



National Food Hygiene Rating Scheme Policy



FOOD HYGIENE RATING



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1.0 INTRODUCTION

To introduce a policy for the publishing of the food hygiene inspection ratings information on the internet as part of the National Food Hygiene Rating Scheme.

Target Audience

Food Business Operators, members of the public, interested parties and food safety officers

Legislation

The Food Safety and Hygiene (England) Regulations 2013

Food Law Code of Practice Annex 5

Freedom of Information Act 2000

Environmental Information Regulations 2004

Article 3 of EC Regulation No 882/2004

Documentation & Websites

Brand Standard Revision 6 June 2017

www.food.gov.uk/ratings

www.ratemyplace.org.uk/

2.0 POLICY AND PROCEDURE

Whilst it is not a legal requirement either for Local Authorities or food proprietors to publicise the results of food hygiene inspections, there is a public demand for this type of information. This will benefit businesses, customers and the local economy by driving up standards and making food business in the district a safer place to eat and drink.

This authority will provide details of the relevant individual scores and award a Rating for each premise together with an inspection schedule on the Rate my Place website (www.ratemyplace.org.uk/). The Rating for the business will then be published on the National Food Hygiene Rating website:

www.food.gov.uk/ratings

Both these websites can also be accessed through the South Staffordshire Council website.

From July 2014, Food business operators will no longer be awarded a certificate. A window sticker and rate my place sticker will be provided which businesses will be encouraged to display on their premises.

3.0 SCOPE

The National Food Hygiene Rating scheme extends to all food establishments which require registration and which supply food directly to consumers either on or off the premises. There are however some exceptions which are described below.

Excluded:

These are establishments that do not supply food direct to consumers and are not scored under the scheme. These include primary producers, manufacturers and packers, importers and exporters, distributors (including wholesalers and other inter-business suppliers) and transporters.

Wholesalers however, e.g. Cash & Carries, which supply food direct to consumers as well as to other businesses, will fall within the scope, will be rated.

Included:

These are food establishments which are required to be registered and which supply food directly to consumers for consumption either on or off the premises. These include:-

- a. Caterers e.g. restaurants, cafes, takeaways, sandwich shops.
- b. Other places where food is prepared/cooked/served and eaten outside of the home, such as Public Houses, Hotels, Boarding Establishments, Schools, Hospitals and Residential Care Homes.
- c. Retailers such as Supermarkets, Bakeries and Delicatessens
- d. Home Caterers / B&Bs / Mobile businesses registered at the home address: (Where these are part of a domestic premises they will be classed as '*Included & Private*' and only part of the post code will be used on the websites)

Approved establishments may have a retail element. Although this retail element does not require a separate registration, it will fall within the scheme and should receive a score when it is inspected, unless it is covered by certain exemptions.

Exempt:

These are establishments that are:

- a. A low-risk to people's health in terms of food safety and would not normally be thought of as a food business as the food activity is only a small element of the businesses in comparison with its main activity. Examples of these 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 only selling pre-packed confectionery
 - Chemist Shops selling pre-packed confectionery and/or health foods.

- b. Childminders and business that offer caring services from private addresses. These types of business will not be rated.

Businesses will no longer be given the option to 'Opt in'. This is to ensure consistency of the scheme with Wales and Northern Ireland. Those currently rated and 'opted in' will retain their current rating until a new inspection takes place.

3.1 CHANGES IN OWNERSHIP

When a business changes ownership it may result in improvements or a decline in standards of food hygiene. When a notification is received of a change in ownership via a food registration form for example, the rating may be removed until the 'new' premises have been inspected.

Where the change of ownership is identified during an inspection, the food hygiene rating will be calculated on the risk rating carried out at the time of the visit.

If the premise is no longer trading then the premises details and rating will be removed from the website.

4.0 HOW DOES THE FOOD HYGIENE RATING SCHEME WORK

4.1 The Rating

The Council will identify the premises in its area that will be included in the scheme. Food Business Operators (FBOs) will be notified of the food hygiene rating at the time of the visit or subsequently in writing (this will be within 14 days of the intervention visit), before the information is posted on the Food Standards Agency's website.

FBOs will also be given the opportunity to appeal against the scoring decision, or to make comments on the right of reply section of the site (see Section 5 on Appeals Procedure).

The Rating score will be updated when the business next receives a primary inspection (as defined by the Food Law Code of Practice and EC Regulation 882/2004).

How is the Rating Score calculated?

This is assessed from three elements:

- ▶ *Food Hygiene;*
- ▶ *Structure of the Premises;* and
- ▶ *Confidence in Management* elements of the inspection.

These scores are in line with the inspection rating system in Annex 5 of the Food Law Code of Practice.

The Rating given will depend on:

- How well the business does overall i.e. the total score;
- But, it will also depend on the worst individual score given for the 3 areas. This may cause the Rating to drop to a lower band Rating. It also highlights the area(s) that need improving the most.

Total Score	0-15	20	25-30	35-40	45-50	>50
Worst Individual score	5	10	10	15	20	-
Rating	5	4	3	2	1	0
Descriptor	Very Good	Good	Satisfactory	Improvement Necessary	Major Improvement Necessary	Urgent Improvement Necessary

These scores will only be assessed at the time of the primary inspection and are the scores that are intended to be publicised on the Internet.

4.2 The Inspection

- All inspections which involve a rating for the Hygiene Rating Scheme will be undertaken by officers who have received consistency training in the undertaking of National Food Hygiene Rating inspections. The Lead Officer for Food Safety will be responsible for ensuring that each officer is suitably trained, and that this training, any retraining or consistency exercises are documented.
- The initial inspections will normally be unannounced and may be carried out at any time that the business is open for trading.
- FBOs are encouraged to discuss the inspection and findings with the inspecting officer at the conclusion of the inspection. An inspection report form of the main findings will be left at the premises. The business may be informed of the Food Hygiene Rating Score at the time of the inspection; however, this is at the discretion of the officer.
- The FBO will be informed of the Rating Score by a letter which will include the Rating Score, Schedule of Works and appropriate Sticker within 14 days¹ of the inspection.
- The Schedule of Works report will highlight the measures that are needed to remedy the situation.

Details of the Appeals form, Request for Re-visit and Right of Reply are available on the Council website, Rate my Place website and on the Food Standards Agency website.

If the FBO does not have access to the internet then the Officer will provide the relevant form(s) when requested.

Receipt of the Food Hygiene Rating score will initiate the start of the 'appeal' period².

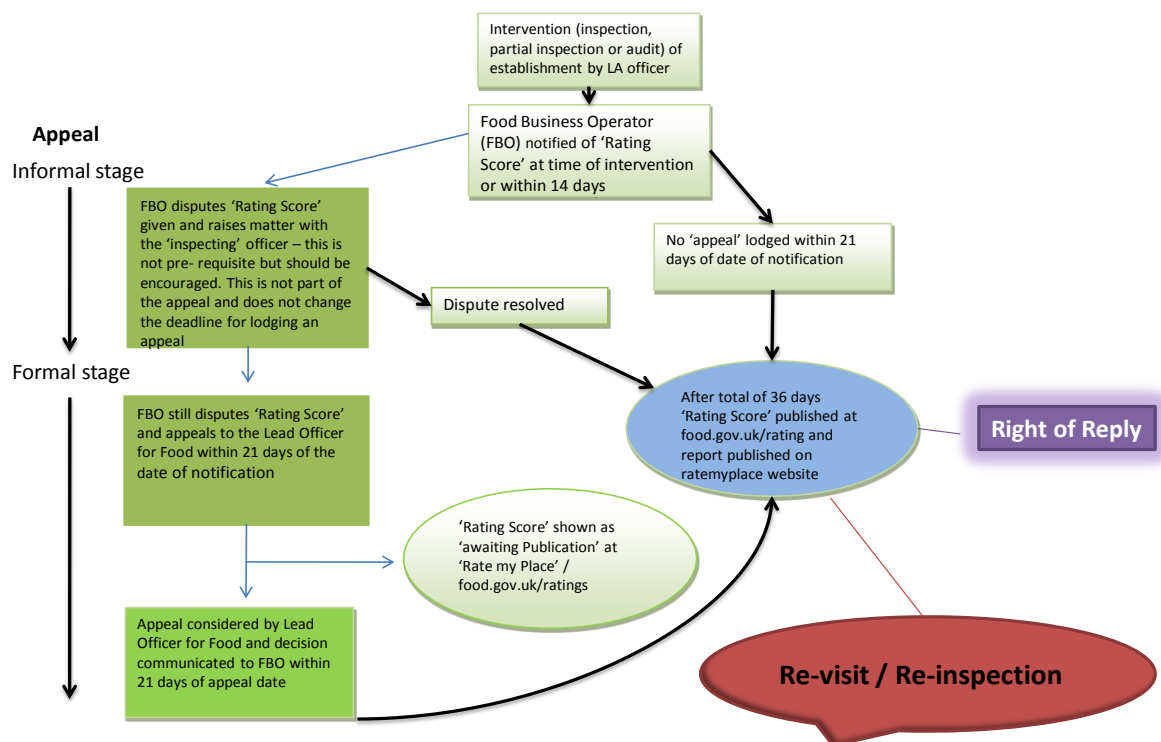
No subsequent visits will be scheduled with a view to modifying the scores given, or re-scoring of the premises, even if remedial works have been completed. The

score will stand until the next primary inspection is carried out. The rating will be published 36 days after inspection to take into account the Appeal period.

1 The numbers of 'days' in this section includes weekends and bank holidays.

2 The rule established by section 7 of the Interpretation Act 1978 will be applied for the purposes of notifying the score to food business operators. Section 7 is concerned with the service of documents by post. Under that rule as applied for the purposes of notifying the score to food business operators, notification will be regarded as having been given by properly addressing, pre-paying and posting a letter informing the food business operator of the score. It will be regarded as being effective at the time at which the letter would be delivered in the ordinary course of post. All notifications will be sent by first class post. A letter sent by first class post is taken to be delivered on the second working day after posting.

Flowchart illustrating the APPEALS PROCEDURE



Notes

Sufficient legal protection is given to FBOs if appeals against a disputed food hygiene rating are determined by the Lead Food Officer (or designated deputy). There is no legal requirement for the local authority's complaints procedure to form part of the FHRS appeals procedure. This does not, however, prevent an FBO from using the complaints procedure where s/he is dissatisfied with any aspect of the authority's services.

From October 2016 the appeal period has been extended from 14 to 21 days, and the determination period from 7 to 21 days.

5.0 APPEALS PROCEDURE

The FBO will have the right to appeal a decision if the owner believes that the rating given is unjust as it does not reflect the hygiene standards and management controls found at the time of the inspection.

An appeal is not appropriate where a FBO has requested a re-rating visit for re-scoring on the basis that non-compliance(s) identified at the time of the initial intervention have been rectified. A FBO, however, may appeal after a re-inspection/re-visit if they consider that the 'new' score given is unjust.

1. The inspecting officer will notify the FBO in writing of the outcome of the inspection. The report will be received within 14 days of the inspection. This will detail the matters that require attention and is structured to inform the FBO of food hygiene and safety procedures, structural matters and confidence in management and control procedures.
2. The report will also detail the score assigned to each of these categories and the overall food hygiene rating. The score will be between 0 where urgent improvement is necessary and 5 where standards are very good.
3. Should the FBO disagree with the score then the first step will be to discuss the reasons for the score with the Inspecting Officer. If the matter cannot be resolved at this informal stage then the FBO must follow the formal appeals procedure.
4. The formal procedure requires that an appeal form be submitted to the Lead Food Officer within **21 days** of receipt of the inspection report. The Appeal Form can be downloaded from the following websites www.sstaffs.gov.uk/; www.ratemyplace.org.uk or, the Food Standards Agency website.

If the FBO does not have access to the internet then the inspecting officer will provide a form when requested.

5. The appeal form should be completed with the reasons why the FBO believes that the score is unjust.
6. The disputed score will not be displayed on the national food hygiene rating scheme website until the matter has been resolved.
7. Once a completed appeals form is received, the Lead Food Officer or nominated deputy will investigate the appeal and make a fair judgement.
8. The decision of whether to uphold or refuse the appeal will be communicated to the FBO within **21 days** of receipt of the appeal form.
9. The confirmed score will be published on the national website in due course. Where appropriate the certificate and window sticker will be re-issued. The FBO will be requested to destroy or return the previously awarded certificate and sticker. Failure to do so may constitute an offence under the Consumer Protection from Unfair Trading Regulations 2008 and further action may be taken.

10. Where the FBO is not satisfied with the outcome of the appeal he may make representations to the Environmental Health & Licensing Manager and if still unresolved make further representations under the Councils Complaints procedure.
11. The FBO may also make use of the Right to Reply and the Request for Re-inspection procedures.
12. The FBO may ultimately challenge the decision by means of a judicial review.
13. It should be noted that appeals lodged later than 21 days after the notification of the rating will not be considered.

6.0 RIGHT OF REPLY PROCEDURE

The Food Hygiene Rating Scheme provides an opportunity for the FBO to comment on the rating awarded at each inspection and give an explanation of any actions that have been taken to rectify non-compliances or mitigation for the circumstances at the time of the inspection. It is not intended for complaints or criticism of the scheme or the inspecting officer.

The right of reply is intended to apply to those businesses that have not achieved the top rating of 5.

If the FBO believes the rating is unfair then the appeal process should be used.

The right to reply comments will only be relevant to a particular inspection. Therefore when a new inspection record is published the right to reply comments previously entered will be removed from the website. New comments relating to a new inspection will need to be entered.

1. Right to Reply Forms are available on the websites at www.sstaffs.gov.uk/; www.ratemyplace.org.uk or the Food Standards Agency website.

And, can be sent electronically or in writing to South Staffordshire Council. If the FBO does not have access to the internet then the officer will provide a form when requested.

2. When a right to reply form is received, it will be reviewed by the officer who carried out the inspection. The Officer will ensure that:
 - The comments are from the FBO or from someone authorised to comment on his behalf
 - Offensive, clearly inaccurate, irrelevant or defamatory remarks, including remarks about the inspecting officer or other businesses are removed
 - The right to reply is limited to 5000 characters including spaces. The comments must be moderated to be concise without losing the intended message.

- The right to reply submissions will be processed and published as soon as possible and without undue delay.

7.0 RE-RATING VISIT REQUESTS PROCEDURE

A re-visit can be requested by a FBO, following an appropriate planned intervention (an inspection, partial inspection or audit), where the premises has been given a hygiene rating.

7.1 Initial inspection carried out before 9th October 2016:

The FBO may request a re-rating visit at any time after the planned intervention as long as the actions necessary to rectify the non-compliances have been carried out. The FBO cannot dictate when the re-inspection should take place.

The re-inspection will not take place until at least 3 months have elapsed since the original inspection. This will be known as the 'stand still' period.

However, at the local authorities discretion, the requested re-inspection can be undertaken during the 'stand still' period where the only compliance required relates to permanent structural improvements or repairs or upgrading of equipment has taken place.

The re-inspection must take place within 3 months of the end of the 'stand still' period. Therefore a maximum of 6 months may elapse between the original planned inspection and the re-inspection providing that the local authority agrees to the request.

The FBO may only request one re-inspection for each planned intervention where a food hygiene rating has been given.

7.2 Initial Inspection carried out on or after 10th October 2016:

South Staffordshire has introduced a charge of £175 for any re-rating requests received following an initial inspection of the business on or after 10th October 2016. The re-rating visit will be carried out at any time within three months of receipt of your application and payment or sooner.

Payment will be required before a re-rating visit can be carried out.

Credit cards payments can be made by telephoning 01902 696220.

7.3 How to request a re-rating visit

1. The request for a re-rating visit must be made in writing on the Re-rating form. The form can be downloaded from the websites at www.sstaffs.gov.uk/ ; www.ratemyplace.org.uk or the Food Standards Agency website.
2. If the FBO does not have access to the internet then the Officer will provide a form when requested.

3. The FBO must outline the case for the re-rating request detailing the action taken to remedy the contraventions and where necessary providing supporting evidence such as invoices, photographs etc.
4. The application for the re-rating visit will be considered by the officer who carried out the original inspection. The decision will be made within 7 days of the request being received.

It may be appropriate to discuss by telephone the remedial action taken to confirm that all non-compliance issues have been addressed. A decision will be made based on the information provided by the FBO and discussed with the Lead Food Officer or nominated deputy.

7.4 Re-rating visit request approved

1. Where the request for re-rating visit has been approved the FBO will be advised in writing that a further visit will be made in due course. A firm appointment will not be made.
2. At the re-rating visit the inspection will assess the overall level of compliance and not only the matters that were identified at the previous visit. The business will then be re-rated. It should be noted that the score **may go up or down or remain the same** as deemed appropriate by the Officer.
3. This visit will be recorded on the database as a primary inspection and risk rated accordingly. Replacement stickers will be provided.
4. If the re-rating visit is not carried out within 3 months of the 'stand still' period the FBO may raise the matter with the Lead Officer for Food. If the situation cannot be resolved, the FBO may raise this with the Environmental Health & Licensing Manager and if still unresolved take further action under the Councils Complaints procedure.
5. If the FBO is not satisfied with the score awarded at the re-rating visit and believe that it is unjust then they may lodge an appeal within the Food Hygiene Rating Scheme appeals procedure.

7.5 Re-rating visit request refused

1. If the case made by the FBO is not substantiated or insufficient information has been provided then the application for re-inspection will be refused.
2. The FBO will be advised in writing why the request is being refused. The letter must also re-emphasise the priority actions that must be taken in order to improve the level of compliance and what evidence is required for agreement to a re-inspection to be made on further request.

The FBO may make further requests based on the information provided with the refusal notification.

6. If the FBO disagrees with the decision to refuse the request for a re-inspection they may raise the matter further with the Lead Food Officer. If

the matter cannot be resolved the FBO may raise this with the Environmental Health & Licensing Manager and if still unresolved take further action under the Councils Complaints procedure.

8.0 NATIONAL FOOD HYGIENE RATING STICKERS

From July 2014, certificates will no longer be issued.

Stickers will continue to be awarded to Food Business Operators, but will remain the property of South Staffordshire District Council. The stickers must be returned to the Council when requested.

Only stickers' current with the latest inspection visit can be displayed.

When a new Rating letter is issued, the previous sticker should be removed and replaced with the new sticker issued.

It should be noted that the display of misleading stickers may constitute an offence, for example an offence under the Consumer Protection from Unfair Trading Regulations 2008, which impose a general prohibition on unfair commercial practices. The Office of Fair Trading, local authority trading standards service in Great Britain enforces the Regulations.