

FOOD STANDARDS AGENCY CONSULTATION

Title: The Food Hygiene Rating (Northern Ireland) Regulations 2016, and associated Orders, and Guidance for District Councils on operating the statutory Food Hygiene Rating Scheme CONSULTATION SUMMARY PAGE

Date consultation launched:	Closing date for responses:
2 March 2016	10 June 2016

Who will this consultation be of most interest to?

Consumers, district councils and their representative and professional bodies, and food businesses and their representative bodies.

What is the subject of the consultation?

This consultation is about secondary legislation needed to implement the statutory food hygiene rating scheme established by the Food Hygiene Rating Act (Northern Ireland) 2016. It is also about guidance for district councils operating the new statutory scheme.



What is the purpose of this consultation?

The FSA is seeking views and comments from stakeholders on the draft Food Hygiene Rating Regulations (Northern Ireland) 2016, the draft Food Hygiene Rating (Commencement and Transitional Provisions) Order (Northern Ireland) 2016, the draft Food Hygiene (Fee and Fixed Penalty Amount) Order (Northern Ireland) 2016, and the potential impact on food businesses and district councils. It is also seeking views and comments on FSA guidance for district councils on the operation of the new statutory scheme.

Responses to this consultation should be sent to:

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Is an Impact Assessment included with this consultation?

Yes

No See Annex A for reasons



If you would prefer to receive future FSA consultations by e-mail, or if you no longer wish to receive information on this subject please notify the named person in this consultation



FOOD HYGIENE RATING

Eating out? Getting food in? Check food.gov.uk/ratings

IMPACT OF MANDATORY DISPLAY OF FOOD HYGIENE RATINGS IN NORTHERN IRELAND

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Introduction

1. The Food Hygiene Rating Scheme (FHRS) has been operating in Northern Ireland on a voluntary basis since 2010. The scheme, which is a Food Standards Agency (FSA) and district council partnership initiative, is a key public health measure and an important commercial driver for businesses to achieve and maintain compliance with existing food hygiene law. It provides transparency to consumers about the hygiene standards in food outlets at the time of inspection by district council food safety officers. This allows consumers to make informed choices about where they eat out or shop for food. The aim is to give recognition to businesses that meet the requirements of food hygiene law and provide an incentive to improve those that do not. FSA research findings provide evidence that the scheme is working and driving up food hygiene standards.
2. We recognise that ongoing success in achieving the scheme's objective depends on consumers having access to the ratings at the right time and the right place for them, including at the point of choice. Our research shows, however, that the proportion of businesses displaying ratings at their establishment is low, particularly for those with low ratings. We considered that a statutory approach that makes it mandatory for businesses to display their rating in a prominent position would strengthen the scheme. Making ratings more accessible in this way will provide a more integrated approach to ensuring the information is widely available and this would increase the scheme's potential to improve public health and help drive competition in the market and business growth more quickly and effectively.

Where are we now? The Food Hygiene Rating Act (Northern Ireland) 2016

3. The FSA in Northern Ireland undertook a consultation on the mandatory display of food hygiene ratings and the legislation that would be needed for this in early 2013. Feedback from the consultation shaped the provisions in a Bill for consideration by the Northern Ireland Assembly. During the legislative process, both Government and Non-Government amendments to the Bill were proposed and discussed. The Bill completed Final Consideration stage and was passed by the Assembly on 8 December 2015. It received Royal Assent on 29 January 2016 and became an Act referred to as the Food Hygiene Rating Act (Northern Ireland) 2016 (the Act). The Act is available at:
<http://www.legislation.gov.uk/nia/2016/3/section/1/enacted>
4. The Act establishes a statutory food hygiene rating scheme in Northern Ireland, which when implemented will require district councils, following an inspection, to produce a food hygiene rating for businesses within scope of the scheme using criteria published by the FSA. Businesses that have been rated will be provided with a sticker(s) showing their food hygiene rating which they will be required to display in one or more designated positions at their establishment. In addition, the business will be required to ensure that anyone who asks for verbal confirmation of a rating is given that information. District councils will be required to enforce these requirements. The FSA will be required to publish all ratings online as it currently does on its website.

- The Act gives the operator the right to appeal against their establishment’s food hygiene rating and the right to comment upon it through a “right of reply” on the FSA website. Where written evidence of improvements is provided and on payment of a specified fee, a business may request a re-rating inspection to reassess the food hygiene standards with view to achieving a higher rating.

What measures are needed to give effect to the Act?

- In order to allow effective implementation of the Act and the statutory scheme secondary legislation in the form of Regulations and Orders is required. The legislation on which we are currently consulting is listed below, together with a summary of the provisions included. More details are given at paragraphs 11 to 13. The draft Regulations and Orders can be found at Annex B of this document:

Title	Provisions
The Food Hygiene Rating (Northern Ireland) Regulations 2016	<ul style="list-style-type: none"> • Details of the categories of establishments that are exempt from receiving a rating • The form of food hygiene rating stickers and details of the location and manner for display of these • Details of the information to be provided to new businesses • The form and method of payment of fixed penalty notices to be issued to businesses for failure to comply with the provisions of the Act.
The Food Hygiene (Fee and Fixed Penalty Amount) Order (Northern Ireland) 2016	<ul style="list-style-type: none"> • Details of the amount to be paid for re-rating inspections requested by the food businesses • Details of the amount for fixed penalty fines
The Food Hygiene Rating (Commencement and Transitional Provisions) Order (Northern Ireland) 2016	<ul style="list-style-type: none"> • Arrangements to allow the transfer of food hygiene ratings of businesses from the current voluntary scheme to the statutory scheme

- The Act includes a regulation making power regarding the publication of ratings online by food business operators who supply consumers with food that they order using an online facility. This provision was introduced into the Act through an amendment to the Bill during the legislative process so the FSA is currently gathering evidence and information from stakeholders on how this can work in practice before drafting the regulatory measure. This includes research to explore consumer needs and expectations on online display of ratings and engagement with businesses that will be affected. We intend to conduct a separate consultation on these Regulations – the Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2016. It is our intention that these Regulations will come into force at the same time as the other secondary legislation, or as soon as possible thereafter.

How will consistency of operation by district councils be achieved?

- Consistency of implementation and operation of the voluntary scheme by district councils in Northern Ireland is underpinned by FSA guidance – The Food Hygiene Rating Scheme: Guidance for local authorities on operation and

implementation – The “Brand Standard”. Draft guidance to support implementation of the statutory scheme in Northern Ireland that mirrors the “Brand Standard” has been developed. District councils will be required to have regard to this guidance when exercising functions under the Act. It has been developed in conjunction with the Northern Ireland Food Hygiene Rating Scheme Implementation Group, on which all district councils in Northern Ireland are represented.

9. The draft guidance for district councils on operation of the statutory food hygiene rating scheme is provided at Annex C and we would welcome your views on any aspect of this but, with specific focus on the questions relating to those detailed in the consultation response form at Annex D (questions 21 to 24 of the form are relevant).

Regulatory Impact Assessment

10. A draft Regulatory Impact Assessment (RIA) has not been prepared specifically for the secondary legislation that this consultation relates to as all of the costs and benefits associated with the introduction and operation of a statutory food hygiene rating scheme were fully considered in the RIA that was prepared by the FSA in 2013 for the mandatory display of food hygiene ratings in Northern Ireland. This RIA, which was included in the consultation package for the primary legislation, can be found at:

<http://www.food.gov.uk/sites/default/files/fhrs-ria-2013-.pdf>

Proposals for the draft Food Hygiene Rating Regulations (Northern Ireland) 2016

11. Whilst the main provisions of the new statutory food hygiene rating scheme are specified within the Act, the Act gives the Department of Health, Social Services and Public Safety (“the Department”) power to make regulations dealing with various matters of detail. This part of the consultation paper gives details of each of the proposed Regulations and asks questions about them.
This information should be read in conjunction with the Act and the draft Regulations.

Regulation 1: Citation and commencement

- This regulation states that the Regulations may be cited as the Food Hygiene Rating Regulations (Northern Ireland) 2016 and they will come into operation on 1 October 2016.

Question 1 – Do you agree with the proposed commencement date? If you consider an alternative date appropriate please specify this and provide a rationale for this.

Regulation 2: Interpretation

- This regulation defines the meaning of key terms used in the Regulations.
 - “the Act” means the Food Hygiene Rating Act (Northern Ireland) 2016
 - “a Food Hygiene Rating Sticker” means a sticker showing a rating provided

following an inspection and which is prescribed in regulation 4.

Question 2 – Do you have any comments regarding regulation 2 (Interpretation)?

Regulation 3: Exempt Establishments

This regulation specifies the categories of establishment that will be exempt from rating. The establishments that we think should be exempt from having a food hygiene rating under the new statutory scheme are in line with those that are exempt from the voluntary scheme.

Whilst these exempt establishments will not be provided with a food hygiene rating under the new statutory food hygiene rating scheme, they will be subject to the requirements of food hygiene legislation and interventions by district councils in accordance with the requirements of the Food Law Code of Practice (Northern Ireland).

Question 3 – Do you agree with the categories of food business establishment that will be exempt from rating under the Act? If you think that certain categories should be included or excluded in the scheme please provide details.

Regulation 4: Form of Food Hygiene Rating Sticker

This regulation specifies two forms of sticker. The form in Part 1 of Schedule 1 of the Regulations replicates the sticker that is provided by the FSA for use in the current voluntary scheme. Part 2 provides for the wording “This scheme is operated in partnership with your local authority” to be replaced with the name and branding of the district council, which is currently used by some district councils at their cost. Examples of a sticker for each form set out in Part 1 and Part 2 are replicated below:

Part 1



Part 2



This regulation also states who must pay for the cost of producing the stickers. For the form set out in Part 1 the stickers will be produced by the FSA and the cost will be borne by the FSA.

For the form set out in Part 2 the stickers will be produced by the district council and the cost will be borne by the district council.

Question 4 – Do you have any comments on the forms of the food hygiene rating sticker detailed in Schedule 1 of the Regulations?

Question 5 – Do you agree that the statutory scheme should make provision for the two forms of stickers detailed above (those with and without the district council name and branding on the front of the sticker)? Please provide comments explaining your answer.

Question 6 – Do you agree with the proposals regarding who must pay the cost of producing the different forms of the sticker?

Regulation 5: Food Hygiene Rating Sticker- Location and Manner of Display

This regulation specifies where and how the rating sticker must be displayed in different circumstances.

Question 7 – Do you have any comments on regulation 5 regarding the location and manner of display of food hygiene rating stickers?

Question 8 – Are there any scenarios that you think regulation 5 does not provide for in terms of the display of food hygiene rating stickers? If so please give examples.

Regulation 6: Provision of Information for New Businesses

This regulation specifies the information that district councils must provide to new businesses regarding the operation of the scheme.

The aim of providing this information is to ensure the operator is provided with relevant information, at the earliest opportunity, about the statutory food hygiene rating scheme, their obligations under it and the safeguards available to them.

Question 9 – Is there any other information you consider a district council should send to operators of new food businesses that would help them to understand the food hygiene rating scheme and their obligations under it? If so please provide details.

Regulation 7: Form and Method of Payment of Fixed Penalty Notice

This regulation specifies the form that must be used by district councils when issuing Fixed Penalty Notices, which includes details on how businesses can pay the penalty.

Question 10 – Do you have any comments regarding the form and method of payment of Fixed Penalty Notice set out in Schedule 2?

Proposals for the draft Food Hygiene Rating (Commencement and Transitional Provisions) Order (Northern Ireland) 2016

12. Although sections 17 (Interpretation) and 20 (Crown application) of the Food Hygiene Rating Act (Northern Ireland) 2016 came into operation on the day following Royal Assent, the other sections within the Act require a commencement order to become operational. This part of the consultation paper gives details of each of the proposed Articles within this Order and asks

questions about them. **This information should be read in conjunction with the Act and the draft Order.**

Article 1: Citation, commencement and interpretation

It is intended that the Order will come into operation on 1 October 2016.

Question 11 – Do you have any comments regarding the proposed commencement date? If you consider an alternative date appropriate please provide a rationale for this.

Article 2: Appointed day

This Article appoints a day on which the Act comes into operation, for those provisions of the Act that are not already in operation. It is intended that those provisions will come into operation on 1 October 2016.

Question 12 – Do you have any comments regarding the proposed appointed day? If you consider an alternative date appropriate please provide a rationale for this.

Article 3: Transitional Provision

This Article provides for a district council to treat an existing rating as the food hygiene rating for the purposes of the Act and where it decides to do so to notify the operator of the rating within 14 days from the date of that decision.

It also requires district councils to provide each business within scope of the scheme with a rating under the Act within 12 months of the Act coming into operation.

Question 13 – Do you agree with the procedure set out in Article 3 for migrating those food businesses rated under the voluntary scheme to the new statutory food hygiene rating scheme?

Question 14 – Do you agree with the 12 month timescale for district councils to provide a food business establishment previously rated under the voluntary scheme with a food hygiene rating under the statutory food hygiene rating scheme? If not please provide a rationale for an alternative period.

Details of the proposals for the draft Food Hygiene Rating (Fee and Fixed Penalty Amount) Order (Northern Ireland) 2016

13. The Act gives the Department power to make Orders which specify the amount of the re-rating fee and the fixed penalty amount payable for certain offences under the Act. This part of the consultation paper gives details of each of the proposed Articles within this Order and asks questions about them. **This information should be read in conjunction with the Act and the draft Order.**

Article 1: Citation, commencement and interpretation

Article 1 states that the Order may be cited as Food Hygiene Rating (Fee and Fixed Penalty) Order (Northern Ireland) 2016 and that it will come in to operation on 1 October 2016.

Question 15 – Do you have any comments regarding the proposed commencement date? If so please provide comments and a rationale for an alternative date.

Article 2: The re-rating fee

Section 4 of the Act requires that a request for a re-rating inspection must be accompanied by a specified fee. The purpose of charging a fee for re-rating inspections is to ensure that providing businesses with the opportunity to have their hygiene rating re-assessed does not have an adverse impact on the ability of district councils to deliver their statutory responsibilities for food safety, in particular their planned programmes of hygiene inspections. We therefore consider it appropriate for the fee to reflect the cost incurred by district councils in implementing this safeguard for businesses.

In setting the fee we have taken into consideration:

- The time required for district council officers to undertake each stage of the re-rating process including administrative, travel and inspection times
- The current costs associated with staff in district councils engaged in the re-rating process

Article 2 states that the fee payable to district councils by the operator for requesting an inspection to review an establishment's food hygiene rating will be £150.

The fee proposed is the same as that currently charged by local authorities in Wales for re-rating inspections carried out under the provisions of the Food Hygiene Rating Act (Wales) 2013.

Question 16 – Do you have any comments on Article 2 (The re-rating fee)?

Article 3: Fixed penalty amount

This Article states that the fixed penalty in respect of an alleged offence under section 10(1) or 10(2) of the Act will be £200.

Question 17 – Do you have any comments on Article 3 (Fixed penalty amount)?

Question 18 – Do you agree with fixed penalty amount stated? Please explain your reasons.

14. Any other points that you would like to make in relation to the Regulations and orders would also be very welcome.

Question 19 – Do you have any other comments or views on the draft Regulations and Orders described in this document?

Consultation process and next steps

15. Further information on the consultation process is provided at Annex A.
16. During the consultation period, the FSA will explore consumer views through independently–conducted research in relation to online display provision set out in section 7(3) of the Act.

Other relevant documents

17. Documents relevant to this consultation include:
 - The Food Law Code of Practice (Northern Ireland) at <http://www.food.gov.uk/enforcement/enforcework/foodlawcop/copni/>
 - The Food Hygiene Rating Act (Northern Ireland) 2016 at <http://www.legislation.gov.uk/nia/2016/3/section/1/enacted>

Responses

18. Responses are required **by close Friday 10 June 2016**. Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents). A consultation response form is provided at Annex D.
19. Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours faithfully,

Mark O'Neill
Local Authority Policy and Delivery

Enclosed

Annex A: Standard consultation information

Annex B: Draft Regulations and Orders

Annex C: Draft guidance for district councils

Annex D: Consultation response form

Annex E: Interested parties list

Annex A: Standard Consultation Information

Queries

1. If you have any queries relating to this consultation please contact the person named on page 1, who will be able to respond to your questions.

Publication of personal data and confidentiality of responses

2. In accordance with the FSA principle of openness we shall keep a copy of the completed consultation and responses, to be made available to the public on receipt of a request to the [FSA Consultation Coordinator](#) (020 7276 8140). The FSA will publish a summary of responses, which may include your full name. Disclosure of any other personal data would be made only upon request for the full consultation responses. If you do not want this information to be released, please complete and return the Publication of Personal Data form, which is on the website at <http://www.food.gov.uk/multimedia/worddocs/dataprotection.doc>. Return of this form does not mean that we will treat your response to the consultation as confidential, just your personal data.
3. In accordance with the provisions of Freedom of Information Act 2000/Environmental Information Regulations 2004, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure. The final decision on whether the information should be withheld rests with the FSA. However, we will take into account your views when making this decision.
4. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

Further information

5. A list of interested parties to whom this letter is being sent appears in Annex E. Please feel free to pass this document to any other interested parties, or send us their full contact details and we will arrange for a copy to be sent to them direct.
6. Please let us know if you need paper copies of the consultation documents or of anything specified under '**Other relevant documents**'.
7. This consultation has been prepared in accordance with HM Government consultation principles.¹
8. A draft Regulatory Impact Assessment has not been prepared specifically for the secondary legislation as outlined in paragraph 10 'Regulatory Impact Assessment'.
9. For details about the consultation process (not about the content of this consultation) please contact: [Food Standards Agency Consultation Co-ordinator](#), Room 2B, Aviation House, 125 Kingsway, London, WC2B 6NH. Tel: 020 7276 8140.

¹ <http://www.bis.gov.uk/policies/bre/consultation-guidance>

Comments on the consultation process itself

10. We are interested in what you thought of this consultation and would therefore welcome your general feedback on both the consultation package and overall consultation process. If you would like to help us improve the quality of future consultations, please feel free to share your thoughts with us by using the Consultation Feedback Questionnaire at <http://www.food.gov.uk/multimedia/worddocs/consultfeedback.doc>
11. If you would like to be included on future Food Standards Agency consultations on other topics, please advise us of those subject areas that you might be specifically interested in by using the Consultation Feedback Questionnaire at <http://www.food.gov.uk/multimedia/worddocs/consultfeedback.doc>. The questionnaire can also be used to update us about your existing contact details.

STATUTORY RULES OF NORTHERN IRELAND

2016 No.

FOOD

The Food Hygiene Rating Regulations (Northern Ireland) 2016

Made - - - - - ***

Coming into operation- - - - - ***

The Department of Health, Social Services and Public Safety^(a) makes the following Regulations in exercise of the powers conferred by sections 1(6), 2(7), 7(1), 12 (2),19(1) and paragraph 14(b) and (c) of the Schedule to the Food Hygiene Rating Act (Northern Ireland) 20^{**}(b).

Citation and commencement

1. These Regulations may be cited as the Food Hygiene Rating Regulations (Northern Ireland) 2016 and come into operation on 1st October 2016.

Interpretation

2. In these Regulations—

“the Act” means the Food Hygiene Rating Act (Northern Ireland) 2016;

“a Food Hygiene Rating Sticker” means a sticker provided in accordance with section 2(3)(a) of the Act, in the form prescribed by Regulation 4.

Exempt Establishments

3.—(1) Food business establishments specified in paragraphs (2), (3) and (4) are exempt from rating under the Act.

(2) Food business establishments where—

(a) the sale of food is not the primary activity; and

(b) the only food made available to consumers is food that is—

(i) shelf stable at ambient temperature; and

(ii) wrapped or packaged before it is brought to the establishment and the wrapping or packaging remains sealed at all times before the food is supplied to consumers;

(3) Food business establishments where a licence is held under the Licensing (Northern Ireland) Order 1996(c) and where—

(a) intoxicating liquor is sold for consumption off the premises; and

(a) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)

(b) xx

(c) S.I. 1996/3158 (N.I.22)

- (b) the only food made available to consumers is food that is—
 - (i) shelf stable at ambient temperature; and
 - (ii) wrapped or packaged before it is brought to the food business establishment and the wrapping or packaging remains sealed at all times before the food is supplied to consumers.

(4) Food business establishments used by any of the following persons for the purpose of providing caring services where the food business establishment is also used as domestic premises.

- (a) a child minder required to be registered in accordance with Article 118 of the Children (Northern Ireland) Order 1995(a);or
- (b) an adult placement carer as defined by regulation 2 of the Adult Placement Agencies Regulations (Northern Ireland) 2007(b);or
- (c) a person employed by a Domiciliary Care Agency registered with the Health and Social Care Regulation and Quality Improvement Authority as required by the Health and Personal Social Services (Quality, Improvement and Regulation (Northern Ireland) Order 2003.

(5) For the purposes of paragraph 3 “intoxicating liquor” bears the same meaning as in Article 2(2) of the Licensing (Northern Ireland) Order 1996.

Form of Food Hygiene Rating Sticker

4.—(1) A Food Hygiene Rating sticker must be in one of the forms specified in Schedule 1.

(2) The cost of producing the Food Hygiene Rating sticker in any of the forms specified in Part 1 of Schedule 1 will be borne by the Food Standards Agency.

(3) The cost of producing the Food Hygiene Rating sticker in any of the forms set out in Part 2 of Schedule 1 will be borne by the District Council.

Food Hygiene Rating Sticker – Location and Manner of Display

5.—(1) This regulation applies when the operator of a food business establishment is required to display a valid Food Hygiene Rating Sticker in accordance with section 7(1) of the Act.

(2) A Food Hygiene Rating Sticker must be displayed—

- (a) at or near each entrance to a food business establishment; and
- (b) where it can be readily seen and easily read by customers before they enter the establishment when it is open for business.

(3) If the food business establishment is one where food is provided to customers but customers are not permitted to enter the establishment or it is incapable for practical purposes of being entered by customers, the Food Hygiene Rating Sticker must be displayed at that establishment where it can be readily seen and easily read by customers when it is open for business.

(4) Where food is provided to customers by or on behalf of an operator at outlets (such as market stalls and vehicles) that are away from the operator’s main premises but nonetheless part of the operator’s food business establishment, and those outlets are not eligible for a rating in their own right, a Food Hygiene Rating Sticker for that establishment must be displayed at each outlet where can be readily seen and easily read by customers when the outlet is open for business.

(a) S.I. 1995/755
(b) S.R. 2007/221

Provision of Information for New Businesses

6. The information that a district council must send to operators of new food business establishments in its area in accordance with section 12(2) of the Act is an explanation of

- (a) the food hygiene ratings that may be given to a food business establishment;
- (b) how food hygiene ratings are calculated, including what levels of achievement are required for each rating;
- (c) who produces the food hygiene rating and when that will first be done;
- (d) when, where and how a Food Hygiene Rating Sticker must be displayed;
- (e) the fact that the operator of a food business establishment will be notified of the rating for the food business establishment before it is published;
- (f) any requirements for food business establishments supplying consumers with food ordered by means of an online facility;
- (g) the operator's right to—
 - (i) appeal against a rating,
 - (ii) request a re-rating,
 - (iii) comment on a rating; and
- (h) how the operator can obtain further information.

Form and Method of Payment of Fixed Penalty Notice

7. A fixed penalty notice must be in the form set out in Schedule 2 and payment must be by one of the methods set out in part C of that form.

Sealed with the official seal of the Department of Health, Social Services and Public Safety on 0th Month 20XX.



Name
A senior officer of the Department of Health, Social Services and Public Safety

SCHEDULE 1

Regulation 4

Food Hygiene Rating Sticker

PART 1



1. A Food Hygiene Rating Sticker must be in one of the forms depicted above.
2. The appropriate form of Food Hygiene Rating Sticker is whichever form displays the current rating for that food business establishment.
3. Each Food Hygiene Rating Sticker must conform to the following specifications—
 - (a) Colour references: Green: c43 m0 y100 k0& Black.
 - (b) The dimensions are 190 mm(wide) x 158 mm (tall)

PART 2

1. The Food Hygiene Rating Sticker must comply with the requirements of Part 1 save that it may display, in accordance with the requirements of paragraphs 2 to 4, the name and logo of the district council for the food business establishment in place of the words ““this scheme is operated in partnership with your local authority””.
2. The name and logo of the district council must be located in the top right hand corner of the food hygiene rating sticker.
3. The dimensions of the area in which the name and logo of the district council must be located is xxmm (wide) x yy mm tall.
4. The font size used must be xxx.

SCHEDULE 2

Regulation 7

The Food Hygiene Rating Act (Northern Ireland) 2016

FIXED PENALTY NOTICE
[Name of District Council]

PART A

Penalty Notice Number.....

To:.....[Food Business Operator]

Address:.....

I, an authorised officer of [Name of Council] under section 9(4) of the Food Hygiene Rating Act (Northern Ireland) 2016 (“the Act”), have reason to believe that you committed (an) offence(s) on (enter date) at (enter location) contrary to the Act.

Alleged offence:

* Without reasonable excuse you, as operator of [enter name and address of food business food business establishment], a food business food business establishment, failed to display a valid food hygiene rating sticker as required by Section 7(1) of the Act in the location and manner as required contrary to section 10(1) of the Act.

(Insert details of offence and specify relevant provision of regulations eg regulation 5(3)).....

.....
* Without reasonable excuse you, as operator of [enter name and address of food business food business establishment], a food business food business establishment supplying consumers with food by way of an online ordering facility, failed to display an online link to the food hygiene rating of the food business establishment as contrary to section 10(1) of the Act.

(Insert details of offence and specify relevant provision of the relevant regulations).....

.....
*Without reasonable excuse you, as operator of [enter name and address of food business food business establishment], a food business food business establishment, displayed at that food business establishment a food hygiene rating sticker which purports to show that food business establishment’s food hygiene rating but which is not a valid rating contrary to section 10(2) of the Act.

(Insert details of offence).....

.....
This Fixed Penalty Notice (“the Notice”), offers you the opportunity of discharging any liability for conviction for that offence by the payment of a fixed penalty, (“the penalty”) of.....(*insert amount of penalty*) .

No proceedings will be taken for this offence before the expiration of 28 days beginning.....(*insert date on which this notice is given*).

You will not be liable to conviction for the offence if you pay the penalty within that period (“the 28 day period”). No further action will be taken in respect of the alleged offence and payment involves no admission of guilt and will not result in a record of criminal conviction being made against you.

If payment is made within the first 14 days of the 28 day period the amount payable is reduced by 25%.

*Delete as appropriate.

Signed.....(Authorised Officer) Date.....

PART B

IMPORTANT INFORMATION

You must within the 28 day period either pay the penalty or request that the matter be heard by a court. You may not do both.

If you fail to do either [name of District Council] as the enforcement authority by virtue of section 9(1) of the Act, may pursue this matter in court. A person found guilty of the offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

If you choose to request a court hearing, you must write to [name of DC] at [address of DC] giving the penalty notice number, your name and an address at which a summons can be served on you. The summons will tell you where and when to attend court. Only the recipient of this penalty notice (the person named at Part 1) may request a court hearing.

If you pay the fixed penalty but continue to carry on the offence alleged in this notice further proceedings may be taken.

PART C

INSTRUCTIONS ON METHOD OF PAYMENT

Instructions on Methods of Payment

Electronically – by the Bankers Automated Clearing Services (BACS), Payment should be made to _____, sort code, Account Number _____. Payment must be supported by the timely submission of a list of the fixed penalty notice number(s) covered by the payment and the amount being paid in relation to each.

By Post – by making your cheque payable to _____ and sending it to _____. Payment must be accompanied by details of the fixed penalty notice number(s) covered and the amount paid in respect of each. A receipt will be sent on request.

In Person – to _____ at _____ between _____ am and _____ pm on any day the office is open for business. Payment may be made by any debit/credit card normally accepted by Council in accordance with their standard procedures. You must provide details of the fixed penalty notice number(s) covered and the amount paid in respect of each. A receipt will be issued on request.

By Telephone- by contacting _____ at _____ between _____ am and _____ pm on any day the office is open for business. Payment may be made by any debit/credit card normally accepted by Council in accordance with their standard procedures. You must provide details of the fixed penalty notice number(s) covered and the amount paid in respect of each. A receipt will be sent on request

“On Line” – please visit our website at _____

Other Method/s- insert as appropriate. If you chose to pay this penalty in cash by post, this must be sent registered post and proof of posting must be retained. If you require a receipt you must ask for one at the time of payment. If you are paying by post and require a receipt, you must provide a stamped addressed envelope.

WARNING: IF YOU PAY LATE OR IF A BANK REFUSES A CHEQUE YOU WILL BE TREATED AS NOT HAVING PAID THE FIXED PENALTY.

A cheque dated after the expiry of the 28 day period is late payment and will not be accepted even if received before the end of the 28 day period.

If you have any questions or representations about this notice please contact [name and contact details]

EXPLANATORY NOTE

(This note is not part of the Regulations)

2016 No.

FOOD

Food Hygiene Rating (Commencement and Transitional Provisions) Order (Northern Ireland) 2016

Made - - - - - ***

Coming into operation ***

The Department of Health Social Services and Public Safety(a), in exercise of the powers conferred by section 18(1), (2) and (3) and 19(1) of the Food Hygiene Rating Act (Northern Ireland) 2016(b), makes the following Order.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Food Hygiene Rating (Commencement and Transitional Provisions) Order (Northern Ireland) 2016 and comes into operation on 1st October 2016.

(2) In this Order—

“the Act” means the Food Hygiene Rating Act (Northern Ireland) 2016

“existing rating” means a rating prepared by a district council pursuant to an inspection of a food business establishment as part of official controls under Regulation (EC) 882/2004 of the European Parliament and of the Council of 29th April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and welfare rules(c) undertaken prior to the commencement of section 1 of the Act

Appointed day

2.The day appointed for the coming into operation of the Act, in so far as it is not already in operation, is 1st October 2016

Transitional Provision

3.—(1) A district council may treat an existing rating as the food hygiene rating for the purposes of section 1 of the Act.

(2) Where a district council decides to treat an existing rating as the food hygiene rating in accordance with paragraph (1) it must notify the food hygiene rating to the operator of that food business establishment within 14 days from the date of the decision to do so.

(3) Prior to 1st October 2016 a district council must either:

(a) notify a food business establishment under paragraph (2); or

(a) Formerly the Department of Health and Social services; see S.I. 1999/283 (N.I.1) Article 3(6)

(b) xx

(c) O.J. L 165, 30.4.2004 p.1 last amended by Regulation (EU) No 652/2014 (O.J. L. 189 27.6.2014 p.1

- (b) prepare a food hygiene rating for that food business establishment under section 1 of the Act.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on



Address
Date

Name
A senior officer of the
Department

EXPLANATORY NOTE

(This note is not part of the Order)

Order laid before the Assembly under section 18(4) of the Food Hygiene Rating Act (Northern Ireland) 2016, and subject to affirmative resolution procedure of the Assembly

STATUTORY RULES OF NORTHERN IRELAND

2016 No.

FOOD

**Food Hygiene Rating (Fee and Fixed Penalty Amount) Order
(Northern Ireland) 2016**

Made - - - - - ***

Coming into operation ***

The Department of Health Social Services and Public Safety(a), in exercise of the powers conferred by sections 4(5)(c) and paragraph 4 of the Schedule to the Food Hygiene Rating Act (Northern Ireland) 2016(b), makes the following Order.

Citation, commencement and interpretation

1.—(1) This order may be cited as the Food Hygiene Rating (Fee and Fixed Penalty) Order (Northern Ireland) 2016 and comes into operation on 1st October 2016.

(2) In this order “the Act” means the Food Hygiene Rating Act (Northern Ireland) 2016

The re-rating fee

2. The fee payable to a district council, by the operator of a food business establishment in its district, requesting a review of that establishment’s food hygiene rating under section 4 of the Act is £150.00.

Fixed penalty amount

3. The fixed penalty in respect of an alleged offence under section 10(1) or (2) of the Act is £200.00.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on



(a) Formerly the Department of Health and Social services; see S.I. 1999/283 (N.I.1) Article 3(6)
(b) xx

Address
Date

Name
A senior officer of the
Department

EXPLANATORY NOTE

(This note is not part of the Order)

Implementation and operation of the statutory Food Hygiene Rating Scheme in Northern Ireland Guidance for district councils



October 2016

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Abbreviations

The following acronyms/abbreviations are used in this document.

The Act	The Food Hygiene Rating Act (Northern Ireland) 2016
CIM	Confidence in management/control procedures
DC	District Council
FHRS	Food Hygiene Rating Scheme- The scheme made under the Food Hygiene Rating Act (Northern Ireland) 2016
FSA	Food Standards Agency
FPN	Fixed Penalty Notice
HACCP	Hazard Analysis Critical Control Points
IMS	Information management system
LAEMS	Local Authority Enforcement Monitoring System
Operator	The person concerned with the management of the establishment, Operator has the same meaning as Food Business Operator as defined section 2 Food Hygiene Rating Act (Northern Ireland) 2016
Regulations	The Food Hygiene Rating (Northern Ireland) Regulations 2016
SFBB	Safer food better business

Introduction

Status and purpose of the Guidance

This Guidance has been issued by the Food Standards Agency to ensure the successful implementation and consistent application of the statutory scheme.

Section 15 of the Food Hygiene Rating Act (Northern Ireland) 2016 requires district councils to have regard to this Guidance when exercising their functions under the Act.

This Guidance has been developed by the Food Standards Agency in association with the Northern Ireland Food Hygiene Rating Scheme Implementation Group on which all district councils are represented.

This Guidance should be read in conjunction with the Food Hygiene Rating (Northern Ireland) Act 2016 and regulations made there under.

Background

The non- statutory Food Hygiene Rating Scheme (“the FSA Scheme”) was introduced nationally by the Food Standards Agency (FSA) in partnership with local authorities across Northern Ireland, Wales and England. There is a scheme with similar aims operating in Scotland - the Food Hygiene Information Scheme. The FSA Scheme was launched in Northern Ireland in 2010, and was developed to provide consumers with information to enable them to make an informed choice about where to eat or shop for food.

As the FSA Scheme is a non- statutory scheme, its implementation by district councils (DC’s) as well as the display of stickers at establishments by Food Business Operators (FBOs) is voluntary.

On 29 January 2016 the Food Hygiene Rating Act (Northern Ireland) 2016 received Royal Assent. The Act introduces a new statutory food hygiene rating scheme (“the FHRS”) in Northern Ireland.

In order to fully implement the Act, the Department of Health Social Services and Public Safety (‘the Department’) has made associated Food Hygiene Rating Regulations and Orders. The main provisions of the Act, Regulations and the Orders came into force on 1 October 2016. Amongst other things, the Act and the Regulations make the implementation of the FHRS by DC’s, and the display of food hygiene ratings by businesses mandatory.

The Statutory Food Hygiene Rating Scheme (FHRS)

The Act applies in Northern Ireland and is implemented and enforced by DC's in Northern Ireland.

The purpose of the FHRS is to enable consumers to make informed choices about the places that supply food and, through these choices, encourage businesses to improve their hygiene standards. It does this by providing consumers with information (in the form of a food hygiene rating) about hygiene standards found in food business establishments when they are inspected to check compliance with food hygiene legislation. The food hygiene rating given reflects the inspection findings and how well the business is complying with food hygiene law.

There are six different food hygiene ratings; these are '0' to '5'. A rating of '5' is the highest rating and represents a 'very good' level of compliance with legal requirements. 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. Food business operators are required to display sticker(s) showing their rating at their establishment in a position where it can be readily seen and easily read by customers, and, if consumers can order food online, they must display their rating online in a specified manner. The FHRS incorporates safeguards to ensure fairness to businesses. These include an appeal procedure, a 'right of reply,' for publication together with the food hygiene rating at food.gov.uk/ratings, and a mechanism for requesting an inspection for re-rating purposes if improvements have been made and other conditions are met.

Evaluation and Review of the FHRS

The Act places a duty on each DC to review the operation of the FHRS and provide the FSA with information as it may request.

The FSA is also required to review the implementation and operation of the FHRS and to produce a report for the Department within the first three years of the commencement of the main provisions of the Act. The FSA may carry out subsequent reviews of the operation of the Act throughout Northern Ireland as and when it considers appropriate. Each time such a review is conducted a report must be sent to the Department.

The initial review must assess the adequacy of any time scales detailed in the Act and whether the appeals process and request for re-rating process are operating satisfactorily. Particular focus will be placed on the numbers of requests for re-rating to assess if a limit on such requests is required.

Review and revision of the Guidance

The FSA will keep this Guidance under review and will revise and update it as necessary and appropriate.

Further information

For further advice or information please get in touch with the FSA in Northern Ireland – contact details are provided below

Name	Telephone	E-mail
Michael Jackson	028 9041 7700	michael.jackson@foodstandards.gsi.gov.uk
Mark O'Neill	028 9041 7700	mark.o'neill@foodstandards.gsi.gov.uk

Section 1: Transition - Food hygiene ratings for establishments assessed prior to the commencement of the Act

1.1 Introduction

Regulation 3 of the Food Hygiene Rating (Commencement and Transitional Provisions) Order (Northern Ireland) 2016 allows for DC's to give a "new" FHRs rating to those establishments with a non-statutory rating, given prior to commencement of the Act. The main provisions of the Act, the Regulations and Orders, came into force on 1 October 2016, with the transition period running until 30 September 2017.

Transition arrangements will apply to those establishments that are within the scope of the statutory FHRs scheme and have received a food hygiene rating under the non- statutory scheme. They do not apply to those establishments that are within the scope of the non-statutory scheme but have not received a rating. They also do not apply to those establishments that are outside the scope of the "new" FHRs scheme and may have "opted in" under the non-statutory scheme.

Where a DC avails of the transfer provision, it must notify the establishment's operator of its food hygiene rating under the statutory scheme within 14 days from the date of the decision to transfer the establishment's rating. Upon notification of the establishment's rating under the statutory scheme, the FBO can avail of the subsequent safeguards: appeal; right of reply; and request for a re-rating.

1.2 Establishments that are within the scope of the non- statutory scheme but have not received a rating

These types of establishment will, generally, be low risk establishments and should be given a "new" FHRs rating at the time of their next inspection. The transition arrangements do not apply to these establishments, and their next inspection and notification of rating must be within 12 months from the commencement of the main provisions of the Act.

1.3 Establishments outside the scope of the "statutory" FHRs scheme

These are establishments that do not fall within the scope of the "new" FHRs but will have a rating under the non-statutory scheme. These establishments may have "opted in" to the non- statutory scheme. These establishments should not be given a "new" FHRs rating. FBOs should be advised that they should remove any stickers issued under the non- statutory scheme in order to avoid misleading the public, as the non- statutory scheme will no longer apply in Northern Ireland.

DC's will need to consider how best to advise these businesses that they fall outside the scope of the "new" FHRs, and will therefore not receive a rating.

For further information on the scope of the "new" FHRs see section 2 of this guidance.

1.4 Migration of Establishments assessed prior to the commencement of the Act

DC's have the option to migrate the food hygiene ratings of establishments that have previously been given under the non-statutory scheme, into the statutory scheme.

These establishments will receive a "new" FHRs rating based on the assessment that was used to calculate the non-statutory rating (the findings of the last inspection). The rating will be based on the rating criteria in the Food Hygiene Intervention Rating Scheme set out in The Food Law Code of Practice (Northern Ireland)¹ in accordance with section 4 of this Guidance.

Once a business has received notification of its "new" FHRs rating the statutory safeguards will be available to the operator. The operator will have the right to appeal, the right of reply and the right to request a re-rating. For further information on these safeguards please see sections 7, 8 and 9 of this Guidance.

Once notified of the "new" FHRs rating the operator of the business will also have certain obligations. These will include displaying the sticker(s) provided by the DC, displaying an online rating (where applicable) and ensuring relevant employees are aware of the establishment's food hygiene rating. The operator and any relevant employees must be able to verbally inform persons of the "new" FHRs rating if asked. For further information on these obligations see sections 10, 11 and 12 of this Guidance.

During the transition period the FBO may choose to display the rating sticker that was issued under the non-statutory scheme. This is acceptable until the FBO has been notified of the "new" FHRs rating when the operator will be required to display the statutory FHRs sticker provided by the DC. This requirement is applicable 21 days from the date that notification of the statutory FHRs rating is received (the time limit for appeal), or if an appeal is lodged, after receiving notification of the outcome. The FBO may, however, display the "new" FHRs sticker before the 21 day period if the operator has decided not to make an appeal. Once the "new" FHRs sticker is being displayed by the FBO, any stickers issued under the non-statutory scheme should be removed by the FBO in order to avoid misleading the public.

The rating issued under the non-statutory scheme will continue to be displayed on the FSA website (food.gov.uk/ratings) until the "new" FHRs rating has been notified

¹ <https://www.food.gov.uk/northern-ireland/niregulation/niguidancenotes/copni>

and the statutory appeal period following notification has elapsed (21 days). If an appeal is submitted an 'Awaiting Publication' image will be displayed on the FSA website until the appeal is determined.

1.5 IT arrangements for establishments that fall outside of the programme

To implement the transition requirements on the FSA website, and to update the business information, DC's will need to supply the date on which businesses are notified of their "new" FHRs rating. This information will need to be supplied in an additional field, "Date informed of rating", via the DC upload. The facility to enter the date manually will be made available if uploading the information is not possible. DC's will continue to use the same details as were used under the non-statutory scheme in order to link to the national IT platform. Detailed IT User Documentation is available at:

<http://www.food.gov.uk/sites/default/files/multimedia/pdfs/enforcement/fhrs-it-system-guidance.pdf>

1.6 Requests for re-rating received prior to commencement of the Act

This applies to businesses that received a rating under the non-statutory scheme, and the FBO has made a request for a re-rating. The FBO will have provided evidence that the necessary improvements have been made, but the re-rating visit was not carried out before commencement of the Act.

In this situation a re-rating visit should be carried out in accordance with the requirements of the non-statutory scheme, under which the rating was issued. Under the non-statutory scheme the re-rating visit would not usually take place within three months of the inspection at which the non-statutory food hygiene rating was given (the "stand still" period). Under the non-statutory scheme the re-rating was carried out within three months of the end of the "stand still" period, or within three months if the request was made after the "stand still" period, this meant that the longest time the business would wait for a re-rating was six months. A DC could, however, in certain cases where structural improvements, repairs or upgrading of equipment is required, choose to carry out the re-rating visit within the "stand still" period, if it was appropriate to do so. A "new" FHRs rating, under the Act, should be given following the re-rating inspection. DC's should not charge the Operator for the re-rating visit.

Once a business has received notification of its "new" FHRs rating the new safeguards will be available to the operator. The Operator will have the right to appeal, the right of reply and the right to request a re-rating. For further information on these safeguards please see sections 7, 8 and 9 of this Guidance.

Once notified of the "new" FHRs rating the operator of the business will also have certain obligations. These will include displaying the sticker provided by the DC, displaying an online rating in the form prescribed (where applicable) and verbally

informing of the “new” FHRs rating if asked. For further information on these obligations see sections 10 and 11 of this Guidance.

1.7 Appeals received prior to commencement of the Act

This applies to businesses that received a rating under the non-statutory scheme, and the Operator has made an appeal. The Operator will have made an appeal in writing, but the determination of the appeal will not have taken place before the commencement of the Act.

In this situation the appeal should be carried out in accordance with the requirements of the non-statutory scheme, under which the rating was issued. Under the non-statutory scheme the appeal should be determined within seven days. A “new” FHRs rating, issued under the Act, should be given following the determination of the appeal.

Once a business has received notification of an appeal determination and thus it’s “new” FHRs rating, the new safeguards will be available to the Operator. The Operator will have the right of reply and the right to request a re-rating. For further information on these safeguards please see sections 8, 9 and 10 of this Guidance.

Once notified of the “new” FHRs rating the Operator of the business will also have certain obligations. These will include displaying the sticker provided by the DC, displaying an online rating (where applicable) and verbally informing of the “new” FHRs rating if asked. For further information on these obligations see sections 10, 11 and 12 of this Guidance.

1.8 Display requirements during transition

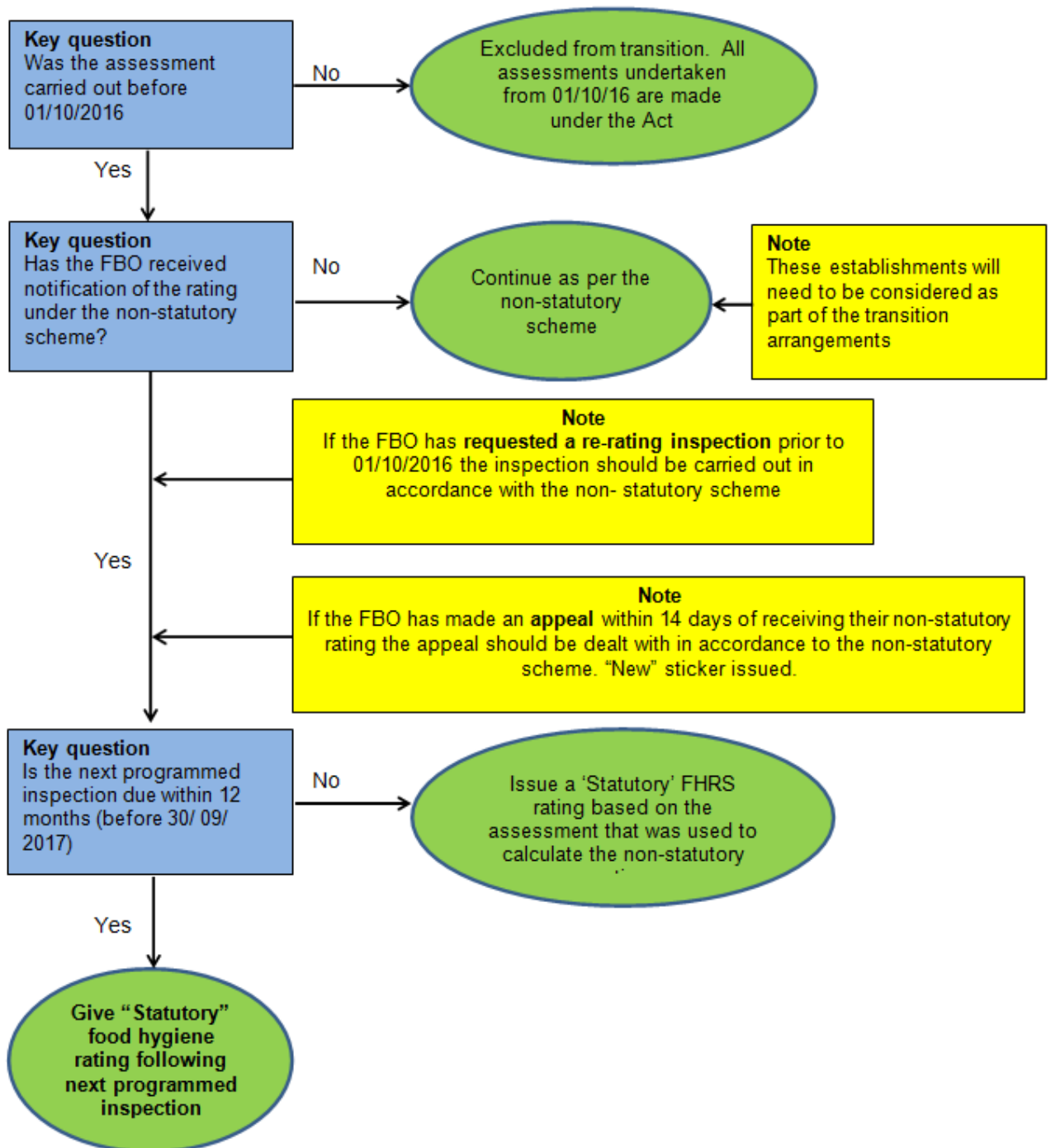
During the transition period the Operator is not required to display the rating sticker that was issued under the non-statutory scheme. Once notified of the “new” FHRs rating the Operator will be required to display the sticker(s) provided by the DC. This requirement is applicable 21 days from the date that notification was received (the time limit for appeal), or if an appeal is lodged, after receiving notification of the outcome. However, the Operator may decide not to make an appeal and could therefore choose to display the “new” FHRs sticker before the 21 day period has elapsed. Once the “new” FHRs sticker is being displayed by the Operator, any stickers or certificates issued under the non-statutory scheme should be removed from display in order to avoid misleading the public.

Any rating issued under the non-statutory scheme will not be displayed on the FSA website (food.gov.uk/ratings) if it was subject to appeal, an ‘Awaiting Publication’ image will be displayed instead. Once a “new” FHRs rating is issued and the appeal period following notification has elapsed (21 days) the rating will be displayed on the

FSA website. If an appeal is submitted an 'Awaiting Publication' image will be displayed until the appeal is determined.

1.9 Decision tree for transition

The transition arrangements apply only to those businesses that have received a rating under the non- statutory scheme



Section 2: Scope

2.1 Introduction

The scope extends to all food establishments required to be registered with a DC in Northern Ireland, or required to be approved by a DC in Northern Ireland, in accordance with Regulations EC 852/2004² or 853/2004³, that are supplying food direct to consumers, provided that they are not exempt under regulation 3 of the Food Hygiene Rating (Northern Ireland) Regulations 2016. This includes restaurants, cafes, takeaways, sandwich shops and other places where people eat food prepared outside of the home, as well as food retailers.

2.2 Exemptions

Regulation 3 of the Food Hygiene Rating Regulations (Northern Ireland) 2016 details the categories of establishments that are exempt from being rated. These include:

- an establishment where the sale of food is not the primary activity of the establishment; and where the only food made available to consumers is food that is shelf stable at ambient temperature and wrapped or packaged before it is brought to the establishment and the wrapping or packaging remains sealed at all times before the food is supplied to consumers;

Examples of such establishments could 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 selling pre-packed confectionery; and
- chemist shops selling pre-packed confectionery and/or health foods.

- off licences where the only food made available to consumers is food that is shelf stable at ambient temperature and wrapped or packaged before it is brought to the establishment and the wrapping or packaging remains sealed at all times before the food is supplied to consumers;
- an establishment used for the purpose of providing caring services where the establishment is also used as a private dwelling.

This exemption covers establishments used by childminders and adult placement carers where the establishment is also used as a private dwelling. These

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:139:0001:0054:en:PDF>

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:139:0055:0205:en:PDF>

establishments will continue to be subject to food hygiene requirements but are exempt from being rated.

The exemption does not cover home caterers, who should be included in the scope. The decision tree at point 3.1 below may also assist DC's with scope and exemption issues.

If a business meets the exemption criteria there is no provision to allow the business to "opt in" to the scheme. Exempt businesses will continue to be subject to food hygiene requirements but are exempt from being rated.

DC's will need to determine if their IMS will need to be amended to reflect the scope of the Act.

2.3 Mobile traders

Mobile food units (both retail and catering units), market stalls and occasional markets that are registered or approved by a DC in Northern Ireland are included and should, therefore be rated unless they meet the criteria making them exempt.

It is the responsibility of the 'registering authority' to determine the food hygiene ratings of these establishments and publish them at food.gov.uk/ratings, to deal with appeals against ratings, to deal with requests for re-rating inspections and to deal with requests to publish a 'right of reply'. There will be a need for DC's to liaise closely on these issues.

In cases where the establishment operates only within the area in which it is registered this is straightforward. In other cases, the 'registering authority' must take account of information supplied to it by 'inspecting authorities' in determining the rating.

Where a mobile trader operates outside the area in which it is registered and any intervention is undertaken, it is important that the 'inspecting' authority liaises with the 'registering' authority. This will help to avoid duplication of interventions and ensure that the trader does not have more than one food hygiene rating.

The 'inspecting authority' should send the 'registering authority' a copy of any documentation such as the post inspection report at the same time as this is sent to the Operator. If the Operator is provided with documentation at the time of intervention, a copy should be forwarded to the 'registering authority as soon as possible afterwards.

A template letter is provided at Appendix 4 which covers the general information that should be provided. The detailed intervention findings should be included in the inspection report and a copy should be enclosed with the transfer of information.

2.4 Village halls, community centres and similar establishments

These types of establishments vary significantly so it is difficult to be prescriptive and each set of circumstances should be considered on its merits. In doing so, the following can be taken into account:

- Is the business registered or approved by the DC?
- Is the business exempt from registration?

The FHRs is not intended to change which entities should be registered or approved as a food business. When dealing with such establishments DC's should refer to the 'Community and charity food provision' guidance document⁴ on the application of EU food hygiene law produced by the FSA.

In some circumstances, there may be more than one food business using the same premises. In such circumstances each registered or approved food business should receive a separate rating, unless they meet the criteria making them exempt.

2.5 Establishments comprising of different units at the same premises

Each registered or approved food business should receive a rating unless it meets the criteria making it exempt. Thus, where the individual units are registered or approved as a single food business establishment, e.g. a supermarket with an in-house bakery or butchers or in-house coffee shop or petrol station or restaurant, a single rating should be given.

Where the units are registered as separate food business establishments e.g. a supermarket with a coffee shop or restaurant under the control of a different Operator, separate ratings should be given.

2.6 Armed Forces, Police and Crown establishments

Armed Forces, Police and Crown establishments are, like other food business establishments, subject to the requirements of food hygiene legislation, they are registered and inspected in accordance with the *Food Law Code of Practice (Northern Ireland)*. Establishments that are occupied by or used for the purpose of any of Her Majesty's Armed Forces, any police force or the Crown are **included** within the scope of the scheme, and should therefore be given a rating unless they meet the criteria making them exempt.

2.7 Ships and vessels

⁴ <https://www.food.gov.uk/enforcement/enforcework/food-law/guidance-enforcement/community-hall-guidance>

If a vessel is registered as a food business by a DC in Northern Ireland it should be rated unless it meets the criteria making it exempt.

2.8 Trains & Coaches

Train and coach operating companies that are food businesses should register with their relevant DC. Usually this is the DC within whose area company policy and management decisions on food safety are made.

The DC 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.

2.9 Businesses with Internet Sales

Businesses that supply food directly to the consumer, whether or not consumers actually visit the premises, fall within the scope of FHRS. These businesses should be rated (where the DC can properly apply the intervention rating scheme) unless it meets the criteria making it exempt.

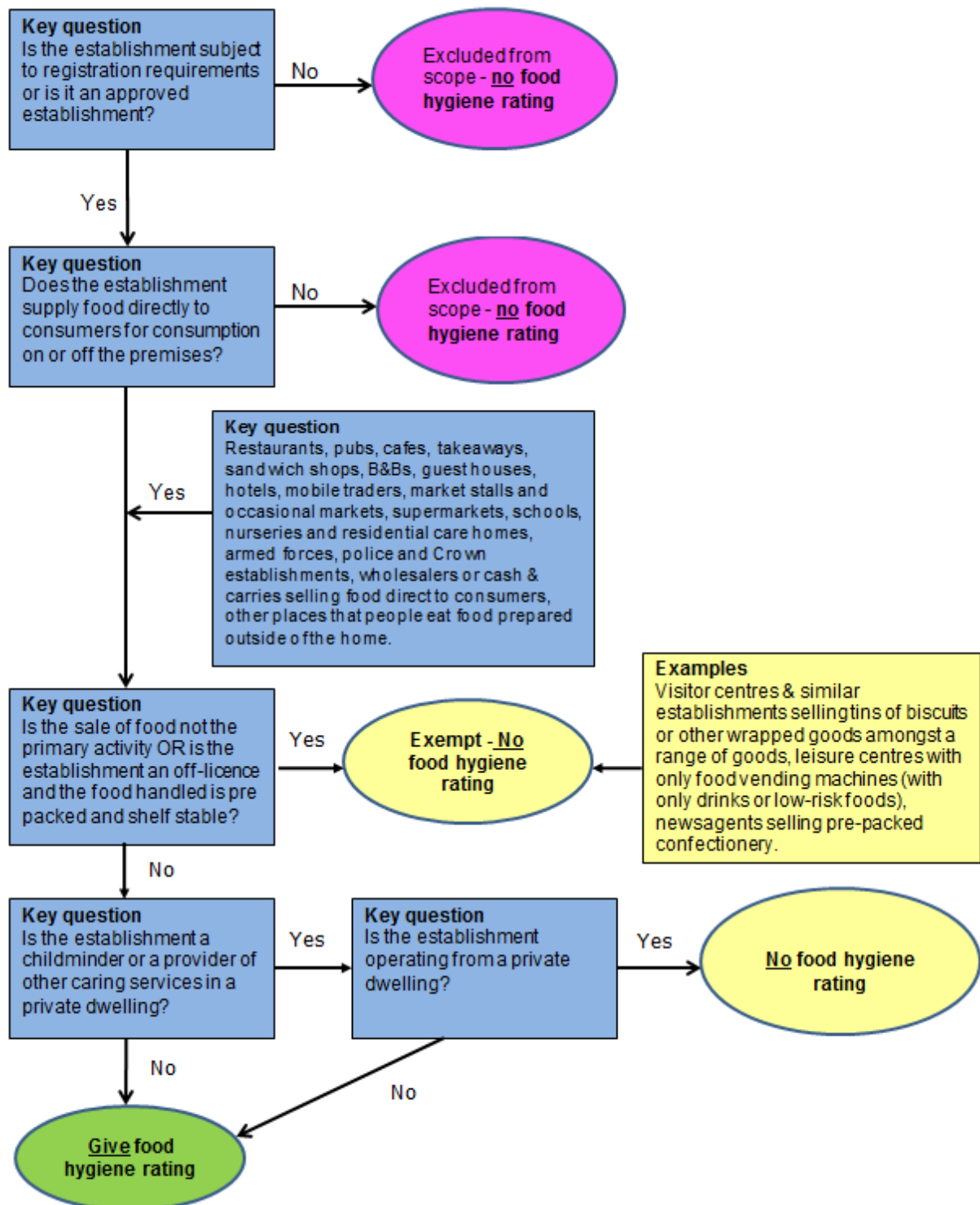
2.10 Where legal action is in progress or is being considered

Unless the establishment meets the criteria making it exempt, the establishment should, in general terms, be given a rating. However, this will be dependent on the nature of the action being taken:

- if the establishment has been closed because of an imminent risk to public health, either through formal action or voluntarily, it should not be rated 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 must 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, it should receive a rating which should be published at food.gov.uk/ratings.

In both of the above situations the rating should be determined by the information gathered from the most recent inspection. The Operator should be notified, as detailed in section 6 of this Guidance, and will be required to display the rating sticker when open for business.

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



Section 3: New Food Businesses

3.1 Introduction

The Food Hygiene Rating Regulations (NI) 2016 require that DC's must send certain information to the Operator of a new food business relating to the FHRS.

3.2 Information that must be sent to the Operator of a new food business

The following information must be sent to the Operator of a new food business within 14 days of the business registering with the DC's, or applying for approval:

- the ratings that may be given to an establishment;
- how the ratings are calculated, including what levels of achievement are required for each rating;
- who produces the rating for an establishment and when that will be first done;
- the information on when, where and how the rating must be displayed;
- that the Operator of an establishment will be notified of the rating before it is published;
- details of the Operators rights:
 - to appeal the rating
 - to request a re-rating
 - to comment on a rating ("right of reply")
- how to obtain further information relating to the FHRS.

3.3 When should new establishments be rated?

The *Food Law Code of Practice (Northern Ireland)*⁵ requires that all food establishments should receive an initial food hygiene inspection. This should normally take place within 28 days of registration or from when the DC becomes aware that the establishment is in operation. This reflects the importance of ensuring new food establishments are complying with food law.

A new establishment should be rated at the first inspection unless it meets the criteria making it exempt. In cases of a change in Operator, the establishment should be re-registered and treated as new, and a new food hygiene rating should be given at the first inspection. The food hygiene rating for the previous Operator will cease to be "valid" and the new Operator should be advised to remove any stickers relating to it from display.

⁵ <https://www.food.gov.uk/northern-ireland/niregulation/niguidancenotes/copni>

Section 4: Preparation of ratings and scoring using the food hygiene intervention rating scheme set out in the Food Law Code of Practice (Northern Ireland)

4.1 Introduction

The basis for the FHRS is the programme of interventions DC's implement in order to comply with official control requirements set out in Regulation EC 882/2004⁶. When preparing this programme DC's must have regard to the 'food hygiene intervention rating scheme' set out in the Food Law Code of Practice (Northern Ireland). 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 Operator and this is covered in section 9. No rating can be based or changed on the basis of self-assessment by the Operators, e.g. by questionnaire.

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.

The table below sets out the Food Law Code of Practice guidance 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. It also includes descriptions of the standards that would, in practice, be expected of a business in order to achieve these scores for the purposes of intervention-rating. It is not necessary for a business to meet every descriptor against a score for the score to be appropriate. The descriptions are provided to illustrate and complement the Code of Practice guidance and **not** to supplement it or replace it and the final determination of scores must always be in accord with the Code of Practice guidance on scoring. The 'at a glance' chart summarises these standards.

It should be noted that food hygiene legislation and Chapter 5 of the Food Law Code of Practice should be the first points of reference in determining the level of compliance, with this guidance providing assistance where necessary. Other guidance issued also needs to be taken into consideration and its' application, where relevant, when determining a food business' level of compliance.

⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:165:0001:0141:EN:PDF>

This includes considering guidance in relation to the application of Article 5 of Regulation 852/2004 in order to make a judgement on whether the business 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. Where it is appropriate for food hazards to be controlled through the implementation of pre-requisite requirements (rather than by a hygiene management compliance model, e.g., the Safe Catering Guide/Safer Food Better Business pack) businesses should be assessed as compliant and scored accordingly the Food Law 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.

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.

It is also important to note that the Food Law 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, thus the CIM score will be affected. 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 Food Law Code of Practice.

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.

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 giving the confidence

in management score. Such consideration should not be the overriding factor but rather should contribute to the overall assessment of confidence in management.

4.2 Primary Authority

Where there is a Primary Authority Agreement, DC's should have regard to the general principles of the primary authority scheme in accordance with DC Environment Health Departments, Local Better Regulation Office and Department of Enterprise, Trade and Investment 'Statement of Intent'.

4.3 Establishments linked to an outbreak of food poisoning or emergency procedures

The DC's focus should be to deal with the outbreak or emergency situation until the case has been resolved and the risk to public health removed.

In terms of the FHRs, if the establishment is still trading, it should still have a rating. If the district council considers that the existing rating is no longer relevant, and when it considers it appropriate to do so, the establishment should be re-rated. The new rating should be based on an inspection, partial inspection or audit. It should be notified to the Operator and published in the usual way.

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 food hygiene intervention rating scheme set in the Food Law Code of Practice and that the decision made is justified and documented.

If the establishment ceases trading, or changes ownership, its rating will cease to be valid. It should not be given a new rating whilst it remains closed, and no information about the business should be published. If and when the establishment re-opens (and where appropriate, registers or applies for approval with the DC) it may be inspected and given a new rating.

4.4 Description of Standards

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

Description of 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.

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

Score	Guidance/Description
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25

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 DC 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.

Level of (current) compliance with food hygiene and safety procedures	
Score	Guidance/Description
20	<p>Code of Practice - Specific guidance on score of 20 General failure to satisfy statutory obligations – standards generally low.</p> <p>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 DC 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.</p>

Level of (current) compliance with food hygiene and safety procedures	
Score	Guidance/Description
15	<p>Code of Practice - Specific guidance on score of 15 Some major non-compliance with statutory obligations – more effort required to prevent fall in standards.</p> <p>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 DC 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.</p>

Level of (current) compliance with food hygiene and safety procedures	
Score	Guidance/Description
10	<p>Code of Practice - Specific guidance on score of 10</p> <p>Some non-compliance with statutory obligations and <i>industry codes of recommended practice</i>. Standards are being maintained or improved.</p> <p>Description of what 10 might be expected to look like in practice</p> <p>Evidence of some non-compliances that are not critical to food safety (i.e. are not significant 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.</p> <p>Follow-up action by the DC 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.</p> <p>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.</p> <p>Standards being maintained or improving.</p> <p>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).</p> <p>Adequate control measures in place to prevent cross-contamination.</p> <p>Generally satisfactory food preparation, cooking, re-heating, cooling and storage of food demonstrated but some lapses may be evident over short periods.</p> <p>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.</p>

Level of (current) compliance with food hygiene and safety procedures	
Score	Guidance/Description
5	<p>Code of Practice - Specific guidance on score of 5 High standard of compliance with statutory obligations, <i>industry codes of recommended practice</i> and minor contraventions of food hygiene regulations.</p> <p>Description of what 5 might be expected to look like in practice Evidence of very good compliance with legal requirements, with only some minor non-compliances that are not critical to food safety. No follow-up action by DC 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 very 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.</p>

Level of (current) compliance with food hygiene and safety procedures	
Score	Guidance/Description
0	<p>Code of Practice - Specific guidance on score of 0</p> <p><i>High standard of compliance with</i> statutory obligations and <i>industry codes of recommended practice; conforms to accepted good practices in the trade.</i></p> <p>Description of what 0 might be expected to look like in practice</p> <p>Evidence of meeting legal requirements <i>or exceeding legal requirements.</i></p> <p>No follow-up action by DC apart from report of inspection provided to food business operator. No re-visit necessary before next planned intervention.</p> <p>No follow-up action identified for food business operator in relation to food handling practices and procedures, staff personal hygiene, or temperature control.</p> <p>All necessary control measures in place to prevent cross-contamination.</p> <p>Safe food preparation, cooking, re-heating, cooling and storage of food demonstrated.</p> <p><i>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.</i></p>

Description of 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.

Level of (current) compliance with structural requirements

Score	Guidance/Description
25	<p>Code of Practice - Specific guidance on score of 25 Almost total non-compliance with statutory obligations.</p> <p>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 DC 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.</p>

Level of (current) compliance with structural requirements	
Score	Guidance/Description
20	<p>Code of Practice - Specific guidance on score of 20 General failure to satisfy statutory obligations – standards generally low.</p> <p>Description of what ** 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 DC 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.</p>

Level of (current) compliance with structural requirements	
Score	Guidance/Description
15	<p>Code of Practice - Specific guidance on score of 15</p> <p>Some major non-compliance with statutory obligations – more effort required to prevent fall in standards.</p> <p>Description of what 15 might be expected to look like in practice</p> <p>Evidence of some major non-compliance with legal requirements. Some significant risks.</p> <p>Follow-up action by the DC 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.</p> <p>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.</p> <p>Significant improvements needed in standard of structure, equipment cleaning, maintenance and repair, or hand and equipment washing facilities.</p> <p>Poor design layout potentially leading to cross-contamination and to food safety being compromised.</p> <p>Major non-compliance with structural requirements (e.g. may be some damaged work surfaces, some significant dirt).</p> <p>Evidence of pest infestation/activity or inadequate waste disposal provision.</p> <p>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.</p>

Level of (current) compliance with structural requirements	
Score	Guidance/Description
10	<p>Code of Practice - Specific guidance on score of 10</p> <p>Some non-compliance with statutory obligations and <i>industry codes of recommended practice</i>. Standards are being maintained or improved.</p> <p>Description of what 10 might be expected to look like in practice</p> <p>Evidence of some non-compliances that are not critical to food safety (i.e. are not significant but may become significant if not addressed). Not likely to put consumers at unacceptable risk but may do so if non-compliances not addressed.</p> <p>Follow-up action for DC 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.</p> <p>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.</p> <p>Generally satisfactory standard of structural and equipment cleaning. Fairly well maintained and in reasonable repair. Appropriate facilities provided with some issues of non-compliance.</p> <p>Standards being maintained or improving.</p> <p>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).</p> <p>Evidence of satisfactory pest control (there may be minor pest proofing required but no evidence of pest activity).</p> <p>Evidence of satisfactory waste disposal provision (tidy, lidded bins and adequate collection arrangements).</p> <p>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.</p>

Level of (current) compliance with structural requirements	
Score	Guidance/Description
5	<p>Code of Practice - Specific guidance on score of 5 High standard of compliance with statutory obligations, <i>industry codes of recommended practice</i>, and minor contraventions of food hygiene regulations.</p> <p>Description of what 5 might be expected to look like in practice Evidence of very good compliance with legal requirements, with only some minor non-compliances that are not critical to food safety. No follow-up action by DC 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 very 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.</p>

Level of (current) compliance with structural requirements	
Score	Guidance/Description
0	<p>Code of Practice - Specific guidance on score of 0 <i>High standard of compliance with</i> statutory obligations and <i>industry codes of recommended practice</i>; <i>conforms to accepted good practices in the trade.</i></p> <p>Description of what 0 might be expected to look like in practice Evidence of meeting legal requirements <i>or exceeding legal requirements.</i> No follow-up action by DC 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. <i>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.</i></p>

Description of 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, 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.

Confidence in management/control procedures	
Score	Guidance/Description
30	<p>Code of Practice - Specific guidance on score of **</p> <p>Poor track record of compliance. Little or no technical knowledge. Little or no appreciation of hazards or quality control. No food safety management procedures. Manager does not recognise or accept for food safety and hygiene controls.</p> <p>Description of what ** might be expected to look like in practice</p> <p>Follow-up action by the DC likely to include prohibition procedures where there is imminent risk and ongoing formal enforcement, using a graduated approach in accordance with DC enforcement policy and re-visiting the establishment within a short timescale to secure compliance.</p> <p>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.</p> <p>No evidence of food safety management/documented procedures as appropriate for size and nature of the business (e.g. Safe Catering/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 <i>Implementation of procedures based on HACCP principles, and facilitation of the HACCP principles in certain food businesses</i>.</p> <p>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 or controls. Appropriate staff not adequately trained in application of HACCP principles. Poor track record, may be some evidence of previous problems.</p>

Confidence in management/control procedures	
Score	Guidance/Description
20	<p>Code of Practice - Specific guidance on score of 20</p> <p>Significantly varying record of compliance. Poor appreciation of hazards and control measures. No food safety management procedures. Some reluctance in recognising or accepting the need for food safety and hygiene control procedures.</p> <p>Description of what 20 might be expected to look like in practice</p> <p>Follow-up action by the DC likely to include commencement of formal enforcement action, using a graduated approach in accordance with DC enforcement policy and re-visiting the establishment to secure compliance.</p> <p>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.</p> <p>Food safety management/documented procedures inappropriate or inadequate for size and nature of the business (e.g. Safe Catering/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 <i>Implementation of procedures based on HACCP principles, and facilitation of the HACCP principles in certain food businesses</i>.</p> <p>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.</p>

Confidence in management/control procedures

Score Guidance/Description

10 **Code of Practice - Specific guidance on score of 10**
Satisfactory record of compliance.
Access to relevant technical advice source and/or Guides to Good Practice or assurance scheme.
Understanding of significant hazards and control measures in place.
Making satisfactory progress towards documented food safety management procedures commensurate with type of business.
Note: “Making progress” can only be considered appropriate once. If at the next intervention the food safety management procedures are not satisfactory the score of 10 is not appropriate.

Description of what 10 might be expected to look like in practice
Follow up action for DC 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, and making satisfactory progress, taking into account the flexibilities provided by Article 5 of Regulation (EC) 853/2004 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.

Confidence in management/control procedures	
Score	Guidance/Description
5	<p>Code of Practice - Specific guidance on score of 5</p> <p>Good record of compliance.</p> <p><i>Technical advice available in-house or access to, and use of, technical advice from a Primary Authority, trade associations and/or from Guides to Good Practice or assurance scheme.</i></p> <p>Effective management control of hazards.</p> <p>Having effective self-checks with satisfactory documented food safety management procedures commensurate with type of business.</p> <p>Audit by Food Authority confirms general compliance with procedures.</p> <p>Description of what 5 might be expected to look like in practice</p> <p>No follow-up action by DC apart from report of inspection provided to food business operator. No re-visit necessary before next planned intervention.</p> <p>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).</p> <p>Food safety management/procedures in place and appropriate for size and nature of the business (e.g. Safe Catering/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 <i>Implementation of procedures based on HACCP principles, and facilitation of the HACCP principles in certain food businesses.</i></p> <p>Hazards understood, properly controlled, managed and reviewed with supporting evidence.</p> <p>Food safety management procedures adequately cover all activities.</p> <p>Food safety management records appropriate for size and nature of business are generally maintained – but some minor deficiencies/gaps.</p> <p>Technical advice available in-house or access to, and use of, technical advice from a Primary Authority, trade associations or assurance scheme or other sources such as the DC enforcement officer and/or from Guides to Good Practice.</p> <p>Staff suitably supervised, instructed and/or trained in food hygiene with good general staff knowledge and new staff receiving induction training.</p> <p>Appropriate staff adequately trained in application of HACCP principles.</p> <p>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.</p>

Confidence in management/control procedures	
Score	Guidance/Description
0	<p>Code of Practice - Specific guidance on score of 0</p> <p>Excellent record of compliance.</p> <p><i>Access to technical advice, or manager knowledgeable and competent.</i></p> <p><i>Proactive and ability of self-regulation.</i></p> <p>Has satisfactory documented food safety management procedures commensurate with type of business, which <i>may be subject to external audit process.</i></p> <p>Audit by Food Authority confirms compliance with documented procedures with few/minor non-conformities not identified as critical control points.</p> <p>Description of what 0 might be expected to look like in practice</p> <p>No follow-up action by DC apart from report of inspection provided to food business operator. No re-visit necessary before next planned intervention.</p> <p>No follow-up action identified for food business operator in relation to food safety management procedures.</p> <p>Food safety management/procedures in place and appropriate for size and nature of the business (e.g. Safe Catering/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 <i>Implementation of procedures based on HACCP principles, and facilitation of the HACCP principles in certain food businesses.</i></p> <p><i>External audit of food safety management procedures.</i></p> <p>Hazards understood, properly controlled, managed and reviewed with supporting evidence.</p> <p>Food safety management procedures adequately cover all activities.</p> <p>Food safety management records appropriate for size and nature of business are maintained.</p> <p><i>Access to technical advice within organisation.</i></p> <p>All staff suitably supervised, instructed and/or trained in food hygiene.</p> <p>Appropriate staff trained in application of HACCP principles.</p> <p>Very 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.</p>

Code of Practice hygiene intervention rating scores – ‘at a glance’

Score	Standards			Compliance	Risk to public health	Operator action	LA action
	Hygiene	Structure	CIM				
25 CIM =30	<p>Very poor food hygiene practices, serious food contamination risks, inadequate temperature control for high-risk foods and major improvement needed in all areas.</p> <p>Failure to apply any (i.e. all) of the control measures required to prevent cross-contamination.</p> <p>Almost total non-compliance with requirements for safe food preparation, cooking, re-heating, cooling or storage of food identified.</p>	<p>Almost total non-compliance with structural requirements.</p> <p>Insufficient space in which to operate safely.</p> <p>Evidence of widespread pest infestation or totally unsatisfactory waste disposal provision.</p>	<p>No evidence of food safety management/documented procedures.</p> <p>Significant hazards not understood and no effective controls in place.</p> <p>Staff not suitably supervised, instructed and/or trained and no appreciation of food hazards or controls.</p> <p>Poor track record.</p> <p>Management likely not to recognise or accept need for food safety hygiene and controls.</p>	Almost total non-compliance.	Imminent and serious risks.	<p>Immediate and significant action required in respect of all serious risks.</p> <p>Address all other matters within stipulated timescale.</p>	<p>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.</p>
20	<p>Poor standard of hygienic food handling, temperature control and staff personal hygiene and major improvements required.</p> <p>Inadequate implementation of many of the control measures required to prevent cross-contamination.</p> <p>Major and widespread non-compliance with requirements for safe food preparation, cooking, re-heating, cooling or storage of food identified.</p>	<p>Major and widespread non-compliance with structural requirements.</p> <p>Poor design layout that is likely to lead to cross-contamination and to food safety being compromised.</p> <p>Evidence of pest infestation or inadequate waste disposal provision.</p>	<p>Food safety management/documented procedures inappropriate or inadequate.</p> <p>Significant hazards not fully understood and not all controls in place.</p> <p>Significant improvements in food safety procedures/implementation of controls required.</p> <p>Some staff not suitably supervised, instructed and/or trained.</p> <p>Varying track record</p> <p>Management likely to show some reluctance to recognise and accept need for food safety and hygiene controls.</p>	Major and widespread non-compliance.	Widespread and significant risks.	<p>Address all identified non-compliances as a matter of urgency within stipulated timescale.</p>	<p>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.</p>

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

Section 5: Mapping of Intervention rating scores to the food hygiene rating

5.1 Introduction

The following elements of the 'food hygiene intervention rating scheme' set out in chapter 5 of the *Food Law Code of Practice (Northern Ireland)* 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.

Each element is numerically scored against the relevant criteria on the basis of guidance given in the Code and in section 4 of this document.

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

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

The rating depends on the overall level of compliance – the total intervention rating score – 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.

The table below outlines this mapping.

Mapping of numerical scores from the intervention-rating scheme in the <i>Food Law Code of Practice</i> 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

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

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



6.1 Introduction

Following inspection the DC must notify the Operator of their food hygiene rating and accompanying information.

6.2 When must the notification be sent

The notification must be sent in writing, within 14 days from the date of the inspection. The number of 'days' includes weekends and bank holidays.

Where the term "send" is used the definition at section 24 of the Interpretation Act (Northern Ireland) 1954 applies. Specifically, the notification is considered "sent" by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

For multi-site businesses, DC's must ensure that the notification and sticker(s) are sent to the local establishment and that the notification is also communicated to the head office, this should include copies of documents sent or left on site e.g. post inspection reports.

6.3 Information to accompany notification

The following information must also be sent to the Operator along with the written notification:

- the food hygiene sticker(s) for the rating that has been achieved;
- statement of the reason why the establishment was rated as it was. In cases where the highest rating has not been given, details of the action needed, with reference to each of the rating criteria, in order to achieve legal compliance;
- an explanation on the right to appeal;
- an explanation of the right to request a re-rating;
- an explanation of the right of reply;
- an explanation of the validity of rating;
- an explanation on the requirement to display the rating at the establishment;
- an explanation on the duty to display online (if applicable); and
- an explanation on the requirement to provide information about the rating.

6.4 Presentation of the Information

Details of why the establishment was rated as it was along with information regarding compliance with relevant food legislation must be presented to the Operator. This information should be presented to the Operator for each of the three elements assessed - hygiene, structure and confidence in management/control procedures. In cases where the highest rating has not been given, details of the action needed to achieve legal compliance (and the highest rating can be given) must also be given. An example of an addition to a standard food business intervention report which may be used is provided in Appendix 5.

A standard leaflet has also been produced by the FSA to accompany the notification. The leaflet includes much of the information required to accompany the notification. This includes information on: publication of ratings; display of stickers; appeals, right of reply, and making requesting requests for re-rating. Each notification must also include specific information relating to the DC and the food business establishment. [\(Link to be provided\)](#)

6.5 Informing the Food Standards Agency of ratings

Following an inspection of a food business establishment which has resulted in a rating, the DC must within 34 days inform the FSA of the rating. The DC must also inform the FSA if it is not appropriate to publish the rating.

The FSA having been informed of a food hygiene rating must within seven days publish the rating online, unless informed by the DC that the publication would not be appropriate. See section 15 of this Guidance.

Section 7: Appeals

7.1 Introduction

To ensure fairness to businesses, DC's must have an appeals procedure in place for Operators to dispute the food hygiene rating given in respect of their establishment.

The appeals procedure is illustrated in the flow chart at point 7.7 below. In essence, if an Operator considers that the food hygiene rating given by the 'inspecting officer' (i.e. the officer undertaking the inspection) is unjust, the Operator may appeal on the grounds specified in section 3 of the Act. This is detailed in 7.2 below.

An Operator may also appeal after a re-rating inspection if the Operator considers that the 'new' food hygiene rating given is unjust. The basis of all appeals is the same.

An Operator 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.

7.2 When and how must the appeal be made?

The appeal must be made by the Operator in writing within 21 days, from the date of receipt of notification (this may include submission via e-mail and can be submitted by a person acting on behalf of the Operator). Appeals received more than 21 days after notification should not be considered. A standard template form that Operators may use to submit an appeal is available at Appendix 1 of this Guidance document.

The appeals procedure is relevant where the Operator believes that the rating does not reflect the food hygiene standards at the establishment at the time of the inspection on which the rating is based.

An appeal is **not** appropriate in circumstances where an Operator has requested an inspection for re-rating on the basis that non-compliance(s) identified at the time of the initial inspection have been rectified.

Appeals must be considered by an officer of the DC who was not involved in the production of the rating that is being appealed.

When deliberating the appeal 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. For example a visit to the establishment may be helpful to determine the effective implementation of a food safety management system.

7.3 Communicating outcome of appeal

The appeal must be determined and the decision should be communicated to the Operator within 21 days from the date that the appeal was received. The DC will need to consider how best to record the receipt of appeals.

Following the determination of the appeal, the DC must notify the FSA of its decision within 21 days from the date that the appeal was received. Where the decision is to revise the food hygiene rating, the DC must send to the FSA a copy of the notification of the revised food hygiene rating, and details of why the establishment was rated as it was.

This information should be forwarded to:

Executive Support Unit
Food Standards Agency Northern Ireland
10 a-c Clarendon Road
Belfast BT1 3BG

Or by email to: Executive.Support@foodstandards.gsi.gov.uk

7.4 Notification of appeal

The DC must notify the Operator in writing within 21 days of receiving the appeal of its determination. The written notification must be accompanied by:

- Where the DC has changed the establishments food hygiene rating on the appeal, a sticker showing the new rating;
- A written statement of the reasons for the determination on the appeal;
- An explanation of the right to request a re-rating;
- An explanation of “right of reply”;
- An explanation of the validity of rating;
- An explanation on the requirement to display the rating; and
- An explanation on the requirement to provide information about the rating.

7.5 Display of the rating being appealed

The rating will not be displayed on at food.gov.uk/ratings during the 21 day appeal period. If an appeal is submitted the 'Awaiting publication' image (see below) will be displayed until the appeal is determined.

When the Operator is notified of the revised food hygiene rating a new sticker will be provided with the notification of the new rating. The Operator should destroy the previous "invalid" sticker and be reminded that to continue to display an invalid sticker will constitute an offence which may be punishable by a Fixed Penalty of up to £200. Only one rating – the valid rating – can be displayed at any point in time (see also section 10 on display).

If no appeal is made the rating will be "valid" after the 21 day period has expired. The rating sticker will then need to be displayed in accordance with Regulation 5, and the rating will be published on food.gov.uk/ratings.

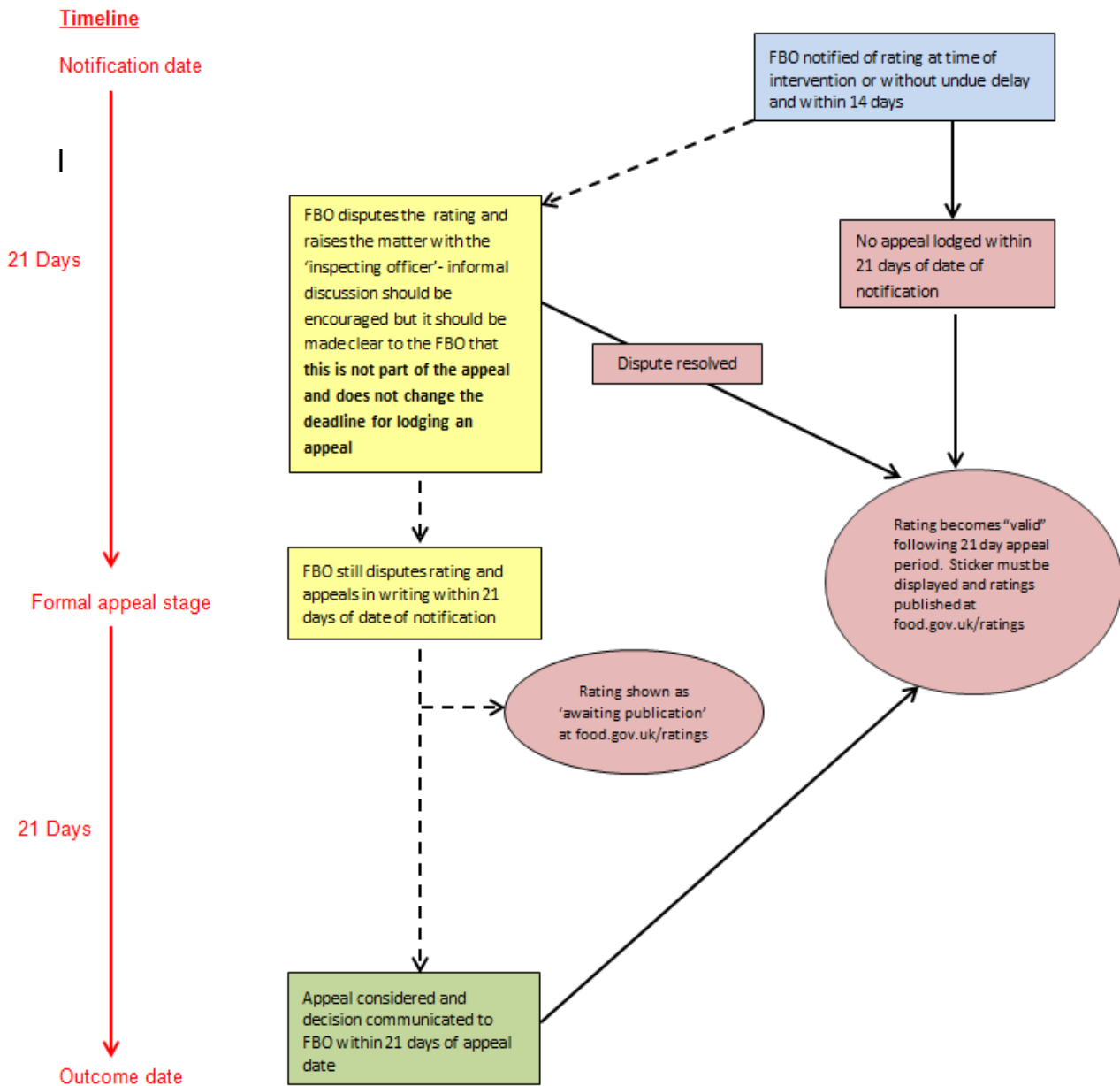
7.6 If the Operator disagrees with the outcome of the appeal

If the Operator disagrees with the DC's decision on appeal (which could be to uphold the original rating or revise it to a lower rating), and/or the procedure by which the DC reached its decision, the Operator has recourse to challenge the DC by means of judicial review.

The Operator also has recourse to the DC's 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.

This is not part of the scheme's appeal procedure.

7.7 Flowchart illustrating the appeals procedure



Notes

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

Sufficient legal protection is given to Operators if appeals against a disputed food hygiene rating are determined by an officer of the DC who was not involved in the production of the rating that is being appealed. There is no legal requirement for the DC's complaints procedure to form part of the FHRs appeals procedure. This does not, however, prevent an Operator from using the complaints procedure where s/he is dissatisfied with any aspect of the council's services.

Section 8: 'Right of reply'

8.1 Introduction

Section 5 of the Act provides Operators with an additional safeguard for businesses, through the 'right of reply'. This gives Operators the opportunity to comment on the establishment's rating and enables them to give an explanation of actions taken since they received their food hygiene rating, or to say if there were particular circumstances at the time of the inspection that might have affected the rating.

8.2 The 'right of reply'

Operators have a 'right of reply' which may be published at food.gov.uk/ratings. The 'right of reply' comments may be published together with the rating to which the comments relate. The Operator may submit their 'right of reply' comments at any time while the rating is valid, whether or not an appeal has been made. The 'right of reply' will remain on the website until a new food hygiene rating is given.

The purpose of the 'right of reply' is to enable the Operator to give an explanation of actions that have been taken following the inspection at which the rating was given or to give any information on particular circumstances at the time of the inspection, rather than to complain or criticise the FHRs or 'inspecting officer'.

The 'right of reply' comments must be made in writing and submitted to the DC, a standard template form that Operators may use to submit a 'right of reply' is available at Appendix 1 of this guidance document. There is no requirement for this form to be used, and a Operator is free to submit their comments in a different written format, clearly marked as their 'right of reply' comments.

The DC may send comments to the FSA in the form in which it received them, they may edit the 'right of reply' and send them to the FSA in that edited form, this should be sent without undue delay, or refuse to send them to the FSA in any form.

DC's may avail of this edit or refusal to send the FSA the 'right of reply' provision if said comments contain offensive, defamatory, clearly inaccurate or irrelevant remarks. In such cases the Operator must be informed with a written explanation of the reason for doing so and be invited to revise their text.

The FSA will publish the comments within seven days of receiving them from a DC, except where a rating has yet to be published in which case the comments will be published within seven days of publication of the rating.

Section 9: Requests for re-rating inspections

9.1 Introduction

DC's must have a procedure in place for undertaking inspections at the request of the Operator for re-assessing the food hygiene rating of an establishment.

The requested re-rating inspection mechanism applies in cases where the Operator has agreed to pay the reasonable costs of re-rating, and certain conditions are met.

As part of the notification sent to Operator following inspection, the DC must inform the Operator of their right to request an inspection for the purpose of re-rating, including details of how to make such a request and the cost. A standard template form that Operators may use to submit a request for re-rating is available at Appendix 1 of this Guidance document

The Guidance is designed to outline the procedure for dealing specifically with inspections requested by the Operator for the purposes of re-rating, and not those undertaken in the course of normal follow-up enforcement action. Where a follow-up enforcement visit is being undertaken the DC revisit policy will apply.

The Guidance highlights that where the requested visit involves an inspection, partial inspection or audit, the intervention rating may be revised by the DC officer in accordance with the provisions of the *Food Law Code of Practice (Northern Ireland)*. There will be times when it is appropriate to revise the intervention rating, and other times when it is not. Each case will need to be determined on its own merits. The officer will need to exercise professional judgement in making the decision and will need to document the reasons for the decision made.

9.2 Request for re-rating inspections

Before an inspection for re-rating purposes can be undertaken the Operator, or a person acting on behalf of the Operator, must make the request in writing (this may include submission via email). The request must be accompanied by the specified fee for the re-rating and the following conditions must be met:

- any appeal against the current rating has been determined or the appeal period has expired;
- the Operator has notified the DC of the improvements that have been made at the establishment since the last inspection; and
- the DC considers it reasonable to inspect and re-assess the establishment; taking into account the improvements that have been made.

The Operator can make a request for an inspection for re-rating purposes at any time.

The number of requests made by the Operator is not limited but inspections for the purposes of re-rating will only be undertaken if all the conditions are met.

9.3 Information to support the request for inspection for re-rating purposes

The request for inspection should outline the case for the requested re-rating inspection, i.e. it should indicate the actions that have been taken by the Operator to rectify the non-compliance(s) identified and, where appropriate, should include supporting evidence.

The supporting case should refer to those actions that the DC informed the Operator would need to be taken in order to improve the level of legal compliance, and could include items such as photographs of work completed, copies of training certificates etc.

9.4 Request for inspection for re-rating purposes where conditions are not met

If the case made by the Operator does not meet the required conditions, the DC can decline a request to undertake a re-rating inspection on that basis. In doing so, the DC should explain, in writing, why the request is being declined at this stage and should re-state the conditions that must be met, including the actions that must be taken in order to improve the level of legal compliance and indicate what evidence will be required before a re-rating inspection is made on further request. The Operator should be advised that they may re-submit a request at any time, but the re-rating inspection will not be undertaken unless all the conditions are met.

If the Operator disagrees with the DC's decision to decline a request for a re-rating inspection, the Operator has recourse to the DC's complaints procedure, or ultimately through seeking judicial review.

9.5 When and how must the inspection for re-rating purposes be undertaken

If the Operator has made the request in writing, has paid the specified fee for re-rating, and has met the conditions (see section 10.2) the inspection must be undertaken no later than three months after the request was received by the DC.

In particular, where 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.

Where possible, the inspection should be unannounced. The general principal is that inspections should be carried out without prior warning, except in cases where prior notification is necessary.

A new food hygiene rating should not be given on the basis of documentary evidence only, an inspection, partial inspection or audit will need to be undertaken before a re-rating is provided.

Where a request has been received from an Operator whose business is programmed for an inspection within three months of receipt of the request the Operator should be informed. The DC should inform the FBO that a visit is planned within the next three months, but should not give the planned date of the inspection, and should give the Operator the option of proceeding with the requested inspection for re-rating purposes or withdrawing their request and waiting for the programmed inspection.

9.6 Powers of entry/authorisation for requested inspection for the purposes of re-rating

By virtue of making a request, the Operator has agreed to ensure that the DC will be given access to carry out an inspection of the establishment for the purpose of re-rating. Officers will also be afforded powers of entry by their authorisation under the Food Hygiene Rating Act (Northern Ireland) 2016.

It should be made clear, however, that the officer is still authorised under The Food Hygiene Regulations (Northern Ireland) 2006 and as such retains powers of entry and has the powers to take enforcement action under that legislation where appropriate.

9.7 Hygiene standards at the time of the inspection for re-rating purposes

At the time of the inspection, the DC officer should not only check that the required improvements have been made, but should also assess the level of compliance that is found overall. This means that the food hygiene rating could go up, down or remain the same if deemed appropriate by the DC officer.

9.8 Notification of re- rating

Following an inspection for the purposes of re-rating, the DC must notify the Operator of the outcome, whether the rating has changed or remained the same. The notification must be sent in writing, within 14 days from the date of the inspection.

If the DC decides to change the rating the following information must also be sent to the Operator along with the written notification:

- A sticker showing the new rating;
- A written statement of the reasons for the determination on the review (post inspection report). In cases where the highest rating has not been given, details of the action needed, with reference to each of the rating criteria, in order to achieve legal compliance;
- An explanation of the right to appeal;
- An explanation of the right to request a further re-rating;
- An explanation of “right of reply”;
- An explanation of the validity of rating;
- An explanation on the requirement to display the rating; and
- An explanation on the requirement to provide information about the rating.

9.9 Informing the Food Standards Agency of ratings

Following an inspection of a food business for the purposes of re-rating, the DC must within 34 days inform the FSA of the rating. The DC must also inform the FSA if it is not appropriate to publish the rating.

The FSA having been informed of a food hygiene rating must within seven days publish the rating online, unless informed by the DC that the publication would not be appropriate. See section 15 of this guidance.

Section 10: Display of food hygiene rating stickers

10.1 Introduction

The Act requires the Operator of a food business to display a food hygiene rating sticker(s) provided by the DC.

The sticker(s) displayed must show the establishments' valid food hygiene rating, and must be displayed at or near each relevant entrance(s) to the establishment.

10.2 The Food Hygiene Rating Sticker

The form of the FHRs sticker is defined in the Food Hygiene Rating Regulations (Northern Ireland) 2016.

The prescribed stickers are 190mm (wide) x 158mm (tall) with text showing a rating from 0 to 5.

Stickers are available in two formats - "window display" and "wall display".

The stickers are shown below:



The food hygiene rating sticker must comply with the requirements detailed above. The only variation is in cases where a DC chooses to display its name and logo in place of the words 'This scheme is operated in partnership with your local authority'.

In addition to the six prescribed rating stickers the FSA will continue to provide a sticker for businesses that have not yet been rated. DC's should inform Operators that an 'awaiting inspection' sticker(s) may be given if requested by the Operator. Examples of some of the circumstances where a sticker may be given are detailed below:

- Where a 'new' establishment is registered; or
- Where there is a change of Operator that means that the establishment should be registered and treated as 'new'.

There is **no** legal obligation on an Operator to display an 'awaiting inspection' sticker but doing so may help ensure fairness to businesses and aid consumer understanding.

Rating stickers may only be issued by the DC, and for this reason only DC's may order stickers. DC's should ensure that supplies of stickers are kept in a secure place and report any loss of stickers to the FSA. Details of how DC's can order the stickers are given at 11.9.

DC's should add the following information on the reverse side of the 'sticky on the front' stickers:

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

The DC may also add a sticker/stamp of its own logo to the top right hand corner of the **reverse side** of the sticker if it wishes.

10.3 When should the stickers be given

Operators must be notified of their rating in writing within 14 days from the date of the inspection. See section 6- Notification of food hygiene ratings.

The sticker should be provided when notification of the rating is given whether this be at the time of intervention or later by post. This sticker becomes valid and must be displayed 21 days after it is received or after any appeal has been determined and the Operator notified of the outcome. The Operator should then remove from display and destroy any sticker they have for the previous rating and be reminded that to continue to display this will constitute an offence under the Act. Only one rating – the valid rating – can be displayed at any one time.

10.4 Location and manner of display

All establishments rated as part of the FHRS must be provided, by the DC, with sticker(s) that must be displayed at or near each relevant entrance. A relevant entrance is any entrance that is available for use by customers. For establishments

that offer customers the facility to place orders for food from their vehicle the 'relevant entrance' will be at each place food can be ordered.

In all cases, the rating must be displayed where it can be **readily seen** and where it is capable of being **easily read** by customers before they enter the establishment when it is open for business.

The regulations specify that a sticker must be displayed:

- on a window that forms part of the relevant entrance; or
- on a window that is adjacent to the relevant entrance; or
- inside the establishment but capable of being read through such a window; or
- where there is no window available that is suitable for display, on a wall, door or notice board.

Where the establishment has multiple relevant entrances the business must be provided, by the DC, with a sticker for each such entrance.

A "drive through" business may be an example of an establishment with multiple entrances. A sticker will have to be displayed at any traditional customer entrances, where customers could enter the establishment on foot and also at the entrance to the drive through for example, at the point where the customer places the order. The customer could then choose not to place an order if dissatisfied with the establishment's rating.

Where there are multiple, separately registered or approved, businesses operating from the same premises each Operator will need to display the sticker relating to their business at or near each customer entrance to their establishment. The rating must be displayed in a conspicuous place where it is capable of being readily seen and easily read by customers before they enter the establishment when it is open for business. It must be possible for customers to easily distinguish the ratings of each business.

For example, in a department store where there is a separate coffee shop located within the store, it would be expected that the rating for the coffee shop would be displayed at or near the entrance to the coffee shop. It would also be good practice to display the rating at each customer entrance to the premises, clearly identifying the rating as that of the coffee shop. The same principle applies to other similar premises, for example to service stations, hospitals etc.

If the establishment is one where food is provided to customers but customers are not permitted to enter the establishment or it is incapable for practical purposes of being entered by customers - for example, a mobile food van, or a domestic premises - the sticker showing the establishment's valid rating must be displayed at the establishment in a location where it is capable of being readily seen and easily read by customers when the establishment is open for business.

For example, in the case of a home catering establishment, it would be acceptable for the sticker to be displayed conspicuously in the location where the interaction between the Operator and the customer takes place, e.g. in the entrance hallway or porch, on the back door if this is where customers would usually enter/collect, when the establishment is open for business. Practically, this means that the sticker does not need to be permanently affixed but must be displayed when open for business e.g. when food is being provided to the customer.

Where food is provided to customers by or on behalf of an Operator at outlets away from the Operator's establishment such as market stalls and vehicles that are part of the Operator's business, and those outlets are not eligible for a rating in their own right, a sticker showing the valid rating for the establishment must be displayed in a conspicuous place at each outlet where it is capable of being easily read by customers when the outlet is open for business.

For example, in the case of a market stall this could be through attaching the sticker to the stand or table, or perhaps by displaying the sticker in a picture frame on the table. For mobile vehicles this may mean displaying the sticker on a window or elsewhere on the vehicle.

It should be noted that where examples are given, these are indicative and not an exhaustive list. Each establishment must be judged on its individual merits. It is not possible to include an example for each set of circumstances that may arise, but the principle of providing food hygiene rating information to the public, via a sticker, displayed in a conspicuous place where it is capable of being readily seen and easily read by customers, before they enter the establishment when it is open for business, should apply.

10.5 Sticker validity

The Food Hygiene Rating sticker becomes valid when the rating is valid.

The first rating becomes valid and the sticker must be displayed once the Operator has been notified of the rating and the period of 21 days for an appeal against the rating has expired, or if an appeal has been made, the appeal has been determined and the Operator has received notification of the outcome.

A rating remains valid and the accompanying sticker must be displayed until notification of a new rating is received and the period of 21 days for an appeal against the rating has expired, or if an appeal has been made, the appeal has been determined and the Operator has received notification of the outcome.

The sticker ceases to be valid when the establishment's food hygiene rating ceases to be valid.

The rating ceases to be valid when there has been a transfer of ownership of an establishment or an establishment has ceased trading.

If an establishment is closed due to an imminent risk to public health then it should not have a food hygiene rating whilst it remains closed. No information about the business should be published and any sticker on display should be removed (there is no appeal pending in such cases). If and when the establishment re-opens it should have a rating which will be based on the most recent inspection, partial inspection or audit undertaken. This principle will extend to voluntary closure where an imminent risk to public health exists.

It is an offence to display a sticker that is not valid therefore when an establishment's sticker ceases to be valid the Operator must remove it from display and destroy it, unless instructed not to destroy it by an authorised officer.

10.6 Use of any of the branding for marketing and advertising purposes by DC's

DC's 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.

10.7 Use of any of the branding for marketing or advertising purposes by Operators

It is recognised that Operators may wish to publicise their ratings.

Operators may use FHRs branded materials to promote their business but in doing so, Operators should be reminded that 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.

10.8 Ordering stickers

Rating stickers may only be issued by the DC, and for this reason only DC's may order stickers. Details of where to order stickers are available on the FSA website at: <http://www.food.gov.uk/enforcement/enforcework/hygienscoresresources/fhrsbranding>

Section 11: Online Display

Section 11: Online display

This section will be developed following drafting of the Food Hygiene Rating (Online Display) Regulations 2016 and will be consulted on separately.

Section 12: Requests for information about food hygiene ratings

12.1 Introduction

Section 8 of the Act places an obligation on the Operator to provide information on the food hygiene rating for their businesses if requested to do so.

The Operator must ensure that each relevant employee is aware of the establishment's food hygiene rating. Relevant employees must tell any person who asks (verbally) the rating that the business has received. This applies in face to face situations as well as over the telephone.

12.2 Relevant employee

A "relevant employee" is defined in the Act as someone who: *'is employed at the establishment, and is, in the opinion of the Operator of the establishment, likely to be subject to a request of the kind referred to in subsection (1)'* (subsection (1) makes reference to a request for establishments food hygiene rating to be provided).

In practice this is likely to mean those employees who, as part of their duties, have face to face communication with the public. Examples of such "relevant employees" may include those taking orders at a restaurant/take away but would not include the food handler responsible for food preparation and working in the kitchen only. "Relevant employees" would also include staff that work at a customer information desk at a large supermarket to which other staff members would routinely refer people to if they questions about the business.

Section 13: Adjustment of time periods

13.1 Introduction

Section 16 of the Act provides for certain time periods specified in the Act, within which DC's and the FSA are required to take action, to be adjusted.

13.2 Time Provisions

Where the period of the following time provisions within the Act include the last working day before Christmas Day, the period is to be extended by seven days:

- DC's notifying the Operator of a rating following an inspection or re-rating inspection; and
- DC's notifying the FSA of a rating following an inspection, re-rating inspection or appeal

The term 'working day' means a day which is not a Saturday or Sunday.

13.3 Exceptional Circumstances

Section 16 of the Act also allows for the time periods specified to be exceeded in 'exceptional circumstances' where it is not reasonable for a DC to comply with them. The time periods that this applies to include:

- DC's notifying the Operator of a rating following inspection or re-rating inspection; and
- DC's notifying the FSA of a rating following an inspection or re-rating inspection

DC's have responsibility for safeguarding public health including responding to emergency situations. When responding to these situations DC's may on occasion be unable to discharge their responsibilities under the Act. During these exceptional circumstances, it may be necessary to direct resources away from non-vital activities towards those of a higher public health priority such that it is not possible for DC's to comply with the time periods for the above. They must, however, comply as soon as it is reasonably practicable for them to do so. Equally other unforeseen exceptional circumstances may occur which may cause the specified time periods to be breached.

Examples of exceptional circumstances are:

- Investigations of possible or confirmed food poisoning outbreaks;
- Investigation of other major food related incidents;
- Investigation and/or management of major non-food related incidents that result in resources being diverted from the food safety function.

On occasions where a DC intends to avail of this provision, the FSA should be notified as soon as possible.

Section 14: Consistency

14.1 Introduction

Section 14 of the Act makes it a requirement for DC's to keep the operation of the FHRS in its district under review. Such a review is aimed at ensuring that the rating criteria are assessed fairly and consistently. Consistent implementation and operation of the FHRS is critical to ensuring that businesses are treated fairly and equitably, and to ensuring that consumers are able to make meaningful comparisons of hygiene ratings for establishments both within a single DC and across different DC's.

Consistency should consider the application of this guidance, which includes sections on the different elements of the FHRS.

DC's will need to undertake monitoring to ensure consistent application of the guidance and consistency in the way that interventions are undertaken and, in particular, how the food hygiene intervention-rating scheme set out in the Food Law Code of Practice (Northern Ireland) is applied. Monitoring should operate on three levels: within the DC; 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 DC's statutory duty to monitor compliance with, and enforcement of, food hygiene legislation. In addition, training requirements and participation in consistency exercises should be considered.

14.2 Ensuring consistency

Measures to ensure consistency include three main elements:

- application of this statutory guidance on the FHRS;
- monitoring arrangements (consistency controls based on DC policies, procedures and documents that meet the requirements in the Food Law Code of Practice (Northern Ireland), 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.

14.3 The FSA's role in relation to implementation and operation of the FHRS

The Act requires the FSA within three years of the commencement to conduct a review of the operation of the Act throughout Northern Ireland. Such a review must take into consideration:

- adequacy of any time period specified in which something may or must be done;

- operation and adequacy of the 'Appeals' provision;
- operation and adequacy of the 'Request for re-rating' provision in particular whether there should be a limit on the number of occasions on which the right to make a request for a re-rating may be exercised.

The FSA may conduct subsequent reviews of the operation of the FHRS in Northern Ireland as and when it deems appropriate. Following each the FSA must produce a report detailing the review, making any recommendations for change to the process, and a copy of the report must be sent to the Department.

The Act also places a duty on DC's in relation to the evaluation of the scheme.

Each DC must review the operation of the FHRS in its district, and at the request of the FSA, provide any information requested for the purpose of assisting the FSA to evaluate the scheme.

The FSA will keep the statutory guidance under review, consider DC feedback and will revise and update it as necessary and appropriate.

14.4 DC monitoring of operation of the FHRS

As food hygiene ratings are a means of presenting intervention findings, the internal monitoring arrangements that DC's 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 arrangements 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 Food Hygiene Rating Act (Northern Ireland) 2016, Food Hygiene Rating Regulations (Northern Ireland) 2016, Food Hygiene Rating Orders (Northern Ireland) 2016 with the Food Law Code of Practice (Northern Ireland), with 'the Standard' in the Framework Agreement on DC Food Law Enforcement and with official guidance.

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

14.5 Key service activities in relation to operation of the FHRS

These include:

- officer competency;
- food business database management;
- carrying out inspections and other interventions;

- interpretation of the intervention-rating scheme at chapter 5 of the Food Law Code of Practice (Northern Ireland);
- maintenance of intervention records and correspondence;
- service monitoring and related record-keeping; and
- operation of FHRS safeguards – appeals, ‘right to reply, and re- rating inspections.

14.6 DC Liaison

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 DC’s and a forum for discussion and consideration of consistency issues. Any issues identified on a regional level should be shared through the Northern Ireland Food Safety Sub-Group.

The Northern Ireland Food Safety Sub-Group Group is a liaison group specifically set up to discuss issues relating to Food Safety which includes FHRS in Northern Ireland.

14.7 Businesses feedback on consistency of operation of the FHRS

A ‘right of 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 DC’s on any relevant issues raised by businesses as appropriate.

14.8 Consumers feedback on consistency of operation of the FHRS

Consumers can also use the ‘contact us’ facility at food.gov.uk/ratings to provide feedback to the FSA. The FSA will liaise with DC’s on any relevant issues raised by consumers as appropriate. This does not preclude consumers from contacting their DC, or the relevant DC that rated the establishment.

14.9 DC feedback on consistency of operation of the FHRS

DC’s should continue to use existing mechanisms, including food liaison groups to discuss issues of interpretation and consistency.

Section 15: Use of the food hygiene rating scheme IT platform

15.1 Introduction

The credibility and integrity of the FHRS will depend on up-to-date and accurate food hygiene ratings information being available to consumers. Regular transfer of DC data to the national database and timely publication of ratings at food.gov.uk/ratings will be key to this.

Separate User Documentation covering technical issues and practical aspects of using the IT platform is available at

<https://www.food.gov.uk/sites/default/files/multimedia/pdfs/enforcement/fhrs-it-system-guidance.pdf>

15.2 The 'IT platform'

The IT platform comprises the following key elements:

- a **central database** for storing the data on food business establishments uploaded to the system by DC's;
- a '**portal**' where DC's are able to review and validate data, configure system functions to meet local needs, upload information not collected in automated processes 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.

15.3 File formats used for uploading DC data to the central database

Data must be extracted from the DC's Information Management System (IMS) to an Excel,⁷ CSV or XML file.

15.4 Data Standard

The 'Data Standard' is set out below and lists the data that must be provided for establishments that are currently trading.⁸

DC's 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.

⁷ 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.

⁸ 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.

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

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

Data field name	Required format	Comment
District council ID	Alpha-numeric: usually three or four characters long	This ID is the same ID used for the District council 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 district council to which the upload relates.
District council name	Text: 255 character limit	The name of the district council. Supply of this data is not mandatory as the log in details will indicate the district council 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. DC's should avoid changing premises ID as this will affect the display of that premises rating online
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 district council 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

Data field name	Required format	Comment
Business type (category)	Text: 200 character limit	If the district council does not categorise businesses on their local system using the LAEMS categories, it will be able to use a mapping facility on the FHS portal to indicate how the categories used relate to the LAEMS categories.
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 FHS. 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.

Data field name	Required format	Comment
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.
Date informed of rating	UK date formats: dd/mm/yyyy dd/m/yy d.m.yy dd/mmm/yy dd-mm-yyyy dd mm yyyy dd.mm.yyyy	This relates to the transition arrangements that allow FAs to issue a "new" rating to those establishments with a non- statutory rating. This will be the date on which the Operator of businesses that fall outside of the programme is notified of the "new" rating. The date will trigger the appeal period

15.5 Information that will appear at food.gov.uk/ratings

Type of business ⁹	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'	<ul style="list-style-type: none"> • Business name and <u>full</u> 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(see appendix 3) •

⁹ See [Section 2](#) on scope for further advice on this.

Type of business ⁹	Status	What will be published?
<p>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.</p>	<p>‘included and private’ Note – Local authorities can manually indicate via the portal those establishments to have the address suppressed</p>	<ul style="list-style-type: none"> • Business name and <u>partial</u> address – district council 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 (see appendix 3) •
<p>Supplies food direct to consumers but is not rated on the basis that it is exempt in accordance with the Regulations. These are establishment where the sale of food is not the primary activity of the establishment; and the only food made available to consumers is food that is shelf stable at ambient temperature and wrapped or packaged before it is brought to the establishment and the wrapping or packaging remains sealed at all times before the food is supplied to consumers. Examples include visitor centres selling biscuits, newsagents and chemist shops selling only pre-packed confectionery and/or health foods. Off licences selling only low risk products which are shelf stable at ambient temperature wrapped or packaged before it is brought to the establishment and remains sealed at all times before the food is supplied to consumers.</p>	<p>‘Exempt’</p>	<ul style="list-style-type: none"> • Business name and <u>full</u> address • LAEMS business category • ‘Exempt’ in place of a food hygiene rating
<p>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.</p>	<p>‘Sensitive’</p>	<p>Nothing</p>

Type of business ⁹	Status	What will be published?
Supplies food direct to consumers but is not rated on the basis that it is exempt in accordance with the Regulations. These are establishments where the sale of food is not the primary activity of the establishment; and the only food made available to consumers is food that is shelf stable at ambient temperature and wrapped or packaged before it is brought to the establishment and the wrapping or packaging remains sealed at all times before the food is supplied to consumers, 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	<ul style="list-style-type: none"> • Business name and <u>partial</u> address – district council name and first part of postcode only • LAEMS business category • 'Exempt' in place of a food hygiene rating
Establishment used by childminders and adult placement carers where the establishment is also used as a private dwelling. These establishments will continue to be subject to food hygiene requirements but are exempt to being rated. Examples include childminders and other establishments where caring services are being provided in the home environment	'Excluded'	Nothing.
Businesses that have yet to receive an inspection, partial inspection or audit and to be given a rating	'Awaiting inspection'	<ul style="list-style-type: none"> • Business name and <u>full</u> 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'	<ul style="list-style-type: none"> • Business name and <u>partial</u> address – district council name and first part of postcode only • LAEMS business category • 'Awaiting inspection' in place of a food hygiene rating

15.6 Display of Component Scores

The breakdown of the component scores equating to the rating will be displayed in a narrative from using descriptors, see Appendix 3. 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.

15.7 Frequency of uploading data

A DC must within 34 days of carrying out an inspection which has resulted in a FHR rating being produced inform the FSA of that rating. If the DC considers that it would not be appropriate to publish the rating they must inform the FSA of this decision.

It is good practice for information to be uploaded more frequently - once every 14 days is recommended.

There is no maximum upload frequency.

15.8 Data validation

The IT platform will carry out a number of validation routines to check that the necessary data have been supplied for each establishment. These will 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 Chapter 5 scores rather than all three. It will also highlight where combinations of these scores might benefit from closer scrutiny as the combination of scores appears to be inconsistent.

15.8 How to correct errors

A report identifying errors will be produced by the IT platform when the DC uploads the data file. This report can be exported to Word, Excel etc. DC's 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.

15.9 Publishing a rating at food.gov.uk/ratings

Where the establishment has received a rating, this will be published as soon as the data is uploaded to the system (and the DC has released it).

In other cases, a rating cannot be published until the Operator has had 21 days from the date of notification of the rating in which to appeal. 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 this time, the previous rating or 'awaiting inspection', whichever is appropriate, will be displayed.

If an appeal is lodged, the new rating must not be published until the outcome is determined. 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 published at food.gov.uk/ratings if no appeal has been lodged.

15.10 DC information displayed on the DC's page at food.gov.uk/ratings

Each DC will have its own page with its logo/banner. Each DC must upload key contact details to this and add a link to the DC's own website.

15.11 Receipt of 'right of reply' from an Operator

Operators have a 'right of reply' in respect of the rating given and the FSA must publish this at food.gov.uk/ratings. The 'right of reply' comments must be made in writing and submitted to the DC, a standard template form that Operators may use to submit a 'right of reply' is available at Appendix 1. There is no requirement for this form to be used, and an Operator is free to submit their comments in a different written format, clearly marked as their 'right of reply' comments.

Where a 'right of reply' is received from an Operator the DC should review the text before forwarding to the FSA to publish at food.gov.uk/ratings. Any right of reply that contains offensive, defamatory, clearly inaccurate or irrelevant remarks is unacceptable. In such cases the Operator will be advised that the text does not meet the purpose of the 'right of reply' and will be invited to revise their text.

The DC must also ensure that when a new rating is given and published at food.gov.uk/ratings, the 'right of reply' relating to the previous rating is removed from the system.

16.1 Introduction

It is anticipated that DC's will be able to resolve most breaches of the Act and Regulations through constructive dialogue with the Operator. Where possible education and guidance should be the first response and formal enforcement proceedings should be taken only where informal approaches have failed. Where resolution cannot be achieved easily or quickly, the Fixed Penalty Notice (FPN) powers under the Act allow the DC to adopt a graduated approach towards requiring the business to comply with its obligations under the Act.

Even when an offence has occurred, the DC should work with the food business to understand the reasons for any offence, and provide advice to the Operator to make it easier to comply with the Act in future, before it considers taking enforcement action.

Where an Operator is not complying but explains readily and openly why they are having difficulty complying, and such an explanation is reasonable, then the DC should work with the Operator where it can to help them comply, and not move to impose a FPN or prosecution. Where there is continuing non-compliance despite help from the DC and advice having been previously given to the Operator, the DC may move to issue a FPN to the Operator.

Once the initial discussion has taken place, and any help or advice given, the DC should pro-actively monitor whether or not the Operator is now compliant with the requirements of the Act. If further monitoring or complaints are received that suggest that the Operator is continuing to breach the Act or Regulations, then further action should be considered. In most cases, this is likely to be the imposition of a FPN, unless the Operator is able to provide a reasonable excuse, supported by evidence, as to why compliance is not possible.

Where the DC reasonably believes that there has been a deliberate or persistent failure to comply with a requirement of the Act, the authorised officer may deem it inappropriate to serve a FPN and could immediately instigate legal proceedings instead.

When determining any appropriate enforcement action the DC's enforcement policy should be considered.

DC's should record the issuing of any warning letters to food businesses regarding non-display and or failure to provide verbal information of food hygiene ratings. Consideration should be given to capturing this data on the DC's IMS as this will facilitate reporting of enforcement action to the FSA which will be required for review of operation of the scheme. The issuing of such warning letters should be recorded on the DC's IMS with its own specific code which will assist in extracting data when reviewing the operation of the scheme.

16.2 District Councils

The Act imposes a duty on DC's in Northern Ireland to make arrangements to enforce the obligations imposed by the Act on food business establishments in their respective districts.

16.3 Authorised officers

DC's will need to appoint appropriate authorised officers to carry out duties to secure compliance with the Act. An "authorised officer" of a district council is an officer authorised by the council in writing, either in general or specific terms, to act in matters arising under this Act.

Existing officers, who are experienced in carrying out enforcement duties in relation to businesses, such as environmental health officers, could carry out this work and could incorporate this work into their other official control activities.

Officers will need to be authorised under the Act in accordance with their DC's procedures.

16.4 Powers of Entry

Authorised officers may, on production of their written authority if demanded, enter at all reasonable hours a food business establishment for the purpose of enforcing the requirement to display food hygiene rating stickers. In the case of entry into any part of an establishment used only as a private dwelling 24 hour's notice of the intended entry must be given to the operator.

16.5 Fixed Penalty Notices

Section 11 of the Act gives authorised officers the discretion to issue penalty notices in respect of offences under section 10. A FPN offers a person the opportunity to discharge any liability to conviction for the offence by payment of a fixed penalty.

Enforcement officers may issue a FPN if they have reason to believe that a person has committed an offence under section 10.

In relation to mobile traders who may trade outside of the area of the DC which they are registered, the DC in which an offence was witnessed may issue an FPN under this provision if they deem it appropriate. If a DC issues a FPN to a mobile trader registered with another DC this action should be communicated along with other relevant information regarding the trader to the registering authority.

The decision regarding which FPNs to issue, or which charges to bring, in any given case is one for the DC (acting through its authorised officer). In reaching that decision, the officer must act reasonably in accordance with normal principles of

public law and any relevant guidance, code of practice etc. Failure to act in accordance with those principles could be challenged by the Operator applying for judicial review or by opting for trial rather than accepting the FPNs.

The Schedule to the Act sets out the FPN procedure that applies. In summary a FPN must:

- state the alleged offence;
- give particulars of the circumstance alleged to constitute the offence;
- state the amount of the penalty and the period within which it must be paid;
- state the consequences of not paying the penalty before the end of the period mentioned above;
- state the person to whom and the address at which payment may be paid;
- state the methods by which payment may be made;
- state the person to whom and the address at which any representations relating to the notice may be made.

The person to whom the FPN must be paid and to whom representations relating to the notice may be made must be the DC for which the authorised officer was acting when giving the notice.

A FPN must also inform the person to whom it is given of his or her right to be tried for the alleged offence, and explain how that right may be exercised.

The full amount of the fixed penalty as stipulated in the notice will be payable and must be paid within 28 days beginning with the day on which the notice is given.

A discount of 25% is applicable if payment is made within the first 14 days with this period beginning with the day on which the notice is given.

The amounts are currently as indicated below in relation to each of the offences:

Section 10 offences for which Fixed Penalty Notice may be issued	Full amount	Discounted amount
An Operator of a food business establishment commits an offence if, without reasonable excuse, the Operator — <ul style="list-style-type: none"> • fails to display a valid food hygiene rating sticker in the location and manner prescribed; 	£200	£150
An Operator of a food business establishment commits an offence if, without reasonable excuse, the Operator — <ul style="list-style-type: none"> • fails to provide a valid food hygiene rating on the food businesses online presence where food may be ordered or that of aggregators, in the specified manner. 	£200	£150

Should a person who has received a FPN fail to pay the fixed penalty by the end of the 28 day period then the DC may issue proceedings against that person for the offence to which the penalty notice related. Proceedings for the offence may not be brought before the end of that period for payment of the penalty. If the penalty (or discounted amount as appropriate) is paid in accordance with the penalty notice before the end of the relevant payment period, no proceedings may be brought against that person for the offence to which the penalty notice related.

The recipient of the penalty notice may ask to be tried for the alleged offence. Such a request to be tried must be made by the recipient to the DC before the end of the period for payment of the penalty, and in the manner specified by the DC in the penalty notice. Proceedings may not be instituted by the DC before the end of the period specified in the penalty notice.

There is no right of appeal against the issue of a penalty notice, other than the right to ask to be tried for the alleged offence. However, if a DC considers that a penalty notice issued by an authorised officer ought not to have been given; it may be withdrawn by giving notice to the recipient. In doing so, the council must repay any amount which has been paid by way of penalty, and proceedings may not be brought or continued against the recipient of the notice for the offence in question.

16.6 Multiple Offences

Depending on the facts of the case, an Operator could theoretically be issued with multiple FPNs, or charged for multiple offences under section 10 of the Act. For example, if an Operator was given a new sticker showing a lower rating than that shown on the previous sticker, the Operator could choose to leave the old sticker on display, rather than display the new one. In such a case, an offence would be committed under section 10(1) (failure to display a valid sticker) and section 10(2) (displaying an invalid sticker). Nonetheless, common sense, fairness and good practice, alongside the common law principle against "duplicity" would indicate that a Operator should not be charged for more than one offence where the facts of the offence are identical and the "mischief" that the offence is aimed at is the same. The decision on whether charges are duplicitous would ultimately be one for the court.

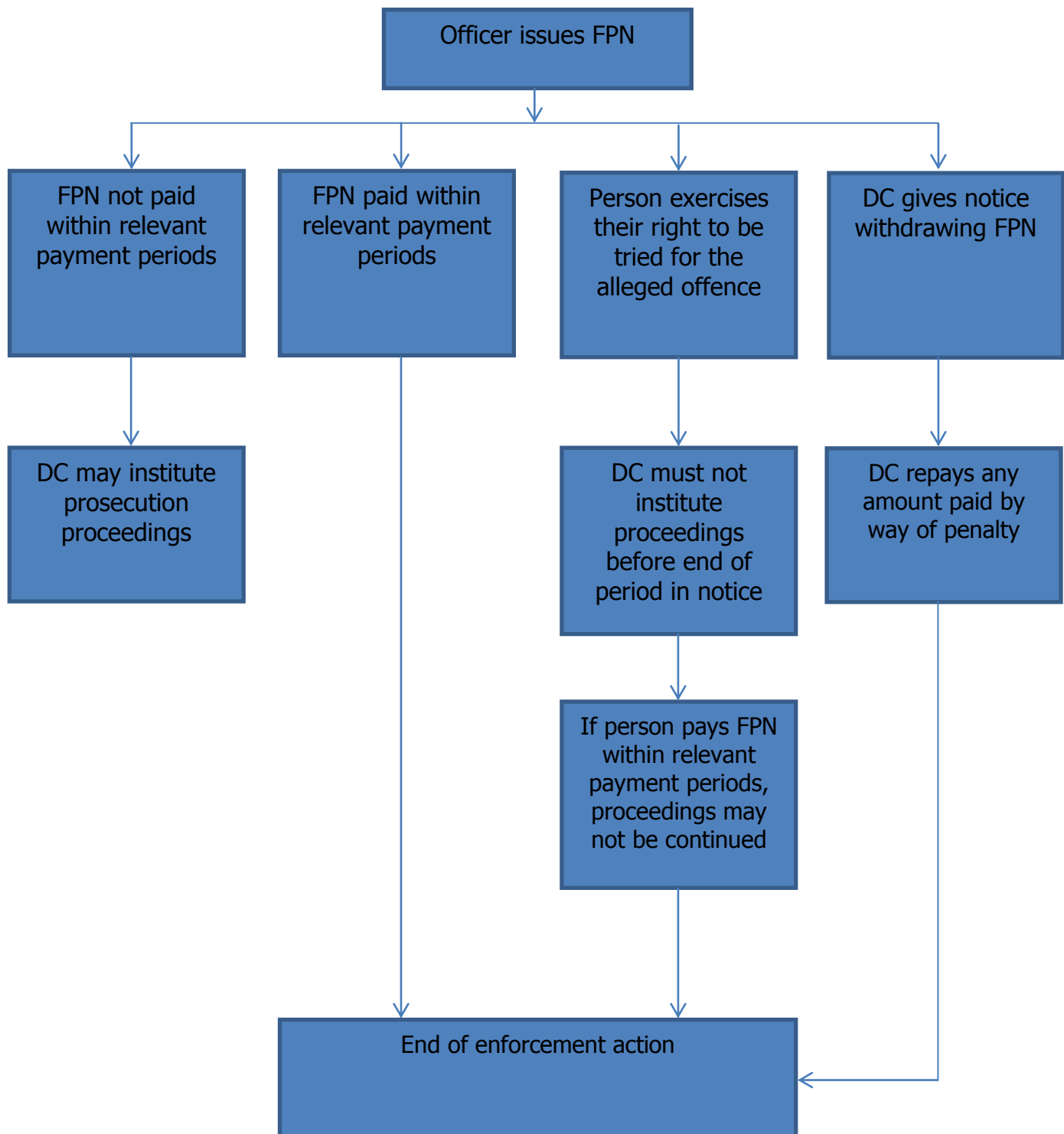
In some cases, an Operator could be issued with multiple FPNs, or charged for multiple offences under section 10 of the Act without breaching the rule against duplicity. This is because the facts of each offence and the associated "mischief" are different. The decision which FPNs to issue, or which charges to bring, in any given case is one for the DC (acting through its authorised officer). In reaching that decision, the officer must act reasonably in accordance with normal principles of public law and must have regard to their own enforcement policy.

16.7 Enforcement within district council operated establishments

The DC should have a policy in place which details arrangements for ensuring compliance in establishments where the DC itself is the Operator, and that the steps taken to ensure enforcement decisions are free from any conflict of interest. Any serious breaches should be brought to the attention of the Chief Executive, without delay.

16.8 Flowchart summarising the FPN process

Authorised officer has reason to believe an offence under section 10 of The Food Hygiene Rating Act (Northern Ireland) 2016 has been committed, and exercises discretion to deal with the offence by issuing a Fixed Penalty Notice to the Operator of a food business establishment or person concerned.



16.9 Further Offences

When inspections and investigations of food businesses are taking place, it is expected that the majority of Operators will cooperate with the authorised officer. However, where the authorised officer is prevented through obstructive activity from fulfilling the necessary tasks to complete the inspection or investigation, the person causing this obstruction commits an offence under the Act, unless they have a reasonable excuse for their behaviour. There is no specific definition of 'reasonable excuse', and what is reasonable may vary from person to person and depend on the particular circumstances of a case.

The Act also identifies that the offence can be committed by a 'body corporate'. This is an organisation or group of persons that is identified by a particular name and that acts, or may act, as a recognised entity or legal person. This includes companies, associations, institutions, non-profit enterprises and public bodies. Under the Act, senior officials of companies and organisations, such as directors, company secretaries and senior managers of the body corporate, can be held accountable where an offence by the body corporate has been proven. This applies where it can be shown that the offence has been committed with their consent, connivance or neglect.

Appendix 1 - Standard template forms

A number of FHRS templates forms are available.

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

Templates are also available on the DC FHRS resources page of the FSA website at www.food.gov.uk/fhrsresources so that DC's may download them, 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 Operators if requested to do so.

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 district council – 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: District council contact details to be included

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 under section 4 of the Food Hygiene Rating Act (Northern Ireland) 2016 to request at any time, provided that you have paid the cost of the re-rating inspection in accordance with section 4(7) of The Food Hygiene Rating Act (Northern Ireland) 2016 and the following conditions are met:-
 - Any appeal against the current food hygiene rating has been determined or abandoned:
 - You must provide details of the improvements made to hygiene standards with your request, including supporting evidence where appropriate.
 - If the district council considers that you have provided sufficient evidence that the required improvements have been made.
- The district council 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 re-visit, please use the form below and return it to the food safety officer from your district council – contact details are provided with the written notification of your food hygiene rating.
- The re-rating visit will take place within 3 months of the request being made and will usually be made without prior notification.

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 district council 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: District Council contact details to be included

Food Hygiene Rating Scheme

'Right of reply'

Notes for businesses:

- As the food business operator of the establishment you have a 'right of reply', under section 5 of the Food Hygiene Rating Act (Northern Ireland) 2016, in respect of the food hygiene rating given following your inspection. You may exercise this right at any time while the rating is valid.
- 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 who carried out the inspection.
- If you wish to use this 'right of 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 district council 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: District council contact details to be included

Appendix 2 - FHS logos and stickers

Note

Details of where to order stickers are available on the FSA website at:

<http://www.food.gov.uk/enforcement/enforcework/hygienscoresresources/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 district council logo to be added by the commercial printer/supplier.



Food Standards Agency
food.gov.uk/ratings

Name of business
.....

Date of hygiene rating
.....

Local authority name
.....

Authorising signature
.....

This sticker remains the property of the local authority
FSA/102/11/12

Recycled

Appendix 3 – 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.

Intervention rating component	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'

Appendix 4 – Letter for provision of intervention information from ‘inspecting authority’ to ‘registering authority’ or to ‘responsible authority’

[Lead officer for food at ‘registering’ or ‘responsible’ authority]
[District Council name]
[District Council address]

[Date]

Dear [Name of Lead officer for food],



Mobile trader – intervention findings

[Name of food business operator]

[Name of mobile food establishment]

[Registered address of mobile food establishment]

Please find attached, details of a recent intervention undertaken of the above mobile trader.

The hygiene standards found at the time of intervention are outlined in the inspection report, a copy of which is enclosed.

If you require any further information, please contact me – my details are:

Telephone: [direct line number]

Email: [email address]

Yours sincerely,

[Officer's name]
[Officer's job title]

FOOD HYGIENE RATING**Mobile trader – intervention details**

Business details	
Name of food business operator	
Trading name of business	
Business address or address where mobile unit ordinarily kept	
Vehicle registration (or if a stall or trailer – any identifying number, name or feature)	(If available a photograph of the mobile unit could be included to assist identification)
Nature of business – eg hot food takeaway	
Registering authority and contact (if known)	
Intervention details	
Date and time of intervention	
Trading location when intervention took place	
Name(s) of person(s) seen	
Annex 5 scores	
Compliance with food hygiene and safety procedures	
Compliance with structural requirements	
Confidence in Management/control procedures	
Food hygiene rating (based on these scores)	
Inspecting officer's details	
Name	
Designation	
Telephone	
Email	
District Council name and address	

Appendix 5 – Template food hygiene inspection report

SCHEDULE A – LEGAL REQUIREMENTS

You are required to address the following contraventions of food safety law before the highest rating can be given:-

[This paragraph should be removed for businesses being given a rating of 5]

Food Hygiene & Safety Procedures	
(Delete as appropriate)	
Compliance Level	High standard of compliance with statutory obligations and industry codes of recommended practice: conforms to accepted good practices in the trade. [Risk Score = 0].
Compliance Level	High standard of compliance with statutory obligations, industry codes of recommended practice and minor contraventions of food hygiene regulations. Some minor non-compliance with statutory obligations and industry codes of recommended practice. [Risk Score = 5].
Compliance Level	Some non-compliance with statutory obligations and industry codes of recommended practice. Standards are being maintained or improved. [Risk Score = 10].
Compliance Level	Some major non-compliance with statutory obligations – more effort required to prevent fall in standards. [Risk Score = 15]
Compliance Level	General failure to satisfy statutory obligations – standards generally low. [Risk Score = 20].
Compliance Level	Almost total non-compliance with statutory obligations. [Risk Score = 25].

Structural/Cleaning Issues	
Compliance Level	High standard of compliance with statutory obligations and industry codes of recommended practice: conforms to accepted good practices in the trade. [Risk Score = 0].
Compliance Level	High standard of compliance with statutory obligations, industry codes of recommended practice and minor contraventions of food hygiene regulations. Some minor non-compliance with statutory obligations and industry codes of recommended practice. [Risk Score = 5].
Compliance Level	Some non-compliance with statutory obligations and industry codes of recommended practice. Standards are being maintained or improved. [Risk Score = 10].
Compliance Level	Some major non-compliance with statutory obligations – more effort required to prevent fall in standards. [Risk Score = 15].
Compliance Level	General failure to satisfy statutory obligations – standards generally low. [Risk Score = 20].
Compliance Level	Almost total non-compliance with statutory obligations. [Risk Score = 25].

Confidence in Management/Control Procedures	
Compliance Level	Good record of compliance. Access to technical advice within organisation. Will have satisfactory documented HACCP based food safety management procedures, which may be subject to external audit process. Audit by Food Authority confirms compliance with documented procedures with few/minor non-conformities not identified in the system as critical control points. [Risk Score = 0].
	Reasonable record of compliance. Technical advice available in-house or access to, and use of, technical advice from trade associations and/or from Guides to Good Practice. Have satisfactory documented procedures. Able to demonstrate effective control of hazards. Will have satisfactory documented food safety management system. Audit by Food Authority confirms general compliance with procedures. [Risk Score = 5].
	Satisfactory record of compliance. Access to and use of technical advice either in-house, from trade associations and/or from Guides to Good Practice. Understanding of significant hazards and control measure in place. Making satisfactory progress towards a documented food safety management system/procedures commensurate with type of business. [Risk Score = 10]
	Varying record of compliance. Poor appreciation of hazards and control measures. No food safety management system. [Risk Score = 20].
	Poor track record of compliance. Little or no technical knowledge. Little or no appreciation of hazards or quality control. No food safety management procedures. [Risk Score = 30].

SCHEDULE B – RECOMMENDATIONS

Annex D

FOOD STANDARDS AGENCY CONSULTATION
Impact of mandatory display of food hygiene ratings in Northern Ireland
CONSULTATION RESPONSE FORM

Please return this response by 10 June 2016 to:

By email: Anthony McLaughlin executive.support@foodstandards.gsi.gov.uk

By post: Local Authority Policy and Delivery Team, Food Standards Agency in Northern Ireland, 10A-10C Clarendon Road, Belfast BT1 3BG

Your name:	
Your organisation or businesses (if appropriate):	
Your postal address:	
Your email address:	
Your telephone number:	

PROPOSALS FOR THE DRAFT FOOD HYGIENE RATING REGULATIONS (NORTHERN IRELAND) 2016

Question 1-Do you have any comments regarding the proposed commencement date? If you consider an alternative date appropriate please provide a rationale for this.

Answer

(The box will expand as you type)

Question 2 - Do you have any comments regarding regulation 2 (Interpretation)?

Answer

(The box will expand as you type)

Annex D

Question 3 - Do you agree with the categories of food business establishment that will be exempt from rating under the Regulations? If you think that certain categories should be included or excluded in the scheme please provide details.

Answer

(The box will expand as you type)

Question 4 - Do you have any comments on the forms of the food hygiene rating sticker detailed in Schedule 1 of the Regulations?

Answer

(The box will expand as you type)

Question 5 - Do you agree that the statutory scheme should make provision for the two forms of stickers detailed above (those with and without the district council name and branding on the front of the sticker)? Please provide comments explaining your answer.

Answer

(The box will expand as you type)

Question 6 - Do you agree with the proposals regarding who must pay the cost of producing the different forms of the food hygiene rating sticker?

Answer

(The box will expand as you type)

Annex D

Question 7 - Do you have any comments on regulation 5 regarding the location and manner of display of food hygiene rating stickers?

Answer

(The box will expand as you type)

Question 8 - Are there any food businesses that you think regulation 5 does not provide for in terms of the display of food hygiene rating stickers? If so please give examples.

Answer

(The box will expand as you type)

Question 9 - Is there any other information you consider a district council should send to operators of new food businesses in their area that would help them to understand the food hygiene rating scheme and their obligations under it? If so please provide details.

Answer

(The box will expand as you type)

Question 10 - Do you have any comments regarding the form and method of payment of a Fixed Penalty Notice set out in Schedule 2?

Answer

(The box will expand as you type)

Annex D

PROPOSALS FOR THE DRAFT FOOD HYGIENE RATING (COMMENCEMENT AND TRANSITIONAL PROVISIONS) ORDER (NORTHERN IRELAND) 2016

Question 11 - Do you have any comments regarding the proposed commencement date? If you consider an alternative date appropriate please provide a rationale for this.

Answer

(The box will expand as you type)

Question 12 - Do you have any comments regarding the proposed appointed day? If you consider an alternative date appropriate please provide a rationale for this.

Answer

(The box will expand as you type)

Question 13 - Do you agree with the procedure set out in Article 3 for migrating those food businesses rated under the voluntary scheme to the new statutory food hygiene rating scheme?

Answer

(The box will expand as you type)

Annex D

Question 14 - Do you agree with the 12 month timescale for district councils to provide a food business establishment previously rated under the voluntary scheme with a food hygiene rating under the new statutory food hygiene rating scheme? If not please provide comments and a rationale for an alternative date.

Answer

(The box will expand as you type)

PROPOSALS FOR THE DRAFT FOOD HYGIENE RATING (FEE AND FIXED PENALTY AMOUNT) ORDER (NORTHERN IRELAND) 2016

Question 15 - Do you have any comments regarding the proposed commencement date? If so please provide comments and a rationale for an alternative date.

Answer

(The box will expand as you type)

Question 16 - Do you have any comments on Article 2 (The re-rating fee)

Answer

(The box will expand as you type)

Question 17 - Do you have any comments on Article 3 (Fixed penalty amount)?

Answer

(The box will expand as you type)

Annex D

Question 18 - Do you agree with the fixed penalty amount stated? Please explain your reasons.

Answer

(The box will expand as you type)

Question 19 - Do you have any other comments or views on the draft Regulations and Orders described in this document?

Answer

(The box will expand as you type)

DRAFT GUIDANCE FOR DISTRICT COUNCILS

Question 20 - Do you have any comments regarding the format in which the guidance is presented? Please provide details.

Answer

(The box will expand as you type)

Question 21 - Are there any aspects of the statutory Food Hygiene Rating Scheme that have not been addressed in the guidance?

Answer

(The box will expand as you type)

Annex D

Question 22 - Do you have any comments regarding the level of detail provided in Section 10 – Display of food hygiene rating stickers?

Answer

(The box will expand as you type)

Question 23 - Do you have any comments regarding the guidance provided in respect of “Exceptional Circumstances” in Section 13 – Adjustment of time periods?

Answer

(The box will expand as you type)

Question 24 - Do you have any other comments or views on the draft guidance described in this document?

Answer

(The box will expand as you type)

Annex E: Interested parties list

Belfast Metropolitan College	Hilton Hotels
North West Regional College	Ibis Hotel - City Centre Hotel
Northern Regional College	Ibis Hotel, Queen's Quarter
South Eastern Regional College	Holiday Inn Express
South West Regional College	Holiday Inn Belfast
Southern Regional College	Aramark
Department of Enterprise Trade and Investment	Ballygally Castle Hotel
OFMDFM	Botanic Inns
Department of Health, Social Services and Public Safety	Europa Hotel
Department of Agriculture and Rural Development	Fitzwilliam Hotel
Department of Justice	Kylemore Foods Group Ltd
Northern Ireland Local Government Association	Mount Charles Catering Limited
Chartered Institute of Environmental Health	Compass
Antrim and Newtownabbey Borough Council	Costa Coffee
Ards and North Down Borough Council	O'Kane Food Services
Armagh City, Banbridge and Craigavon Borough Council	Premier Inn
Belfast City Council	Radisson Blu Hotel
Causeway Coast and Glens Borough Council	Ramada Plaza Belfast
Derry City and Strabane District Council	Sodexo
Fermanagh and Omagh District Council	The Streat
Lisburn and Castlereagh City Council	Starbucks Coffee
Mid and East Antrim Borough Council	Caffe Nero
Mid Ulster Council	Galgorm Group
Newry, Mourne and Down District Council	Kentucky Fried Chicken
Altnagelvin Area Hospital	McDonalds
Antrim Area Hospital	Pizza Express
Belfast Health & Social Care Trust	Pizza Hut
Belfast Trust	Burger King
Belvoir Park Hospital	Nando's
Causeway Hospital	Domino's Pizza Group plc
Coleraine Hospital	Harry Ramsden's
Daisy Hill Hospital	Red Panda Restaurants Belfast
Down Lisburn sector, South Eastern Trust	Gaze
Foster Green Hospital	Wetherspoon
Mater Hospital Trust	Frankie and Benny's
Mid Ulster Hospital	Indian Ocean Group
Northern Health and Social Care Trust	Premier Inn
Patient Experience Manager, catering	Co-operative
Royal Belfast Hospital for Sick Children	Asda
Royal Victoria Hospital	Asia Supermarket
Shantallow Health Centre	Bumbles Delicatessen Ltd
South Eastern Trust	Camseng Oriental Food Suppliers
Southern Health and Social Care Trust	Costcutter
Southern Trust Craigavon Hospital	Curleys Supermarkets Ltd
The Chalet	Dunnes Stores Limited
Tyrone County Hospital	John Henderson Group
Ulster Hospital	Lidl Supermarket
Western Health and Social Services Board	Marks & Spencer
Hotel Services Department Erne Hospital	Maud's Ice Cream
NI Good Food	McAtamney Butchers
Merchant Hotel/Little Wing	Musgrave Retail Partners NI
Subway	Musgrave Supervalu Centra
Galgorm Group	Sainsbury's Supermarket
	Shah Jalal
	Tesco

Asda House
Asia Supermarket
Northern Ireland Retail Consortium
North of Ireland Wholesale Confectioners
Association
Pubs of Ulster
Federation for Small Business
Chinese Chamber of Commerce
Hospital Caterers Association, NI Branch
NI Cooks & Chefs Association
Northern Ireland Amusement Caterer's Trade
Association
Federation of Small Businesses
Northern Ireland Chamber of Commerce
Belfast Chamber of Commerce
Derry Chamber of Commerce
Bangor Chamber of Commerce
Lisburn Chamber of Commerce
Ballymena Chamber of Commerce
Omagh Chamber of Commerce
Newry Chamber of Commerce
Northern Ireland Food and Drink Association
Northern Ireland Hotels Federation
Northern Ireland Independent Retail Trade
Association
Northern Ireland Master Butchers Association
Restaurateurs Association
Consumer Council for Northern Ireland
Federation of Women's Institutes of NI
General Consumer Council for Northern
Ireland
NI Tourist Board
CAFRE
RNIB
Alliance Party – Policy Officer
DUP – Policy Officer
SDLP – Policy Officer
UUP – Policy Officer
Sinn Féin – Policy Officer