Food Hygiene Rating Scheme
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The Food Hygiene Rating Scheme (FPRS) is a partnership initiative of the Food Standards Agency (FSA) and local authorities. It is intended to provide more information to consumers about the hygiene standards of the food businesses they frequent. It applies only in England, Wales and Northern Ireland.

Scotland has a separate but comparable scheme (the Food Hygiene Information Scheme). A ‘Brand Standard’ has been published by the FSA providing details and guidance on the operation of the Scheme.

Participation in the Scheme by local authorities or businesses is not, as of yet, mandatory in England, Scotland and Northern Ireland. The introduction of the Food Hygiene Rating (Wales) Regulations 2013 saw Wales become the first country in the UK to introduce a mandatory scheme requiring food businesses to openly display their hygiene rating.

Using elements of the Food Law Code of Practice, businesses are rated on a six-point scale, from zero to five, with each ‘tier’ corresponding to a specific description. Zero indicates that a business or premises is in need of urgent improvement, while five signifies that conditions have been found on the most recent inspection to be very good. Four equates to premises considered ‘good’; three to ‘generally satisfactory’; two to ‘improvement necessary’; and one to ‘major improvement necessary.’

How to participate in the scheme?

To participate, local authorities must sign a formal agreement with the FSA on the operation of the Scheme in their area. This formal agreement commits the local authority to abide by the ‘Brand Standard’ for the FHRS and the FSA to support the Scheme.

Generally, the FHRS will only apply to those businesses selling food directly to consumers. This includes restaurants, cafes, sandwich shops, pubs, hotels and other caterers such as schools, hospitals and care homes. Retailers such as supermarkets are also covered, but certain low risk operations (for example, newsagents who sell sweets) are not covered. Establishments operating from private addresses (for example child minders) are exempt, but home caterers are not exempt. Exempt food businesses may, however, opt in to the scheme if they wish. A sticker and/or a certificate showing the rating of the premises will be provided for businesses to display.

The immediate objective of the scheme is to provide consumers with more information about food businesses.

It is hoped that this will influence their decision-making when it comes to eating out or purchasing food. Better informed consumers generally make better decisions, which should translate into a shift in custom away from the poorly rated businesses towards the higher rated ones. The introduction and development of a market pressure such as this should serve to encourage poorly performing businesses to improve or exit the market. Over the longer term, as awareness of the Scheme becomes more widespread, the general level of hygiene in businesses directly serving consumers is expected to improve with a consequent
reduction in the number of reported food poisoning cases.

The operation of the FHRS will be monitored and evaluated by the FSA and revised as necessary.

**Legal requirement**

The legal basis for the Scheme can be found in the Food Standards Act 1999 (‘the FSA Act’), section 1(2), section 6, section 7 and section 21. The participation of local authorities is covered by section 2 of the Local Government Act. In Northern Ireland, the FSA receives information from local authorities, interprets it and produces ratings for publication.

**Inspections**

Inspections to rate businesses under the scheme are carried out by officers exercising their statutory powers. The compilation and publication of a rating following such a visit is a new outcome, but one which is considered legitimate. As a result, authorised officers carrying out inspections as part of their normal work programmes are permitted to produce ratings under the FHRS with local authorities and the FSA being permitted to publish them as appropriate. An inspection carried out for the sole purpose of rating a business is also permissible if the business has requested it, as the authorised officer will be on the premises by invitation.

**Charging**

The scheme, and participation in it, is free. Under European Union (EU) legislation, charges may be levied for official controls. However, there are no charges currently applied to the inspection of the type of food businesses covered by the FHRS. The rating of a business under the scheme does not constitute an official control and cannot be charged for. Similarly, re-visits carried out as part of a programme of official controls cannot be charged for. Where a business requests a visit or re-visit this would not be considered to be an official control either and so a fee would not apply.

Certain legislation, for example section 93 of the Local Government Act 2003 (covering England and Wales), allows authorities to charge for ‘discretionary’ services. Nevertheless, a local authority participating in the FHRS is bound to apply it in its entirety to all relevant food businesses in their area. Under the scheme, in the interests of fairness, businesses may request a re-inspection or re-visit. Considering these requirements it is considered difficult to identify re-inspections and re-visits as ‘discretionary.’

**Publication**

Additionally, fairness also requires that, an appeal process is available under the Scheme; ratings are published in a timely fashion; the Scheme is clearly described; ratings and other marketing information used by the business are kept distinctly separate; and, that negative symbols or descriptors are not used. Such measures serve not only to ensure the FHRS is fairly administered, but that the risk of someone suffering defamation, or a malicious falsehood being perpetrated, are minimised. It also ensures that questions about the Scheme’s validity under human rights legislation should not arise.

Ratings are published online and businesses are provided with a sticker or certificate for display purposes showing how they fared. However, businesses are not required to display the sticker or certificate.
**Setting up or Moving to the FHRS**

A significant majority of local authorities across the UK are now operating FHRS in their areas.

The FHRS can be implemented by local authorities who already have a local or regional scheme in place, or by local authorities who have no such scheme operating. Resources are available in the FHRS Brand Standard to facilitate local authorities in both instances. These resources also allow local authorities to assess whether participating in the FHRS is appropriate for them, and guidance is provided for use in communicating with businesses and elected members.

In joining or moving to the FHRS two options are suggested. First, an authority may opt to decide a launch date then rate businesses from that point forward.

Alternatively, they may opt for a ‘critical mass’ approach, rating a large number of businesses using historical data or ongoing inspections and launching the scheme publicly when a sufficiently large proportion of premises in their area have been rated. A number of local authorities in an area may wish to co-ordinate their activities and launch the scheme simultaneously for greater impact.

In the case of local authorities looking to move from a pre-existing scheme to the FHRS (‘migrating authorities’), work will have to be undertaken to relate one to the other. The scope of both schemes should be compared and those premises whose rating may change (either up or down) as a result of the migration will need to be identified. Whether an authority is migrating or implementing the FHRS from first principles, checks will need to be carried out on databases to assure the quality of the information used in compiling ratings.

**Rating Food Businesses**

Under the FHRS, each registered food business establishment, unless exempt, should receive a rating. Ratings are based on the risk evaluation mechanism included in the Food Law Code of Practice. There are three components in the ratings used under the Scheme:

- 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.)
- Confidence in management/control procedures.

A premises or business when visited will be evaluated in respect of risk in the normal way before elements of the evaluation are used to calculate the rating to be published under the FHRS. Under each element of the rating there are a range of scores available. Information on which score should typically apply in different circumstances is contained in the Food Law Code of Practice and the FHRS Brand Standard.

The mapping mechanism by which totals allocated under the Food Law Code of Practice equate to the six tiers of the FHRS is outlined in the Brand Standard. A business scoring greater than 50 under the Food Law Code of Practice would be rated as ‘0’ (‘urgent improvement necessary’) under the FHRS (the bottom tier); to be rated in the second tier...
('good') of the scheme a food business must be assessed at 20 under the three elements from Food Law Code of Practice, with no single element attracting an assessment in excess of ten; a business assessed at between 25 and 30 and with no individual element assessed at greater than ten will be mapped to the third tier of the FHRS (‘generally satisfactory’); the fourth tier (‘improvement necessary’) covers businesses rated at between 35 and 40 (and no single element above 15). Finally the fifth tier (‘major improvement necessary’) is for businesses found to be between 45 and 50 with no score greater than 20 and a business assessed at between 0 and 15 with no individual element assessed at greater than five will be rated in the top tier (“very good”) of the FHRS.

Where a business meets the overall requirements to qualify for a particular tier, but not the additional requirements it would drop to the tier where the additional scoring factor is permitted. For example a premises achieving 30 would only be ranked in the third tier if every element of this total was ten or less; if any element exceeds ten, but is less than 15, the premises in question would be placed in the fourth tier, or even the fifth tier if an element of its evaluation was assessed at greater than 20.

Local authorities should also have a policy on when and how businesses will be notified of their rating, for example verbally at the end of a visit or in writing at a later date. In any event, ratings must be issued in writing without undue delay and within 14 days of the inspecting officer’s visit. The following information should be provided to businesses along with their rating:

- Details of why the establishment was assigned the rating and, if the top rating was not achieved, the actions needed to improve compliance
- Details of when the food hygiene rating will be published and when the business can expect to receive its certificate and sticker
- Details of the appeals process.

The information explaining the rating given to the business should explain how the business performed under each of the three elements of the Scheme (hygiene, structure and confidence in management/control procedures).

Where appropriate, local authorities should ensure that head offices receive notification of any ratings issued in respect of business units operating in the authority’s area.

New food businesses covered by the Scheme should be rated at the first inspection, partial inspection or audit. Until it is visited, the food business operator may request an ‘awaiting inspection’ certificate and sticker for use on their premises. These should be provided by the local authority.

Where a food business operator changes, the establishment should be re-registered and treated as a new food business. Previous ratings published under the FHRS should be removed from the Scheme’s website and the status of the business should be noted as ‘awaiting inspection.’ If the name of business changes, but nothing else, then this should be reflected on the website and a new sticker and certificate (with the new name) issued, but the rating should not be changed.

Right to Reply
Food businesses are allowed a right to reply under the FHRS. Using this they may provide an explanation of any actions taken, since the rating was issued, to rectify non-compliances. They may also provide mitigation for the circumstances at the time of the inspecting officer’s visit.
Appeals

A local authority participating in the FHRS must have an appeals procedure in place and available to businesses. If a food business considers that the rating determined by the inspecting officer is ‘unjust,’ they are allowed to appeal the matter to the local authority’s Lead Officer for Food or, in their absence, the designated deputy. However, businesses may also take up the matter informally with the inspecting officer before activating the formal appeals process.

An ‘unjust’ rating is one that the business considers not to reflect the hygiene standards and management controls found at the time of the officer’s visit. Under the FHRS, businesses are encouraged, but not obliged, to discuss any issue they might have with regards to a rating with the inspecting officer initially. Only once this has been attempted should recourse be had to the formal appeals process.

Appeals must be lodged within 14 days of the business being notified of its rating and while they are being dealt with the rating is not published. The person dealing with the appeal has seven days from when the appeal is made to decide on the matter and communicate that decision to the business.

Details of the appeals procedure should be supplied to food businesses when they receive their rating. This information should make it clear that the 14 days within which appeals are allowed begins once the notification of the rating has been issued to the business in writing.

Re-inspections, Re-visits and Re-rating

Where a business has made necessary improvements to address the non-compliances identified during a planned inspection, partial inspection or audit they may request one re-inspection or re-visit. Requests must be made in writing and must state that the required works have been completed. Re-inspections and re-visits under the FHRS are separate to any normal follow-up enforcement action that an authority may take.

Local authorities are advised to allow at least three months between the original inspection or visit and the re-inspection or re-visit (also known as the ‘standstill’ period). Effectively, therefore, businesses have six months to carry out the improvements detailed in original rating and secure a re-rating of their premises.

Local authorities may refuse the request to re-inspect or re-visit where they consider that the evidence provided of the work done is insufficient or unsubstantiated. Where a request is refused, the business must be informed of the reasons why in writing. The business may then raise this refusal with the authority’s lead officer for food. If they are still not satisfied with the outcome at this stage, the matter can be pursued using the local authority’s complaint procedure.

Branding

The FSA has published details of how, where and when FHRS material may be used. They have also published details of where local authorities can order supplies of FHRS material along with the technicalities of customising, producing and printing material for issuing to businesses using the FHRS IT platform or their own system.

All businesses, once rated, should be provided with a sticker and certificate. Businesses should be encouraged to display their sticker as close to the entrance to their premises as possible. Businesses may also request additional stickers and those which are unrated may request and ‘awaiting inspection’ sticker.
Key Actions

- Adopt ‘new scheme’ or ‘migrate’ from existing scheme to the FHRS
- Arrange to have the agreement with FSA signed and put in place
- Decide launch strategy – ‘critical mass’ or gradual approach – and co-ordinate with other local authorities as necessary
- Check and quality assure any historical data to be used to generate ratings
- Where a local authority is migrating to the FHRS, map the local scheme to the national one
- Implement a communications strategy and communicate with businesses to let them know about the Scheme in the first instance and allow them to see and correct the information held about them.
- Advise businesses of their rating or, if migrating, any changes to their rating
- Develop a ‘Consistency Framework’ that meets the requirements of Section 10 of the FHRS Brand Standard
- Put in place procedures for dealing with appeals, allowing businesses a ‘right of reply’ and requests for re-visits and re-ratings
- Visit and rate businesses accordingly
- Ensure each assessed business receives its rating and associated information in writing within 14 days of being visited
- Accept any appeals lodged within 14 days of the business being notified of its rating and deal with them within seven days
- Observe the three month ‘standstill’ period between and initial rating visit and a re-rating visit
- Where it is agreed that a requested re-visit for the purposes of re-rating will be carried out, complete this within three months of the request being received
- Observe the guidelines on the use of the FHRS brand
- Upload and validate data at a minimum frequency of 13 days where the FHRS portal is used to generate certificates and stickers, and 27 days where the local authority’s own system is used to generate this material.

Information source: Barbour Guide
To find out how Wirehouse can support your business please get in touch on 0844 915 0141 www.wirehouse-es.com