

WELWYN HATFIELD BOROUGH COUNCIL
ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE – 5 APRIL 2017
REPORT OF THE DIRECTOR (PUBLIC PROTECTION, PLANNING AND GOVERNANCE)

FOOD HYGIENE RATING SCHEME – COST RECOVERY

1 Executive Summary

- 1.1 In partnership with the Food Standards Agency, Public Health & Protection participate in the delivery of the national Food Hygiene Rating Scheme (FHRS). The scheme encourages businesses to improve hygiene standards and assists consumers in making informed choices about where to eat.
- 1.2 There are currently no costs associated with this scheme that are passed on to businesses, but as highlighted in the food safety service plan there are some costs, in terms of resource, which are currently absorbed by the service.
- 1.3 Following a trial of charging for requested FHRS re-inspections/re-visits with some local authorities in England using existing powers in the Localism Act 2011, the Food Standards Agency have now confirmed a change in policy allowing use of these powers by local authorities in England to introduce fees on a cost recovery basis only for re-inspections/re-visits.
- 1.4 Members are requested to recommend to Council the introduction of a cost recovery fee for food hygiene rating scheme re-inspections/re-visits.

2 Recommendation(s)

- 2.1 For the committee to note the change in the Food Standards Agency charging policy and to consider and approve the proposal to introduce a cost recovery fee for Food Hygiene Rating Scheme re-inspections/re-visits.
- 2.2 To agree that delegated authority is given to Head of Public Health & Protection, Executive Director (Public Protection, Planning and Governance) and in consultation with the Portfolio Holder for Public Protection that a suitable fee is determined giving regard to the Food Standards Agency's guidance and in consultation with the Council's Finance team.
- 2.3 To recommend to Cabinet that these changes are introduced and are sent to the Council to be adopted and the budget book to be adjusted accordingly.

3 Explanation

- 3.1 The Food Standards Agency (FSA) has overall responsibility for the official control of food law enforcement in England. The Food Standards Agency run the Food Hygiene Rating Scheme in England, Wales and Northern Ireland.
- 3.2 The Public Health & Protection service are responsible for carrying out inspections of food businesses to check they meet the requirements of food

hygiene law. They give businesses food hygiene ratings based on the findings of inspections and then publish this information on the Food Standards Agency website.

- 3.3 Ratings are given to places where the public can eat out such as restaurants, takeaways, pubs and hotels and other places where the public eat away from home such as schools, hospitals and residential care homes and places where you shop for food such as supermarkets, bakeries and delicatessens. Some businesses are exempt from the scheme. Those that are exempt are generally because they are a low risk in terms of food hygiene requirements for examples newsagent selling only wrapped sweets. Also exempt are those businesses that do not sell food directly to the consumer for example a food manufacturer.
- 3.4 Once a rating has been awarded food businesses have the opportunity to request a revisit where they have scored any score below the maximum rating of 5 (Very Good). Currently businesses can only request one revisit between due periodic inspections; within the proposed fee paying scheme there is no limit on the number of requests a business may make.
- 3.5 The business must complete an application form and provide evidence to the satisfaction of the Lead Food Safety Officer that improvements have been made before a request for revisit will be undertaken.
- 3.6 It is proposed that Public Health & Protection introduce a cost recovery fee for requested revisits only. No fee is allowed to be charged for the initial inspection of the business which is carried out as part of the Council's statutory duties.
- 3.7 There is no prescribed fee for undertaking this work and the very recently published FSA guidance indicates each local authority must set a fee having regard to HM Treasury 'managing public money' and other relevant guidance. Therefore the committee are asked to agree that delegated authority is given to the Head of Public Health & Protection, Executive Director (Public Protection, Planning and Governance) and the Portfolio Holder for Public Protection to set a suitable fee giving regard to the guidance and in consultation with the Council's Finance team
- 3.8 All requested revisits shall be carried out within three months of the fee being paid.

4 Legal Implication(s)

- 4.1 Legal advice received by the Food Standards Agency indicates that powers are available to local authorities in England under the Localism Act 2011 Section 1 allowing for the recovery of costs for Food Hygiene Rating Scheme re-inspection/re-visits requested by businesses.
- 4.2 In introducing a cost recovery fee Public Health and Protection will require legal advice to ensure that all relevant obligations are met so that any charge made in connection with an FHRS re-inspection is lawful.

5 Financial Implication(s)

- 5.1 There is no means of accurately predicting the number of requests for revisit that will be made as the requests are generated by business demand. There are currently between 30-40 requests for FHRS revisits made annually.

6 Risk Management Implications

- 6.1 The main risks related to this proposal are:
- 6.2 The Council is at risk from public criticism from businesses that do not wish to pay a fee for this service. There is no statutory duty for the Council to provide this service, it shall be provided on a non-commercial basis with the food business operator's agreement.
- 6.3 The service will need to be adequately resourced to deliver the requested revisits within 3 months from payment. Though there is no accurate means of predicting demand, it is not anticipated to increase significantly from current demand which has been consistent for a number of years.
- 6.4 Failure to deliver a service in accordance with the 'brand standard' Food Standards Agency FHRS guidance may result in complaints against the service.

7 Security & Terrorism Implication(s)

- 7.1 None associated with this report.

8 Procurement Implication(s)

- 8.1 None directly arising from this report.

9 Climate Change Implication(s)

- 9.1 None directly arising from this report.

10 Link to Corporate Priorities

- 10.1 The subject of this report is linked to the Council's Corporate Priorities "maintain a safe and healthy community", "protect and enhance the environment", "help build a strong local economy", "engage with our communities and provide value for money" and is linked to statutory provisions under food safety and hygiene legislation.

11 Equality and Diversity

- 11.1 This report has been instigated by change in national policy by the Food Standards Agency, the Central Government agency responsible for food safety in England. The proposal to introduce a cost recovery fee has been piloted and due consideration therefore made to its national introduction.

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