) is altered in any way after issuing it to the food establishment, the local authority should ensure that it is confiscated and destroyed.

Q8. What action should be taken if a sticker (or certificate) is being used to mislead the public or misrepresent the food business in any way including by defacing and tampering?

A8. This may constitute an offence under trading standards legislation for example an offence under the Consumer Protection from Unfair Trading Regulations 2008, which impose a general prohibition on unfair commercial practices. The local authority should, therefore, liaise with the appropriate regulatory body - the Office of Fair Trading and local authority trading standards services enforce the Regulations.

Q9. What action will be required as regards branded materials where a local authority ceases to participate in the FHRS?

A9. The local authority should:

- remove any FHRS branding from its website;
- suspend distribution of any marketing and advertising material that incorporates the branding;
- remove stickers (and any remaining certificates) from display in food business establishments as soon as possible and at the next planned intervention of that establishment at the latest; and
- advise businesses in their area that the FHRS no longer operates and that the continued use of any branded materials for marketing and advertising purposes may constitute an offence under trading standards legislation.

Q10. Can local authorities use any of the branding for marketing and advertising purposes?

A10. Local authorities are encouraged to promote the FHRS to both food businesses and consumers in their areas and can use the FHRS branding for marketing and advertising purposes. FSA Communications Toolkits have been issued to coincide with campaigns and seasonal events and will continue to do so where appropriate. These provide advice and guidance on promoting the FHRS at the local level.

Q11. Can FBOs use any of the branding for marketing or advertising purposes?

A11. It is recognised that FBOs will wish to capitalise on their rating.

Where marketing or advertising by a business misleads the public about their rating or misrepresents the business in any way, this may constitute an offence under trading standards legislation.

FHRS branded artwork, together with guidance on the principles for its use, is available to FBOs on the FSA website. The principles for use highlight to FBOs that if its use misleads the public about their rating or misrepresents the business in any way, this may constitute an offence under trading standards legislation.

Section 10: Use of the Food Hygiene Rating Scheme IT platform

Introduction

10.1 The credibility and integrity of the FHRS depends on up-to-date and accurate food hygiene ratings information being available to consumers. Regular transfer of local authority data to the national database and timely publication of ratings at food.gov.uk/ratings is key to this. Effective management of the 'right to reply' facility is also important.

10.2. Guidance on these issues is set out in Q&A format below.

10.3 Separate User Documentation covering technical issues and practical aspects of using the IT platform is available at: http://www.food.gov.uk/enforcement/enforcework/hygienescoresresources/fhrsitguides.

Question and answer guidance

Q1. What is meant by the 'IT platform'?

A1. The IT platform comprises the following key elements:

- a **central database** for storing the data on food business establishments uploaded to the system by local authorities;
- a '**portal'** where participating local authorities are able to review and validate data, configure system functions to meet local needs, upload information and run management reports;
- an **online search facility** that provides a single access point to consumers for hygiene ratings for food business establishments covered by the FHRS – food.gov.uk/ratings.

Q2. What file formats can be used for uploading local authority data to the central database?

A2. Data must be extracted from the local authority's Information Management System (IMS) to an Excel,[26] CSV or XML file.

Q3. What data are local authorities required to supply and in what format?

A3. The 'Data Standard' is set out below and lists the data that must be provided for establishments that are currently trading.[27]

Local authorities can choose whether to provide this for all establishments within their area or only for those that are included within the scope of the FHRS.

Where data on all establishments is provided not all of this will be published at food.gov.uk/ratings – see Q&A 4 – but it can be included when running management reports.

[26] Where Excel files are used, the worksheet containing the data must be named 'Data'. No naming conventions apply to the Excel file itself, or in the case of CSV or XML files.

[27] The 'Data Standard' also includes some data that it is voluntary for local authorities to provide – where this is the case, it is specifically stated.

FHRS 'Data Standard'

Note – where rows are shaded in grey, supply of the data is not mandatory.

Data field name	Required format	Comment
Local authority ID	Alpha-numeric: usually three or four characters long	This ID is the same ID used for the Local Authority Enforcement Monitoring System (LAEMS). Supply of this data is not mandatory as these IDs will be stored within the system and log in details will indicate the local authority to which the upload relates.
Local authority name	Text: 255 character limit	The name of the local authority. Supply of this data is not mandatory as the log in details will indicate the local authority to which the upload relates
Establishment ID	Alpha-numeric: 255 character limit	This is the premises ID/unique premises reference number. This is not published at food.gov.uk/ratings but is included in the open data and API. It must be supplied. All information about a particular establishment is contained in a single record (row). A given establishment ID value is unique to a single record in every data file.
Establishment name	Alpha-numeric: 255 character limit	The name of the business
Operator/Proprietor	Text: 255 character limit	The name of the food business operator - this will not be published at food.gov.uk/ratings. Supply of this data is not mandatory.
Establishment telephone number	Numeric :25 character limit	This will not be published at food.gov.uk/ratings. Supply of this data is not mandatory.
Establishment address line 1	Alpha-numeric: 255 character limit	No individual address line is mandatory but the supply of a valid address is, so at least one of the address lines must contain data and it is the responsibility of the local authority to ensure that a valid and recognisable address is supplied.
Establishment address line 2	Alpha-numeric: 255 character limit	
Establishment address line 3	Alpha-numeric: 255 character limit	
Establishment address line 4	Alpha-numeric: 255 character limit	
Establishment post code	Alpha-numeric: 10 character limit	This should be supplied unless the establishment does not have a post code
Business type (category)	Text: 200 character limit	If the local authority does not categorise businesses on their local system using the LAEMS categories, it will be able to use a mapping facility on the FHRS portal to indicate how the categories used relate to the LAEMS categories.

Data field name	Required format	Comment
Inspection date	UK date formats: dd/mm/yyyy dd/m/yy d.m.yy dd/mmm/yy dd-mm-yyyy dd mm yyyy dd.mm.yyyy yyyy/mm/dd	This is required for all establishments except for those yet to be inspected (unrated).
Scope	Alpha-numeric: 255 character limit	Identifier to indicate if the status of the establishment - for example, 'excluded', 'included', 'exempt', or 'sensitive'. This will determine what, if any, information is published – see Q&A 4.
Intervention rating score for level of compliance – food hygiene and safety procedures	Prescribed values: 0, 5, 10, 15, 20 or 25	A valid record must contain values in each of the three fields or none in any of them. Where values are included, the food hygiene rating will be calculated from these. The absence of all three values will indicate that the establishment has not yet been rated under the FHRS. In such cases, 'awaiting inspection' will be displayed at food.gov.uk/ratings instead of a food hygiene rating.
Intervention rating score for level of compliance – structure of the establishment	Prescribed values: 0, 5, 10, 15, 20 or 25	
Intervention rating score for confidence in management/control procedures	Prescribed values: 0, 5, 10, 20 or 30	
Intervention rating overall score	Numeric: three character limit	This is the overall intervention-rating score for the establishment. Supply of this data is not mandatory. This will not be published at food.gov.uk/ratings.
Revised food hygiene rating	Prescribed values: 0, 1, 2, 3, 4 or 5 (5 being a 'top tier' rating and 0 a 'bottom tier' rating)	This relates to food hygiene ratings given when an establishment has been re-visited at the request of the food business operator under the re-inspections/re-visits mechanism. A value will be provided only in cases where the intervention rating was not also re-assessed.
Revised food hygiene rating date	UK date formats: dd/mm/yyyy dd/m/yy d.m.yy dd/mmm/yy dd-mm-yyyy dd mm yyyy dd.mm.yyyy yyyy/mm/dd	This relates to the value described in the entry above and is the date on which the establishment was re-visited and given a 'new' food hygiene rating.

Q4. Of the data supplied, what information exactly will appear at food.gov.uk/ratings?

A4. This depends on the status of the establishment and is summarised in the table below.

Type of business[28]	Status	What will be published?
Does not supply food direct to consumers. Examples include manufacturers, packers, transporters, importers & exporters, distributors.	'Excluded'	Nothing.
Supplies food direct to consumers, is given a rating and there are no sensitivities in relation to publishing full address information. Examples include, supermarkets, restaurants, cafes, pubs (including wet pubs), hospitals, schools etc.	'Included'	• Business name and full address • LAEMS business category • Date of inspection OR date of revised food hygiene rating • Food hygiene rating OR revised food hygiene rating OR 'awaiting inspection' OR 'awaiting publication' OR 'recently inspected – new rating to be published soon' plus the previous rating (for cases where a rating from a recent inspection is within the notification or appeals period) • Breakdown of rating into component scores
Supplies food direct to consumers, is given a rating but there are sensitivities in relation to publishing full address information as they operate or are registered at private addresses. Examples include, home caterers and mobile traders.	'included and private' Note – Local authorities can manually indicate via the portal those establishments to have the address suppressed	• Business name and partial address – local authority name and first part of postcode only • LAEMS business category • Date of inspection OR date of revised food hygiene rating • Food hygiene rating OR revised food hygiene rating OR 'awaiting inspection' OR 'awaiting publication' OR 'recently inspected – new rating to be published soon' plus the previous rating (for cases where a rating from a recent inspection is within the notification or appeals period) • Breakdown of rating into component scores
Supplies food direct to consumers but is not rated on the basis that it is 'low-risk' and consumers would not generally recognise it as being a food business, and there are no sensitivities in relation to publishing full address information. Examples include visitor centres selling biscuits, newsagents and	'Exempt'	• Business name and full address • LAEMS business category • 'Exempt' in place of a food hygiene rating

[28] See Section 2 on scope for further advice on this.

Type of business[28]	Status	What will be published?
chemist shops selling only pre-packed confectionery and/or health foods.		
Supplies food direct to consumers and is given a rating but there are sensitivities about publishing any address information at all or there are security issues. Examples include military establishments.	'Sensitive'	Nothing
Supplies food direct to consumers but is not rated on the basis that it is 'low risk' and consumers would not generally recognise it as being a food business, and there are sensitivities in relation to publishing full address information.	'Exempt and private' Note – Local authorities can manually indicate via the portal those establishments to have the address suppressed	• Business name and partial address – local authority name and first part of postcode only • LAEMS business category • 'Exempt' in place of a food hygiene rating
Child-minders and other establishments where caring services are being provided in the home environment - that still have a valid rating (see Section 2, Q&A 20) - they can no longer opt in.	'Sensitive'	Nothing.
Businesses that have yet to receive an inspection, partial inspection or audit and to be given a rating	'Awaiting inspection'	• Business name and full address • LAEMS business category • ''Awaiting inspection' in place of a food hygiene rating
Businesses that have yet to receive an inspection, partial inspection or audit and to be given a rating, and there are sensitivities in relation to publishing full address information.	'Awaiting inspection and private'	• Business name and partial address – local authority name and first part of postcode only • LAEMS business category • 'Awaiting inspection' in place of a food hygiene rating

Q5. How is the breakdown of the rating into component scores presented and where will it be published?

A5. The breakdown is in a narrative form – descriptors. These are based on consumer research which was undertaken to inform the requirement to provide this information for businesses in Wales as part of the statutory scheme operating there.

The descriptors are shown at Appendix 4.

These will be published on each individual business page. In cases where a rating was changed following a requested re-visit but the intervention rating was not changed, no information will be published.

Q6. How frequently must local authorities upload data?

A6. As a minimum, local authorities should upload data once every 28 days (it must be less than the notification plus appeal period – see Q&A 9) but uploads at least every 14 days (and more frequently if possible) are recommended to reduce delays in publishing new ratings.

There is no maximum upload frequency.

Q7. What data validation is required?

A7. The IT platform will carry out a number of validation routines to check that the necessary data have been supplied for each establishment. These include checks for:

- establishment ID – must be present, must be no more than 255 characters and must be unique to one record in the file;
- establishment name – must be present, and must be no more than 255 characters;
- intervention rating scores for hygiene, structure and confidence in management/control procedures – where present, each must be consistent with one of the prescribed values **and** there must be a valid inspection date supplied **or** all values should be absent;
- business type – must be present and must not exceed 255 characters;
- establishment address – must be present and no address line should have more than 255 characters;
- inspection date (if supplied) - valid date less than or equal to the date of upload;
- revised food hygiene rating (if supplied) - values of 0 to 5 and revised food hygiene rating date as a valid date less than or equal to the upload date.

The upload will fail if any errors are detected such as only one or two Intervention rating scores rather than all three.

Q8. How do local authorities correct errors?

A8. A report identifying errors will be produced by the IT platform when the local authority uploads the data file. Local authorities should review the errors and make the necessary changes within their local IMS or the portal (in the case of mapping being required).

A new data file must then be produced and uploaded if the errors need to be corrected first on the IMS.

After successfully uploading a data file, the data is available for review prior to publication at food.gov.uk/ratings. At this stage, records may be withheld from publication to allow further investigation and until the local authority is content to publish.

Q9. When will a new food hygiene rating be published at food.gov.uk/ratings?

A9. Where the establishment has received a rating of '5', this will be published as soon as the data is uploaded to the system (and the local authority has released it).

In other cases, and as a general rule, the new rating cannot be published until the FBO has had 21 days from the date of notification of the rating in which to appeal.[29] The systems software will, therefore, suppress publication for a default period long enough to allow notification of the result and lodging of an appeal. The results of recent inspections can, therefore, be safely supplied to the portal. The software allows local authorities to force publication where appeals are dealt with earlier than the default period or to delay publication where there is for example, a delay in notifying a rating outcome

During the appeal period the previous rating or 'awaiting inspection', whichever is appropriate, will be displayed. For those businesses that have a previous rating, once a local authority has uploaded to the system, food.gov.uk/ratings will additionally show that a business has been 'recently inspected – new rating to be published soon'.

If an appeal is lodged, the new rating must not be published until the outcome is determined. In such cases food.gov.uk/ratings will show that, for the establishment in question, the assessment of hygiene standards is 'awaiting publication'. The previous rating will not be displayed.

After the appeal period has expired, the rating will be automatically published at food.gov.uk/ratings if no appeal has been lodged.

Q10. What information must be displayed on the local authority's own page at food.gov.uk/ratings?

A10. Each authority must upload key contact details and their logo/banner to this and add a link to the local authority's own website. Any updates should be made as appropriate.

Q11. What must a local authority do if it receives a 'right to reply' from a food business in its area?

A11. FBOs have a 'right to reply' in respect of the rating given and local authorities must publish this at food.gov.uk/ratings with the rating. Businesses will be able to download a standard form from food.gov.uk/ratings, and will be directed to post/email this to their local authority.

The purpose of the 'right to reply' is to enable the FBO to give an explanation of subsequent actions that have been taken to rectify non-compliances or mitigation for the circumstances at the time of the inspection, rather than to complain or criticise the FHRS or 'inspecting officer'.

Where a 'right to reply' is received from an FBO the local authority should review the text before publishing at food.gov.uk/ratings and edit it in order to remove any offensive, defamatory, clearly inaccurate or irrelevant remarks. The text should then be entered by the local authority via the portal against the record for the relevant business.

The IT system will automatically remove 'right to reply' comments when a rating from a more recent inspection or re-visit to the establishment is published.

[29] Where reference to numbers of 'days' are made in this Guidance, it includes weekends and bank holidays.

Q12. Can local authorities publish ratings for establishments in their areas on their own website and/or other websites in addition to food.gov.uk/ratings?

A12. There is nothing to prevent local authorities doing this but they should consider very carefully the accuracy of the data and potential challenge where this is compromised.

The FHRS data are available via an application programme interface (API) and this may be used to publish data (see: http://ratings.food.gov.uk/open-data/en-GB).

Consideration must also be given to how the FHRS is advertised on any other website. A clear articulation of what the FHRS is (including that ratings reflect the standards found at the time of inspection – i.e. a snapshot in time) should be available on any website or other material available about the FHRS. Information about the FHRS and marketing type information (for example reviews or other evaluative information relating to businesses) should be kept separate.

Section 11: Establishing and operating a Consistency Framework

Introduction

11.1 Consistent implementation and operation of the FHRS is critical to ensuring that consumers are able to make meaningful comparisons of hygiene ratings for establishments both within a single local authority area and across different local authority areas, and to ensuring that businesses are treated fairly and equitably. Local authorities participating in the FHRS must establish and operate a Consistency Framework in order to achieve this.

11.2 It is important to note that operation of the FHRS does not affect the statutory duty of local authorities to monitor compliance with food hygiene law and to take enforcement action where appropriate and in accordance with its enforcement policy.

11.3 The Consistency Framework should include the application of the FHRS Brand Standard i.e. the guidance included in this document covering the different elements of the FHRS.

11.4 The Framework should include **monitoring and auditing** to ensure consistent application of the guidance and consistency in the way that interventions are undertaken (and in particular how the intervention-rating scheme set out in the *Food Law Code of Practice* is applied). The Framework should recognise that monitoring and auditing should operate on three levels: within the local authority; within a liaison group/region; and at a national level by the FSA. The measures required should be based on those already in place in relation to the local authority's statutory duty to monitor compliance with, and enforcement of, food hygiene legislation. The aim is to ensure that operation of the FHRS does not place additional burdens on local authorities.

11.5 The Framework should also specify **training requirements** and participation in **consistency exercises,** including any FSA organised **national exercises.**

11.6 Guidance on establishing and operating a Consistency Framework is set out in Q&A format below. The Guidance is not intended to be prescriptive but rather provides local authorities with the flexibility to base their Consistency Framework on existing mechanisms, and to strengthen and build on these where appropriate.

Question and answer guidance

Q1. What elements should make up the Consistency Framework?

A1. The framework should comprise three main elements:

- application of the FSA's guidance on implementation and operation of the FHRS – the Brand Standard;
- monitoring and auditing arrangements (consistency controls based on local authority policies, procedures and documents that meet the requirements in the *Food Law Code of Practice*, *Framework Agreement on Food Law Enforcement* and other official guidance) – internal and external measures – and the actions to be taken to address identified inconsistencies; and
- training requirements and participation in consistency exercises, including national exercises organised by the FSA.

Q2. What does the guidance on implementation and operation of the FHRS cover and why is it important?

A2. It covers the following areas:

- Formal partnership agreements (Section 1);
- Scope (Section 2);
- Scoring using the food hygiene intervention rating scheme set out in the *Food Law Code of Practice* (Section 3);[30]
- Mapping of intervention rating scores to the food hygiene rating (Section 4);
- Notification of food hygiene ratings (Section 5);
- Appeals (Section 6);
- 'Right to reply' (Section 7);
- Requests for re-inspections/re-visits for re-rating purposes (Section 8);
- Use of Food Hygiene Rating Scheme branding (Section 9);
- Use of the Food Hygiene Rating Scheme IT platform (Section 10); and
- Establishing and operating a Consistency Framework (Section 11).

Application of the guidance by local authorities participating in the FHRS will form an essential element of the Consistency Framework. This is key to ensuring fair, equitable and consistent treatment of FBOs. It is also key to ensuring that consumers are able to make meaningful comparisons of hygiene ratings for establishments both within a single local authority area and across different local authority areas.

Q3. What is the FSA's role in relation to consistent implementation and operation of the FHRS?

A3. The FHRS is an FSA/local authority partnership initiative.

The FSA is responsible for keeping implementation and operation of the FHRS under review and, working with stakeholders, to revise and update the associated guidance to ensure that the FHRS is operated fairly and consistently, and to ensure that it does not impact adversely on public health protection.

The FSA also has a monitoring and audit role to check and provide assurance (as far as practical) that the FHRS is operated consistently within and between authorities (see Q&A 9).

Q4. What measures should be put in place for local authority monitoring of operation of the FHRS?

A4. As food hygiene ratings are a means of presenting intervention findings, the internal monitoring arrangements that local authorities must already have in place in respect of their statutory duties to monitor compliance with and enforcement of food law should form part of the Consistency Framework for operation of the FHRS.

All relevant service activities should be subject to proportionate and routine quantitative and qualitative monitoring so that the Service is able to demonstrate its conformance with legislation, with the *Food Law Code of Practice*, with 'the Standard' in the *Framework Agreement on Local Authority Food Law Enforcement* and with official guidance.

These monitoring arrangements should be detailed in the local authority's internal monitoring procedures.

[30] See: http://www.food.gov.uk/enforcement/enforcework/foodlawcop/

Appropriate and proportionate records should be maintained to verify management oversight of key service activities and actions, and the measures taken to address any identified problems.

Q5. What are the key service activities in relation to operation of the FHRS that should be covered?

A5. These include:

- officer competency;
- food business database management;
- carrying out inspections and other interventions;
- interpretation of the intervention-rating scheme set out in the *Food Law Code of Practice*;
- maintenance of intervention records and correspondence;
- service monitoring and related record-keeping; and
- operation of FHRS safeguards - appeals, 'right to reply, and re-inspections/re-visits for re-rating.

Q6. What types of local authority checks are appropriate in respect of these key activities?

A6. A range of existing documents, tools and guidance is available to assist local authorities with this (see Q&A 7) but checks might include: desk top checks of file/database records and correspondence, reality checks, shadowing, joint inspections, inter-authority consistency exercises, business satisfaction questionnaires etc.

Q7. What are these existing documents, tools and guidance?

A7. These include:

- *Food Law Code of Practice* and associated *Food Law Practice Guidance;*[31]
- *Framework Agreement on Local Authority Food Law Enforcement*;[32]
- *Making every inspection count* - internal monitoring advice for local authority food and feed enforcement team managers (FSA summary document);[33]
- FSA report on Inter-Authority and Peer Review Processes, and toolkit of document templates;[34]
- FSA template materials for inter-authority audit focused on FHRS;[35] and
- Local authority existing policies and procedures.

Q8. Should Food Safety Team and Food Liaison Group meetings and activities form part of the Consistency Framework?

A8. Yes. Regular programmed meetings should be used as an opportunity for group training/exercises, learning from others and undertaking co-ordinated consistency and monitoring activities. Regional groups can also provide a support network for local authorities and a forum for discussion and consideration of consistency issues.

---

31 See http://www.food.gov.uk/enforcement/enforcework/foodlawcop/

32 See: http://www.food.gov.uk/enforcement/enforcework/frameagree/

33 See: http://www.food.gov.uk/multimedia/pdfs/enforcement/everyinspection.pdf

34 See: http://www.food.gov.uk/multimedia/pdfs/enforcement/interauthorityreport2010.pdf

35 See: http://www.food.gov.uk/enforcement/auditandmonitoring/auditdocs

Q9. What FSA audit and monitoring arrangements are in place to address consistency in application of the FHRS?

A9. Local Authority Enforcement Monitoring System (LAEMS) data provides information on business compliance levels which may be monitored by the FSA for consistency purposes.

FSA audit of local authority food law enforcement activities is carried out against a planned annual programme. Issues relating to food hygiene ratings are being addressed, where appropriate, in protocols and checklists as part of these planned audits.

FSA 'core' audits focus on inspections, database management and internal monitoring arrangements and include 'reality checks'. These include consideration of consistent scoring/rating and appropriate application of intervention-rating criteria. Such audits identify issues of inconsistency, non-compliance with legislation, the relevant *Food Law Code of Practice* and official guidance.

FSA focused audit programmes may be undertaken from time to time. Such programmes may consider verification of relevant elements of the *Framework Agreement on Local Authority Food Law Enforcement*.

The FSA will also use data from food.gov.uk/ratings, together with feedback from stakeholders on implementation of the FHRS, to identify any consistency issues.

Q10. What local authority audit and peer review arrangements should be put in place?

A10. Many local authorities already participate in third party audit and/or peer review/challenge processes or benchmarking activities of the food service against the 'Standard' in the *Framework Agreement on Local Authority Food Law Enforcement*. Whilst the precise arrangements will vary amongst authorities, these activities will cover issues that relate to the operation of the FHRS and so should form part of the Consistency Framework for its operation.

In addition to individual exercises, benchmarking or other peer review/challenge processes may also be carried out at liaison or regional group level.

Audit protocols and checklists used by the FSA (see Q&A 9) are published on the FSA's website and relevant elements may be used by local authorities as part of any self or peer assessment or inter-authority audit.

Guidance on development and implementation of robust inter-authority audits and a toolkit of document templates to assist Food Liaison Groups and local authorities in the practical aspects of the inter-authority audit process is available at: http://www.food.gov.uk/enforcement/auditandmonitoring/auditscheme/iaauditttoolkit/.

This includes specific templates materials for inter-authority audit focussed on application of the FHRS Brand Standard (see: http://www.food.gov.uk/enforcement/auditandmonitoring/auditdocs

Q11. What will happen if local authorities that have a partnership agreement with the FSA fail to operate this to the standards set by the FSA?

A11. Details about what will happen if local authorities fail to follow in full the FHRS Brand Standard are given in Section 1.

Q12. What consistency training is required and when?

A12. Consistency training should be ongoing and local authorities should ensure that all relevant officers participate in training and that officers meet the competency requirements in the *Food Law Code of Practice*.

Authorities should participate in consistency training organised and funded by the FSA (based on the interpretation of the food hygiene intervention-rating scheme in the *Food Law Code of Practice*), or ensure that they participate in equivalent training. This is necessary to ensure that local authorities are confident that the intervention rating scheme is applied consistently and in accordance with the FSA's guidance.

Local authorities should organise and undertake cascade training of those officers that do not participate in the FSA-funded or equivalent training but are engaged in the inspection of food establishments or in monitoring inspections of food establishments. The course materials from FSA-funded training will be made available for this purpose. Local authorities should consider working with neighbouring authorities or through liaison groups to deliver this cascade training.[36]

Local authorities should also identify additional ongoing training needs and prioritise and plan for these. This should include training for new local authority food officers, for contracted staff and for re-training of local authority food officers where a need is identified (e.g. through internal monitoring and review).

Records of any consistency training should be maintained by the local authority as part of its established internal monitoring arrangements.

Q13. What about consistency exercises?

A13. Local authorities should participate in appropriate consistency exercises, for example intervention rating of suitable scenarios on an ongoing basis.

Local authorities may wish to consider involving food businesses with premises in their area in these exercises.

The FSA funds consistency training and develops/organises national consistency exercises from time to time. Local authorities should ensure that they participate in any national exercises.

Records of participation in consistency exercises should be maintained by the local authority.

Q14. Does participation in the FHRS have an impact on how reports of inspections/other interventions and correspondence with the FBO are managed?

A14. Participation in the FHRS should not affect the local authority's current practice in this regard.

The FHRS does not involve publication of inspection/intervention reports but it is essential that the current food hygiene rating of each food establishment is not contradicted by the authority's related correspondence.

Hygiene reports are discoverable under the Freedom of Information legislation and the FHRS does not affect the statutory right of consumers to request information.

[36] In the longer term, it is the FSA's intention to consider developing a sustainable training resource - the potential for developing interactive web-based training and refresher training will be considered as options.

Q15. Are local authorities required to use a standard template for the report of inspection/intervention?

A15. No. The FSA has, however, developed a standard template – see Appendix 2 - and local authorities are strongly encouraged to use this. It should be noted that the template includes all the information specified at Annex 4 of the *Food Law Code of Practice* to be included in an intervention report.

Where this template is not used, local authorities must ensure that the information specified at Annex 4 of the *Food Law Code of Practice* is provided, either as a separate report or as part of a letter from the food authority to the FBO such that obligations in respect of reports are met.

Local authorities should also provide details of required priority actions/improvements to the FBO[37] in relation to the three elements of the intervention-rating scheme in the *Food Law Code of Practice* so that the findings are clearly linked to the numerical score given for:

- compliance with food hygiene and safety procedures;
- compliance with structural requirements; and
- confidence in management/control procedures.

Actions that are required to ensure compliance with legal requirements must be clearly differentiated from those that are recommendations of good practice (in accordance with section 6.3.14 of the *Food Law Code of Practice*).

This will help ensure clarity for businesses as to why a numerical score was allocated for a particular element.

Q16. What effect will operation of the FHRS have on intervention practice?

A16. Participation in the FHRS should not affect the local authority's current practice in this regard.

The FHRS is compatible with the *Food Law Code of Practice* and should not affect local authorities' use of the flexibilities in the Code (e.g. the intervention-rating may be revised following an inspection, partial inspection or audit).

The FSA will keep the guidance on the FHRS under review to ensure that it remains consistent with any revisions to the *Food Law Code of Practice*.

Q17. Will local authorities be required to take particular enforcement action in relation to food establishments with a particular rating under the FHRS?

A17. Local authorities should carry out enforcement activities in accordance with their documented enforcement policy and procedures in the normal way. They should also have regard to Section 5.2.4 of the *Food Law Code of Practice* which highlights that a food business that fails to comply with significant statutory requirements must be subject to appropriate enforcement action and re-visit inspection(s).

It is anticipated that poorest scoring establishments will receive formal enforcement action in line with the local authority's enforcement policy.

The descriptions of what intervention rating scores might look like in practice at Section 3 outline the likely enforcement action at different ratings, but specifies that action must be in accordance with the local authority's enforcement policy.

The FHRS should not be used as a means of alternative enforcement. It may encourage more proactive attention to compliance on the part of some businesses or

[37] For multi-site businesses, local authorities must ensure that the food hygiene rating is communicated to the head office.

motivate an FBO to rectify non-compliance more rapidly than may otherwise be the case. The FHRS must not, however, undermine the fundamental duty of local authorities to ensure that consumers are protected through the appropriate use of enforcement powers.

Local authorities should advise the FSA of any situations that arise where they consider that operating the FHRS compromises their obligations in terms of the Code.

Q18. How does the FHRS fit with the Primary Authority arrangements?

A18. Existing arrangements and mechanisms should continue.

Local authorities in England and Wales must have regard to the statutory Primary Authority Scheme, Primary Authority guidance issued by BEIS and individual Primary Authority Agreements dealing with food safety and hygiene.

When conducting food hygiene interventions with businesses subject to Primary Authority Agreements, Enforcing Authorities must follow the requirements of any Primary Authority Inspection Plan, liaise with the Primary Authority where appropriate and provide feedback through the mechanism established by BEIS.

With regard to food hygiene ratings given as part of the FHRS, it is not considered necessary for enforcing authorities to notify the Primary Authority of individual ratings. Enforcing Authorities should, however, liaise with the Primary Authority, where appropriate, in discussing policy and interpretation issues to reduce the likelihood of any inconsistencies.

Q19. How does the FHRS fit with the Home Authority Principle arrangements?

A19. Existing arrangements and mechanisms should continue.

Local authorities in the UK should have regard to the Home Authority Principle, and obligations on food law enforcement services relating to this as detailed in the *Food Law Code of Practice* and 'the Standard' in the *Framework Agreement on Local Authority Food Law Enforcement.*

Q20. What is the mechanism for businesses to feed back comments and issues on consistency of operation of the FHRS?

A20. The FSA will monitor the business safeguard procedures for appeals and requests for re-inspections/re-visits for re-rating, complaints, etc on an ongoing basis and this data will help to identify inconsistencies in operation.

A 'right to reply' for individual businesses is included in the FHRS as a safeguard mechanism.

A 'contact us' facility is provided at food.gov.uk/ratings so that businesses may provide feedback to the FSA. The FSA will liaise with local authorities on any relevant issues raised by businesses as appropriate.

Businesses may also provide feedback to their Primary Authority regarding the implementation of the FHRS by the Enforcing Authority.

Q21. What is the mechanism for consumers to feed back comments and issues on consistency of operation of the FHRS?

A21. Consumers can also use the 'contact us' facility at food.gov.uk/ratings to provide feedback to the FSA. The FSA will liaise with local authorities on any relevant issues raised by consumers as appropriate.

This does not preclude consumers from contacting their local authority or the relevant local authority that rated the establishment.

Consumers can feedback comments on the FHRS through the FSA Helpline.

Q22. What is the mechanism for local authorities to feed back comments and issues on consistency of operation of the FHRS?

A22. The FSA has established a Local Authority User Group for England as a Forum for discussing practical implementation issues and for providing the FSA with ongoing feedback on the FHRS.

Local authorities should also continue to use existing mechanisms, including food liaison groups to discuss issues of interpretation and consistency.

Clarification on policy issues may be raised through the Local Authority User Group or directly with the FSA's Food Hygiene Ratings Team.

Appendix 1: Sample partnership agreement between the Food Standards Agency and local authority

[Name of LA Chief Executive/Council or Portfolio Leader]
[Name of LA]
[Address of LA]

[Date]

THE AGREEMENT

Dear [Name of LA signatory],

Implementation and operation of the Food Hygiene Rating Scheme

This letter of agreement is to confirm that [local authority name] agrees to implement and operate the Food Hygiene Rating Scheme in accordance with the Brand Standard set out in The Food Hygiene Rating Scheme: Guidance for local authorities on implementation and operation – the Brand Standard'.

The Agreement comprises this letter and the appended 'Outline of Responsibilities'. Details of the process for terminating the Agreement are also appended.

You are requested to indicate your acceptance of this Agreement by signing both copies of this letter and returning them to the address below as soon as possible.

One copy will be signed on behalf of the Agency and returned to you.

Signed: (On behalf of the Local Authority)	**Signed:** (On behalf of the Food Standards Agency)
Name (Print):	**Name (Print):**
Position:	**Position:**
Date:	**Date:**

Aviation House
125 Kingsway
London WC2B 6NH
Email: hygieneratings@foodstandards.gsi.gov.uk

Food Hygiene Rating Scheme (FHRS) – Outline of responsibilities

[Name of local authority] undertakes to:

- Follow in full the Food Standards Agency's (FSA's) guidance on the FHRS - the Brand Standard; and
- Give early warning of any emerging problems to the FSA so that advice and support may be offered to ensure that the credibility and integrity of the FHRS is not compromised.

The Food Standards Agency undertakes to:

- Keep the guidance for local authorities on the implementation and operation of the FHRS under review and to revise and update it as and when appropriate to reflect the experience of local authorities, any feedback from food businesses or from consumers, or other developments;
- Work with local authorities to resolve situations where they encounter difficulties in fulfilling their responsibilities to follow in full the FHRS Brand Standard in order to ensure that the credibility and integrity of the scheme is not compromised;
- Provide and maintain the central database and on-line search facility for publishing food hygiene ratings and provide the associated IT support and training;
- Provide other support such as promotion of the FHRS to consumers and to businesses through appropriate channels;
- Monitor and audit the implementation and operation of the FHRS to ensure the consistent interpretation and application of the Brand Standard and to work with local authorities to resolve any issues identified through this; and
- Conduct a formal evaluation of the FHRS after it is rolled out and within an appropriate timeframe.

Intellectual Property Rights

Any intellectual property rights (IPR) created during or resulting from the work to support the FHRS shall remain the property of the party by whom or on whose behalf the particular IPR were created.

Data protection

The parties confirm that they will observe their respective obligations in respect of the Data Protection Act 1998. Any data and information introduced by a party to support the work of the FHRS shall belong to that party.

Information access legislation

Both parties acknowledge that the other party is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and each party will assist and cooperate with the other party to enable both parties to comply with such information disclosure obligations and to meet the necessary statutory deadlines.

FHRS - process for termination of Agreement

Note – The aim will be to resolve any problems or issues through informal discussion and that the processes outlined below will be used in exceptional circumstances only.

Prior notice

Where the local authority is considering terminating the agreement, it should give at least 14 days[38] prior notice to the FSA.

Where the FSA is considering terminating the agreement, unless there are immediate risks to public health protection, it similarly will give at least 14 days prior notice to the local authority.

In both sets of circumstances this provides a further opportunity to work together to try to resolve any issues/concerns and, where appropriate, to discuss whether additional support can be provided to allow the local authority to continue operating the FHRS.

Notification

Where the local authority has decided to terminate the agreement, it should notify the relevant FSA Director in writing outlining the reasons for this.

Where the FSA has decided to terminate the agreement, the local authority will be notified in writing of the FSA's decision and the reason for this. The local authority can appeal this decision – see below – but it should be noted that termination of the agreement is not suspended during the period in which such an appeal can be made or pending the outcome of an appeal once lodged.

Actions following termination of Agreement

Irrespective of which party terminates the agreement, the following steps must also be taken to ensure that the credibility and integrity of the FHRS is not compromised and to ensure that the reputations of the FSA, of the local authority concerned, and the businesses in the relevant area are safeguarded.

The FSA will:

- immediately notify stakeholders that the local authority is no longer participating in the FHRS by means of an announcement at food.gov.uk/ratings on both the home page and on the local authority's own page;
- immediately suspend the local authority's access to the national database so that no further ratings can be published; and
- within 14 days, remove the local authority's existing ratings from public access;
- notify the local authority when these steps have been taken.

The local authority will:

- If it also publishes ratings on its own website or another website, immediately notify local stakeholders that the authority is no longer operating the FHRS by means of an announcement on an appropriate website page, and within 14 days, remove any published ratings from its site;
- remove any FHRS branding from its website;

[38] Where references to numbers of 'days' are made these includes weekends and bank holidays.

- suspend distribution of any marketing and advertising material that incorporates FHRS branding;
- remove stickers/certificates from display in food business establishments as soon as possible and at the next planned intervention of that establishment at the latest;
- advise businesses in the area that the FHRS no longer operates and that the continued use of any branded materials for marketing and advertising purposes may constitute an offence under trading standards legislation; and
- confirm to the FSA that these actions have been taken.

Local authority appeals

If a local authority considers that the FSA decision to terminate the Agreement is unjust it may appeal against this. The process is as follows:

- The local authority can, within 14 days from the date of notification of termination, ask for the matter to be referred to an Advisory Disputes Panel (see box below).
- The Advisory Panel will be convened and will investigate the matter and report its findings and recommendations within six weeks.
- The FSA will review the Panel's report and within 14 days will notify the local authority of its decision as to whether it accepts the Panel's view.
- If the local authority remains dissatisfied its Chief Executive can within 14 days request that the dispute be referred to the FSA's Chief Executive.
- The FSA's Chief Executive will review the case and the Panel's report and issue a final decision that will be notified to the local authority within 14 days.

Advisory Disputes Panel

Membership will comprise representatives from or nominated by the Local Government Association and the Chartered Institute of Environmental Health as well as consumer and food industry representatives.

The Panel will elect its own chair.

The Secretariat function will be provided by the FSA.

Appendix 2 - Standard template forms

A number of FHRS templates forms are available.

Appeal form/'Right to reply' form/request for re-visit form

These are for use by FBOs. They can access copies via the 'Frequently Asked Questions' page of food.gov.uk/ratings.

Templates are also available on the local authority FHRS resources page of the FSA website at www.food.gov.uk/fhrsresources so that local authorities may download then, add their logo and relevant contact details and then upload them to their own websites so that local businesses may use them or provide hardcopies to FBOs if requested to do so.

Standard template intervention report

This is for use by local authorities and includes all the information specified at Annex 4 of the *Food Law Code of Practice.* In completing this form, it is important that actions that are required to ensure compliance with legal requirements are clearly differentiated from those that are recommendations of good practice (see section 6.3.14 of the *Food Law Code of Practice*).

As with the other forms, a template is available on the local authority FHRS resources page of the FSA website (see link above) so that local authorities may download it and add their logo.

A report containing the information detailed in the form must be provided to the FBO following each intervention.[39] The information may be provided as a separate report or included as part of a letter from the Food Authority.

For FHRS purposes, the details of required improvements must be presented in any letter or report to FBOs in relation to the three elements of the intervention rating scheme used in determining the food hygiene rating. The FBO should be advised about the mechanisms for appealing the rating, for requesting a re-inspection/re-visit and the 'right to reply' mechanism, about when the food hygiene rating will be published at food.gov.uk/ratings, and when the sticker will be provided (Section 6 on the appeals procedure provides further information).

[39] For multi-site businesses, local authorities must ensure that the food hygiene rating is communicated to the head office.

FOOD HYGIENE RATING

Food Hygiene Rating Scheme: Appeal form

Notes for businesses:

- As the food business operator of the establishment you have a right to appeal the food hygiene rating given following your inspection if you do not agree that the rating reflects the hygiene standards and management controls found at the time of the inspection.
- **You have 21 days (including weekends and bank holidays) from the date of receipt of the notification letter to lodge an appeal.**
- Please use the form below and return it to the Lead Officer for Food from your local authority – contact details are provided with the written notification of your food hygiene rating.
- Your rating will be reviewed and the outcome of your appeal communicated to you within 21 days.

Business details

Food business operator/proprietor			
Business name			
Business addresses			
Business tel. number		Business email	

Inspection details

Date of inspection		Food hygiene rating given	
Date notified of rating			

Appeal

☐ I do not agree with the food hygiene rating given by the food safety officer because (please explain below under each of the three headings).

Compliance with food hygiene and safety procedures	
Compliance with structural requirements	
Confidence in management/control procedures	

Signature			
Name in capitals			
Position		Date	

Please now return this form to: **Local authority contact details to be included**

FOOD HYGIENE RATING

Food Hygiene Rating Scheme: Request for a re-visit

Notes for businesses:

- As the food business operator of the establishment you have a right to request a re-visit for the purposes of re-rating if you have taken action to rectify the non-compliances identified at the time of inspection.
- You can usually make one request for a re-visit per each planned statutory inspection by the local authority and you can make this at any time after the statutory inspection provided that you have made the required improvements. Some local authorities will charge for this re-visit. The letter informing you of your rating will indicate this and the amount charged. Where a charge is made, there is no limit on the number of requests you may make.
- You must provide details of the improvements made with your request, including supporting evidence where appropriate.
- If the local authority considers that you have provided sufficient evidence that the required improvements have been made, and provided that a three month 'stand still' period has passed since the statutory inspection, the local authority will make an unannounced visit. This will take place within three months of the end of the three month 'stand still' period or within three months of the request if this made after the 'stand still' period (if you were only required to make permanent structural improvements or repairs or to upgrade equipment, the local authority can choose to carry out the requested re-visit sooner than this). Where the local authority charge for the re-visit, the stand-still period will not be applied and the re-visit will be carried out within three months of the receipt of your request and payment of the fee.
- The local authority officer will give you a 'new' food hygiene rating based on the level of compliance that is found at the time of the re-visit - you should be aware that your rating could go up, down or remain the same.
- To make a request for a revisit, please use the form below and return it to the food safety officer from your local authority – contact details are provided with the written notification of your food hygiene rating.

Business details

Food business operator/proprietor			
Business name			
Business addresses			
Business tel. number		Business email	

Inspection details

Date of inspection		Food hygiene rating given	

Action taken

Please describe the remedial action you have taken with reference to the issues identified in the inspection letter/report provided to you by your local authority with your score:

Compliance with food hygiene and safety procedures	
Compliance with structural requirements	
Confidence in management/ control procedures	
Please provide any other supplementary evidence (e.g. photographs, invoices, copies of relevant HACCP documentation etc.).	

Signature			
Name in capitals			
Position		Date	

Please now return this form to: **Local authority contact details to be included**

FOOD HYGIENE RATING

Food Hygiene Rating Scheme
'Right to reply'

Notes for businesses:

- As the food business operator of the establishment you have a 'right to reply' in respect of the food hygiene rating given following your inspection.
- The purpose is to enable you to give an explanation of subsequent actions that have been taken to make the required improvements as detailed in the inspection letter, or to explain mitigation for the circumstances at the time of the inspection. It is not for making complaints or for criticising the scheme or food safety officer.
- If you wish to use this 'right to reply', please use the form below and return it to the food safety officer that undertook your inspection - contact details are provided with the written notification of your food hygiene rating.
- Your comments will be reviewed by the food safety officer and may be edited in order to remove offensive or defamatory remarks before being published online and displayed together with your food hygiene rating at food.gov.uk/ratings.
- There will be a statement at food.gov.uk/ratings that will highlight that the accuracy of your comments has not been verified by local authority officers

Business details

Food business operator/proprietor

Business name

Business addresses

Inspection details

Date of inspection

Food hygiene rating given

Comments

☐ I agree with the inspection results but have since carried out the following improvements (tick all that apply):

- ☐ The establishment has been thoroughly cleaned and procedures are in place to ensure that cleanliness is maintained.
- ☐ The establishment has been or will shortly be fully renovated.
- ☐ A new management system has been implemented.
- ☐ There is now a new manager and/or new staff.
- ☐ The staff have been trained/re-trained/given instruction/are under revised supervisory arrangements.
- ☐ Other – please specify below.

☐ The conditions found at the time of the inspection were not typical of the normal conditions maintained at the establishment and arose because (Please explain below and use only the space provided. You can also state any other improvements made):

Signature

Name in capitals

Position

Date

Please now return this form to: Local authority contact details to be included

CITY OF LOCAL AUTHORITY COUNCIL

Food business establishment/food premises intervention report

Business details

Name of the food business operator/food business proprietor	
Trading name	
Business/Branch and Head Office addresses	
Registered address(if different)	
Type of business	

Intervention details

Date, time and intervention type (to be specified)	
Specific food law under which intervention conducted	
Areas inspected/audited (to be specified)	
Name(s) of person(s) seen and/or interviewed	
Documents and/or other records examined (to be specified)	
Samples taken (to be specified)	
Key points discussed during the visit (to be specified)	
Action to be taken by the Food authority (to be specified)	

Priority actions/improvements necessary

Note – Actions that are required to ensure compliance with legal requirements and those that relate to recommendations of good practice are identified separately.

Compliance with food hygiene and safety procedures	
Compliance with structural requirements	
Confidence in management/control procedures	

Food hygiene rating

Criteria assessed	Intervention rating score
Compliance with food hygiene and safety procedures	
Compliance with structural requirements	
Confidence in management/control procedures	
Food hygiene rating	

Notes for food business operator

- If you consider that the rating given is unjust, you may appeal this with the local authority lead officer for food or in his/her absence, by the designated deputy.
- More information on the scheme including template forms for lodging an appeal or 'right to reply' or for making a request for a re-inspection for re-rating purposes is available at food.gov.uk/ratings. Paper copies will be provided on request.

Local authority and inspecting officer details

Signed	
Name in capitals	
Designation of inspecting officer	
Contact details of inspecting officer	
Contact details of senior officer in case of dispute	
Food Authority name and address	
Date	

Appendix 3 - Logos and stickers

Note

Details of where to order stickers are available on the FSA website at:
http://www.food.gov.uk/enforcement/enforcework/hygienescoresresources/fhrsbranding

Logos

Stickers

Examples for the rating of '3' and 'awaiting inspection' are used

There are two options for stickers:

1) FSA logo plus statement 'this scheme is operated in partnership with your local authority'; and

2) FSA logo and space for the local authority logo to be added by the commercial printer/supplier.

Certificates

Note - Policy on the FHRS display materials provided to businesses was revised in July 2014. Certificates are no longer issued and businesses are given stickers only. Certificates that were issued before July 2014, however, remain valid until a new rating is given.

Appendix 4 – Descriptors for ratings breakdown at food.gov.uk/ratings

Information on the intervention rating component scores used to determine food hygiene ratings are published at food.gov.uk/ratings.

Description of component at food.gov.uk/ratings	Intervention rating score	Descriptor used on website
Compliance with food hygiene and safety procedures		
Hygienic food handling Hygienic handling of food including preparation, cooking, re-heating, cooling and storage	0	'very good'
	5	'good'
	10	'generally satisfactory'
	15	'improvement necessary'
	20	'major improvement necessary'
	25	'urgent improvement necessary'
Compliance with structural requirements		
Cleanliness and condition of facilities and building Cleanliness and condition of facilities and building (including having appropriate layout, ventilation, hand washing facilities and pest control) to enable good food hygiene	0	'very good'
	5	'good'
	10	'generally satisfactory'
	15	'improvement necessary'
	20	'major improvement necessary'
	25	'urgent improvement necessary'
Confidence in management/control procedures		
Management of food safety System or checks in place to ensure that food sold or served is safe to eat, evidence that staff know about food safety, and the food safety officer has confidence that standards will be maintained in the future.	0	'very good'
	5	'good'
	10	'generally satisfactory'
	20	'major improvement necessary'
	30	'urgent improvement necessary'