



Briefing 16-35 September 2016

## The call for compulsory hygiene rating displays for food outlets in England.

### Key issues

- Food Hygiene standards are a vitally important to ensure businesses maintain the highest standards of food preparation and storage and in providing transparent information to ensure customer confidence in the food premise and importantly helping to protect them against food borne illnesses.
- Wales has had a compulsory Food Hygiene Rating Scheme (FHRS) in place since 2013, and in October 2016, Northern Ireland will have a compulsory FHRS which will require all relevant food premises to display, in a prominent position, their food hygiene ratings.
- England has yet to make the displaying of FHRS compulsory, this briefing note aims to explain both the benefits and challenges of making such a decision.

This briefing provides details on the growing demand for hygiene rating in food outlets in England where it is still voluntary to be made compulsory, following the lead of both Wales and Northern Ireland (in October 2016), where such ratings have to be openly displayed by law.

### Overview

The Food Hygiene Rating Scheme (FHRS) helps customers choose where to eat out or shop for food by telling them how seriously the business takes their food hygiene standards. The scheme is run by local authorities in England, Northern Ireland and Wales and applies to restaurants, pubs, cafes, takeaways, hotels, supermarkets and other food shops. More details about the scheme, can be found at [:http://www.food.gov.uk/multimedia/hygiene-rating-schemes/ratings-find-out-more-en#sthash.Na66dX11.dpuf](http://www.food.gov.uk/multimedia/hygiene-rating-schemes/ratings-find-out-more-en#sthash.Na66dX11.dpuf)

Each business is given their hygiene rating when it is inspected by a food safety officer from the business's local authority. The food safety officer inspecting the business checks how well the business is meeting the law by looking at: how hygienically the food is handled – how it is prepared, cooked, re-heated, cooled and stored. Also considered are the condition of the structure of the buildings – the cleanliness, layout,

lighting, ventilation and other facilities and finally, how the business manages and records what it does to make sure food is safe

At the end of the inspection, the business is given one of the six ratings from 0-5. The top rating of '5' means that the business was found to have 'very good' hygiene standards. - See more at: <http://www.food.gov.uk/multimedia/hygiene-rating-schemes/ratings-find-out-more-en#sthash.Na66dX11.dpuf>



The public can check the food hygiene rating of the food outlet they wish to use, assuming it is part of the scheme, by:

- looking for the green and black sticker in the window, or
- checking online at [www.food.gov.uk/ratings](http://www.food.gov.uk/ratings)

### Should FHRS be compulsory?

In Wales, the compulsory display of food hygiene ratings were first introduced via the Food Hygiene Rating (Wales) Act 2013, <http://www.legislation.gov.uk/anaw/2013/2/enacted> where premises have to display food hygiene ratings in a prominent position by law, and in October 2016 the same requirement will also apply in Northern Ireland.

One of the main reasons for the decision to make the scheme compulsory in Wales was that critics of the voluntary scheme, which has been dubbed "scores on the doors" said it resulted in only venues with high scores putting them on display

The scheme has since been extended to include food manufacturers, wholesalers and transporters that supply to places where people eat and buy food. Establishments such as schools, hospitals, children's nurseries and residential care homes have also been covered.

Some of the other arguments for the making the display of food hygiene ratings compulsory means that for businesses, good food hygiene could increase trade, as well as meeting food law requirements and equally protecting their customers from food-borne illness

Proponents of the scheme strongly believe it is not about doing anything detrimental to businesses, but helps them to drive up standards and see improvements.

In a 2015 survey in Wales, 66 food premises were given hygiene ratings of zero, the lowest a premises can score.

Inspectors observed failures such as an infestation of vermin, or serious amounts of rubbish and filth. By making food hygiene inspections compulsory it is intended to prevent premises such as these hiding behind the previously voluntary obligation to display hygiene ratings.

Yet despite FHRS being compulsory, there have been occurrences where food premises have failed to show their scores, particularly those with zero ratings, arguing that stickers had fallen off or been stolen, some when asked blatantly lied about their ratings scores so as not to lose custom. At least 45 businesses in Wales have already received £200 fixed penalty notices for failing to display their hygiene ratings and there have been several prosecutions for repeated breaches of the law.

But supporters of the compulsory scheme have argued that the scheme has been a success with more than half of the country's 25,000 food premises now achieving a top rating of 5.

As a result of this success and the growing view that there should be greater levels of transparency about the hygiene and safety of food served in restaurants and suppliers there is an increasing demand that compulsory food hygiene ratings should also be introduced in England.

## **Will FHRS Become Compulsory in England?**

The Local Government Association (LGA) is urging Whitehall to apply the same legislation in England, arguing that the display of food hygiene ratings would force businesses to improve standards and reduce the need for the cost of enforcement actions.

Councillor Simon Blackburn, chair of the LGA's Safer and Stronger Communities Board, said 'Forcing all food outlets in England to display hygiene ratings would help to crack down on and expose businesses that flout the law and put people's lives at risk by incentivising them to improve or maintain high hygiene standards and show customers how seriously they take the issue'.

However there are concerns amongst the food industry, some of whom feel it is wrong to make any display compulsory. One of their major concerns is that concern is that customers don't yet understand the system and without proper understanding, mistakes and misconception can take hold. For example a hospitality business with low initial scores could find it difficult to win back customers even once it had made significant improvements in its scores. Some would have preferred the Food Standards Agency (FSA), in Wales, Northern Ireland and England to operate the Scottish scheme which requires businesses to be simply given a 'pass' or 'improvement required'. We believe this system is more straightforward and easier to understand."

Despite these concerns, many restaurants are starting to display their stickers voluntarily, but this tends to be those restaurants which have scores **of 4 or 5**. Many would argue that those premises with low scores, do not have much pressure to rapidly improve because their customers may not know the significance of food hygiene ratings. This was highlighted in a case recently where a restaurant received a score of 2 in 2011, but didn't request a re-inspection for 2-years. Had their score of 2 been displayed prominently, then it is perhaps reasonable to believe that they would have improved considerably faster.

What is important, is that there is transparency and as a result, consumers are able to make informed decisions about where to eat. Any food business with effective food safety systems in place would have nothing to fear and would benefit from this transparency.

## **FSA Strategy 2015-2020**

The FSA Strategy for 2015 to 2020 highlights that they will step up and speak out for consumers about their interests in relation to food and find ways to support them in becoming informed and empowered. The FHRS is a key part of this and underpins delivery of 'the right to make choices knowing the facts'.

Findings and direct feedback from consumers, local authorities and industry show that consumer use of the FHRS is steadily increasing and that hygiene standards in food businesses are significantly improving. But they also highlight an increasing tension between using the scheme to reduce inspection frequency for compliant businesses and consumers' confidence in 'older' ratings. Therefore although there is anecdotal evidence that FHRS and its local/national profile can help maintain the importance of supporting local authority food hygiene resources, the fact that the FHRS is fuelled by inspections, and the need to keep them up to date, this represents a real challenge for local authorities in the future

Despite these issues, the transparency the scheme provides aims to drive improved and sustained business compliance and, in turn, public health protection. It is a good example of how the FSA is using incentives to drive businesses to behave in ways that benefit consumers, a key aim of the strategy.

Increasing awareness of the scheme is difficult when it is being run on a voluntary basis, as not all restaurants are displaying food hygiene ratings outside their premises and not everyone is aware that ratings can be found online, so display is key. To display, businesses must have confidence in the scheme but some remain concerned that there is inconsistency between local authorities. Consumers using ratings question the validity of ratings with 'older' inspection dates. Therefore, there is a real danger in reducing the numbers of inspections to the more 'compliant' premises, as this could potentially devalue the scheme and increase inconsistencies. Improving levels of compliance should not increase the length of time between inspections and ratings must be timely in order to secure trust in the information and not devalue the scheme in the eyes not only of consumers, but also industry and third parties, including the media.

The FHRS has achieved unexpected successes which were not necessarily envisaged when it was introduced. It has provided a performance management tool for multi-site businesses which is helping to improve standards across their estates and by some, it is being used to show their customers that they are responsible operators. Businesses are also finding competitive advantages in other ways such as reduced insurance premiums for those with ratings of 3 or above, and access to markets, where trading is restricted commercially to businesses with good ratings

Regarding concerns about the added pressure maintaining regular inspections may have for local authorities in England, recommendation made by Lord Young in his 2010 report 'Common Sense Common Safety' to open up inspections to accredited third parties could be an option. This could provide a means of obtaining information on compliance that could be used to supplement or complement local authority inspections. This could be used at least in the case of requested re-visits by businesses where improvements have been made but an inspection is not due. It may also be a means for compliant businesses to get more up-to-date ratings. For Wales and Northern Ireland, this is not an option at present as the primary legislation putting the scheme on a statutory footing in both countries prevents this.

From work carried out by the FSA it is clear that there is a real and current suspicion of the quality and even safety of food available to the consumer and therefore schemes such as the FHRS is a clear indication that government is introducing methods which will help inform consumer choice and at the same time ensure public safety.

One of the key aims of the FHRS is to interrupt habitual choices behaviour and make people think about what they are buying and equally to ensure restaurants and other food premises do not allow their standards to result in poor FHRS.

## **APSE Comment**

Compulsory FHSR is already seemingly bearing fruit in Wales and it is likely these same successes will be replicated in Northern Ireland when compulsory FSHR requirements is planned to be introduced In October 2016.

It is quite clear there were and still are concerns about introducing such measures in England but these concerns would have been raised in Wales when they introduced compulsory FHRS and have since been largely resolved.

Despite some early issues about premises not displaying FHRS in prominent positions the fact enforcement action has been taken has largely reduced this problem. In fact the Northern Ireland proposals suggest fines of up to £1000 for failure to display which should act as an even greater deterrent to trying to avoid displaying ratings. In this ways food premises will have to ensure they operate in a safe and hygienic manner which can only be to the benefit of the customer. Also as we have seen some businesses have seen the benefits of high ratings both from a customer selling point but also by opening new contract opportunities where quality demands such as a high FHRS are a pre-requisite.

However the key to the success of this scheme is two-fold: visibility of the scheme, and also its ability to be up-to- date. This has significant implications for local authorities as it is the responsibility of environmental health departments to inspect such premises and if inspections are to be maintained there needs to be the resource to carry them out. There is the option to use third parties to either help with the initial workload or to carry out re-inspections if requested before a scheduled inspection is due. However care should be taken when handing over statutory responsibilities that the contractor is sufficiently qualified and capable of delivering the programme of inspections required as failure could lead to loss of reputation.

Feedback from APSE's National Environmental Health Advisory Group showed absolute support for the introduction of compulsory FHR's. What was suggested as an alternative to the fines system being used in Wales and proposed in Northern Ireland, was the use of fixed penalty notices for failure to display FHR's, in this way this would remove the need for the increased administrative requirements associated with issuing and collecting fines. A further suggestion was that as with premises selling alcohol, where a licence is required which helps fund inspection costs, a similar approach could be taken with food premises, whereby an annual licence fee could be used to fund the inspections needed and the administrative cost of maintaining the scheme. In this way this would also ensure up-to-date ratings could be maintained.

Anything which improves service quality, whilst also promoting public safety APSE fully supports. Therefore APSE and its members see the introduction of compulsory FHRS, not as more bureaucratic 'red-tape', but rather a positive improvement to the health and well-being of UK citizens.

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