

**HUNTINGDONSHIRE DISTRICT COUNCIL**

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| <b>Title:</b>               | The Food Hygiene Rating Scheme (FHRS) – Introduction of Cost Recovery Arrangements for Re-scoring Visits |
| <b>Meeting/Date:</b>        | Licensing and Protection Committee – 17 November 2016  |
| <b>Executive Portfolio:</b> | Executive Councillor for Community Resilience –<br>Cllr Steve Criswell                                   |
| <b>Report by:</b>           | Commercial Team Leader – Keith Lawson  |
| <b>Ward(s) affected:</b>    | All  |

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**Executive Summary:**

The Food Hygiene Rating Scheme (FHRS) is operated by local authorities in England, Northern Ireland and Wales and applies to a wide range of food businesses. Each business is given a rating after an inspection by a local authority inspector and the ratings range from the top score of 5 (“very good”) down to 0 (“urgent improvements necessary”). A business can apply for a re-scoring inspection and the local authority is obliged to carry out that inspection if the business can provide sufficient evidence of the improvements carried out since the original inspection.

Re-scoring inspections place unforeseen demands on resources and historically the costs have been borne within existing budgets. However, changes in legislation and updated guidance from the Food Standards Agency (FSA) in its FHRS ‘Brand Standard’ mean that local authorities can now charge for such inspections. The FSA invited Huntingdonshire District Council (HDC) to take part in a 12 week trial to test the introduction of cost recovery arrangements as an “early adopter”.

The FSA has asked HDC to report back on the results for the period between 15 August and 7 November and confirmed that all early adopters can continue to recover costs after the end of the trial period. We introduced a fee of £90 on 1 September and our officers will not carry out a re-scoring inspection unless the business has submitted a full application and paid the fee. This approach is consistent with the Council’s continued evolution toward the commercialisation of services.

**Recommendation(s):**

Members are requested to:-

1. Comment on the introduction of the fee in order that those comments can be incorporated into the final report to the FSA;
2. Agree to receive further reports at future meetings.

## **1. PURPOSE OF THE REPORT**

- 1.1. The report provides information about the introduction of cost recovery arrangements for the provision of re-scoring inspections associated with the Food Hygiene Rating Scheme (FHRS).

## **2. WHY IS THIS REPORT NECESSARY?**

- 2.1. At the meeting on 19 July Members were informed about the plans to introduce cost recovery arrangements and requested an update at the next meeting.
- 2.2. Local authorities are expected to operate the FHRS in accordance with the FSA's requirements (the "Brand Standard"). Under the Brand Standard food businesses can request a re-scoring inspection if they have been issued with an FHRS rating of lower than 5. They must provide detailed information about the hygiene improvements that have been implemented since the original inspection, upon receipt of which the local authority must carry out the re-scoring inspection.

## **3. LEGAL FRAMEWORK**

- 3.1 Historically, local authorities have not been allowed to charge for re-scoring inspections. In 2010 the FSA published its views about how local authorities should operate the scheme. At that time their view was that local authorities did not have the power to charge for re-scoring inspections, either under domestic food hygiene law or under section 93 of the Local Government Act 2003 (the power to charge for "discretionary" services).
- 3.2 However, since the publication of those views, the Localism Act 2011 has been passed and it introduced a range of measures to devolve more power to local authorities. One of those powers is contained in section 1 of the Act and it means that in certain circumstances, local authorities can now charge for some of their functions. The FSA's view is that the operation of FHRS falls within those general powers as a result of which it is appropriate to charge for re-scoring visits on request.
- 3.3 The basis of their decision was that:
  - a) The re-scoring visits are provided on a non-commercial basis;
  - b) The local authority is not under a statutory duty to carry out re-scoring visits and;
  - c) The local authority does not have any other power to charge for the visits.

## **4. INVITATION FROM THE FSA**

- 4.1. In July 2016 the FSA invited HDC to participate in a trial to test the introduction of cost recovery arrangements over a 12 week period up to 7 November. All participating local authorities (so-called "early adopters") would be able to continue to recover costs after the trial and are then expected to report back to the FSA with their findings.
- 4.2. The introduction of cost recovery arrangements is made possible by the Localism Act 2011 which allows local authorities to introduce charges subject to certain criteria. The way in which local authorities operate FHRS satisfies those criteria and we introduced a fee of £90 (incl. VAT) on 1 September.

## **5. OPTIONS CONSIDERED**

- 5.1. There was no obligation to take part in the cost recovery trial but had we decided not to take part, then we wouldn't have been able to introduce cost recovery arrangements as soon as the trial allowed.
- 5.2. There was very little work associated with setting up the trial arrangements and there was widespread support to do so from within the Commercial Team. Anecdotal evidence suggested that food businesses would not object to the introduction of a reasonable fee.
- 5.3. In 2015-16 we received 23 applications for re-scoring inspections, all of which were processed according to the Brand Standard and provided free of charge.
- 5.4. The introduction of cost recovery represents a new income stream that HDC could not ignore. There have already been 16 applications for re-scoring inspections since 1 April and it is reasonable to assume that by 31 March 2017 we will receive at least as many as we did in 2015-16. If applications continue at the current rate and they contain all the supporting information then they would be a source of additional income.

## **6. DETERMINATION OF THE FEE**

- 6.1. Most of the work associated with an application is completed by the officer who carried out the original inspection. There is also a small contribution from the administration team.
- 6.2. The Accountancy Team provided the hourly rates of pay for the officers who deal with the applications and our records show that it takes almost 2½ hours to deal with each re-scoring application.
- 6.3. The FSA stated that there should be a single "across the board" fee, that it should be fair and cover, but not exceed, the cost of delivery. It was agreed that a fee of £90 (incl. VAT) would be required for each application and that it would be introduced as soon as possible after the commencement of the FSA trial on 15 August.

## **7. IMPLEMENTATION**

- 7.1. The fee of £90 was introduced on 1 September.
- 7.2. Since the introduction of the application fee, four businesses have applied for re-scoring inspections all of whom have paid the fee. This equates to approximately two applications per month, is consistent with the number of requests received in 2015-16 but it might be premature to suggest that the introduction of a fee has affected the likelihood of an application.

## **8. LINK TO THE CORPORATE PLAN**

- 8.1. These arrangements support the wider corporate objective to "*Improve the efficiency of service delivery and become more business-like*".

## **9. LEGAL IMPLICATIONS**

- 9.1 See 3.1, 3.2 and 3.3.

## **10. RESOURCE IMPLICATIONS**

10.1 None

## **11. OTHER IMPLICATIONS**

11.1. It is widely expected that the mandatory display of FHRs window stickers will be introduced in 2017. This will provide an extra incentive for food businesses to achieve the best possible FHRs rating, may result in an increase in the number of applications for re-scoring inspections and in turn this represents an opportunity for additional income.

## **12. REASONS FOR THE RECOMMENDED DECISIONS**

12.1. Members' comments are welcomed and will be incorporated into the final feedback to the FSA.

## **CONTACT OFFICERS**

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