

Crawley Borough Council

	Report No: PES/258	
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Report to the Licensing

Committee

30th October 2017

Proposed Charging Scheme for Food Safety Inspections Linked to National Food Hygiene Rating Scheme

Report of the Head of Economic and Environmental Services, *PES/258*

1 Purpose:

- 1.1 To consider charging food businesses in Crawley for food safety rescore visits made under the national Food Hygiene Rating Scheme (FHRS).

2. Recommendations:

- 2.1 That the Committee agrees to the introduction of a flat rate charge for rescore FHRS visits requested by food businesses.

3. Reasons for Recommendations:

- 3.1 Through adopting a charging scheme for rescore FHRS visits the Council will be able to assist local food business to improve. This will be beneficial as it will reduce local public health risk due to poor food hygiene practices and it will also help local business improve their performance and advertise this fact to help them prosper.
- 3.2 Through adopting a charging scheme Environmental Health Officers will be able to assist in regards to 3.1 above but the Council will be able to recover its costs for providing the additional non statutory role.
- 3.3 The adoption of a charging scheme will enable the Council to make the following changes as permitted under the Brand Standard in respect to the FHRS.
 - The 'standstill' period will no longer apply when a fee is charged and the requested re-inspection/re-visit must be carried out within three months of receipt of the request or, where payment is required in advance, the payment of the fee

- There will be no limit on the number of requested re-inspections/re-visit a business can make, and the fee may be charged for each re-inspection/re-visit carried out; and
- The Local Authority's considerations when deciding whether or not to agree to a request are unchanged

4. Background:

- 4.1 The Food Standards Agency (FSA) are the owners of the National Food Hygiene Rating Scheme (FHRS) which is administered locally by the Environmental Health Team. Under this scheme food business operators are given a rating between 0 (urgent improvement necessary) and 5 (very good) for the standards of food hygiene found at the time of their routine inspection. The score is based on three parts of the scoring method used to determine inspection ratings and risk in Annex 5 of the Food Law Code of Practice namely food hygiene structure, food hygiene safety and confidence in management.
- 4.2 Where businesses are awarded a score less than the maximum 5, they are entitled to request a rescore with a view to obtaining a higher score after undertaking necessary improvements.
- 4.3 The FSA have recently amended the guidance document which sets the operational rules for the scheme known as the 'Brand Standard' (version 6) to allow Local Authorities to assist local business by accessing multiple revisits for the purposes of improving their score. The Brand Standard also enables food business to access revisits in a far more expedient manner where the Local Authority responsible operate a scheme of charging for the inspection in order to cover their costs. Local Authorities who choose to adopt a charging scheme are also able amend the so called stand still period allowed further to an inspection being undertaken and the results appearing on the FHRS website.
- 4.4 The Food Standards Agency (FSA), who consider charging is perfectly legal has also issued guidance that the adoption and implementation of the FHRS by local authorities falls within the general power under The Localism Act 2011.
- 4.5 The FSA 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, also falls within the general power of the Localism Act 2011.
- 4.6 The FSA considers that each of these circumstances apply to re-inspections because:
 - a re-inspection can be properly described as a service which a local authority provides on a non-commercial basis to a food business operator with that food business operator's agreement;

- the FHRs is a non-statutory scheme in England, meaning that the local authority is under no statutory duty to perform a re-inspection; and
- for the reasons set out in the Agency's publication of September 2010, the local authority does not have any other power to charge a food business operator for a re-inspection.

- 4.7 Locally Brighton & Hove City Council was selected by the FSA to take part in a national pilot project to charge for such re-inspections. A charge of £90 was used in the pilot. However, in order to fully recover costs, BHCC suggest that £145 would be needed. The trial at BHCC proved successful and Horsham District Council have also decided to provide revisits for FHRs rescoring purposes for a fee.
- 4.8 Under the provisions of The Localism Act 2011 Crawley Borough Council would also be permitted to introduce a charging scheme.
- 4.9 The Environmental Health Service has not offered additional visits over and above those specified by the Brand Standard which enables a food business to have a further visit within a period of 3 months if they undertake the necessary improvements. Only a small number of requests have traditionally been received in the order of 4 -5 annually. It is nevertheless hoped that further to offering a service to improve food hygiene and FHRs scores this will increase accordingly. Due to the fact the Council may recover any costs associated with this service additional resources could be funded if needed although this is considered as highly unlikely to occur.
- 4.10 It is not proposed that re-visits and inspections undertaken in order to protect public health or evaluate if further enforcement action is applicable will be included within the scope of the charging scheme.

5. Staffing, Financial and Legal Implications/Powers:

- 5.1 Financial Implications: The proposed charge is subject to the council's Corporate Fees and Charges Policy. The proposed charge is £145 which is less than the £160 introduced in Wales as part of a mandatory display scheme and has been calculated to ensure that costs are recovered based on research and experience more locally in Brighton and Hove. The fee will be reviewed in line with all other Environmental Health and Licensing charges on an annual basis and any variances will be agreed with the Portfolio Holder in the normal fee setting round accordingly.
- 5.2 The potential revenue income is anticipated to be minimal initially but small incremental growth may be anticipated.
- 5.3 Legal Implications: The Council has power to charge for the discretionary service covered by this report under the Localism Act 2011. There are no restrictions in terms of charging for this service but the charging policy must comply with the Council's statutory duties (including the Human Rights Act and Public Sector Equalities Duty) and the manner of exercising the power must comply with general administrative law principles e.g. propriety of purpose. As the charging is not will not be undertaken through

a company, the amount of the charges must be set at a level which is limited to costs recovery which may include overheads and other central costs.

5.4 Equalities Implications: None

5.5 Staffing Implications: There are no staffing implications associated with these recommendations as there is sufficient capacity within the service to undertake this work.

6.0 Risk Implications

6.1 Delays or restrictions to food business operators requesting revisits may prevent them improving food hygiene scores until the next routine visit which may be up to 24 months in some instances. This may have a negative impact in terms of overall food hygiene ratings in Crawley as regards the economy and prevent local businesses succeeding and growing.

7.0 Environmental Implications

7.1 None.

8.0 Sustainable Community Strategy and Corporate Plan

8.1 The report relates to the following areas in which the Council operates to enhance the town and the quality of life of local people:-

(i)	Prosperity	y
(ii)	Community	y
(iii)	Environment	y
(iv)	Value for Money	y

9.0 Background Papers

- i. [FHRs Brand Standard](#)
- ii. [Food Law Code of Practice](#)
- iii. [Localism Act 2011](#)
- iv. [FHRs Charging for Revisits Pilot](#)

Contact Officer: Tony Baldock
Environmental Health Manager
Email: tony.baldock@crawley.gov.uk
Tel: 01293 438220