

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**STREET SCENE and ENVIRONMENT SERVICES ADVISORY BOARD**

**20 June 2017**

**Report of the Director of Planning, Housing and Environmental Health Services**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Key Decision**

**1 INTRODUCTION OF CHARGES FOR FOOD HYGIENE RATING SCHEME RE-INSPECTION REQUESTS ON A COST RECOVERY BASIS**

**Summary**

**This report proposes the introduction of charges for requested Food Hygiene Rating Scheme re-inspections/revisits.**

**1.1 Background**

1.1.1 The Food Hygiene Rating Scheme (FHRS) was introduced nationally by the Food Standards Agency (FSA) in 2010. Most businesses preparing and selling food fall within the scope of the scheme. Following a food hygiene inspection businesses are awarded a food hygiene rating of between zero and five. One of the scheme's safeguards allows businesses who have made improvements and wish to improve their rating to request a re-rating inspection. The FSA have recently confirmed a change in policy, enabling local authorities to use existing powers within the Localism Act 2011, to introduce cost recovery for requested FHRS re-inspections.

1.1.2 This proposed change aligns the voluntary scheme in England with the statutory schemes in Northern Ireland and Wales, both of which charge for requested re-inspections/re-visits.

**1.2 Current arrangements**

1.2.1 Following an inspection, a business is advised of its hygiene rating in writing. The covering letter explains how the hygiene rating has been calculated and explains where a business can obtain more information if they wish to appeal, request a re-inspection and/or provide a 'right of reply'. Food hygiene ratings are published on the food hygiene ratings website once the appeal and notification period have elapsed <http://ratings.food.gov.uk/> .

1.2.2 If a business requests a re-inspection, they must explain what they have done to improve hygiene conditions to enable the local authority to determine if they will re-inspect. There is a maximum wait of 6 months before the re-inspection takes place, consisting of a three month 'standstill' period, following which the local authority is given a further three months to carry out the re-inspection. The re-

inspection is unannounced and the business is informed that their rating may go up, down or remain the same.

### **1.3 Changes if fees are charged**

- 1.3.1 The appeal and right of reply safeguards continue to apply but the 'standstill' period no longer applies when a fee is charged. The requested re-inspection must therefore be carried out within 3 months of receipt of the request and fee. There is no limit on the number of requested re-inspections a business can make and the fee may be charged for each re-inspection. The local authority still has discretion as to whether or not to agree to a request.
- 1.3.2 Officers will continue to re-visit businesses to check compliance with food law. These re-visits are part of our statutory duties in accordance with the Food Law Code of Practice and are not subject to charges and do not impact on the businesses hygiene rating.
- 1.3.3 Prior to any charges being introduced, our website will be updated and a press release issued to inform businesses. Letters informing businesses of their hygiene rating will also explain the new charges.

### **1.4 Legal Implications**

- 1.4.1 The FSA's view is that the adoption and implementation of the FHRS falls within the general power of competence, conferred by Section 1 of The Localism Act 2011. TMBC's solicitor has confirmed this position. The FSA considers that providing a re-inspection upon request by a food business operator, in circumstances where there is no statutory requirement to provide that re-inspection falls within the general power, too.

### **1.5 Financial and Value for Money Considerations**

- 1.5.1 The Welsh scheme charge £160 and Northern Ireland charge £150 for a re-inspection. This is on a cost recovery basis. Using guidance issued by HM Treasury we calculate our fee to be £160.00. This service is not subject to VAT charges.

### **1.6 Risk Assessment**

- 1.6.1 Food business operators are now aware that a good food hygiene rating is beneficial to their business particularly because consumers are increasingly aware of the scheme.
- 1.6.2 Since the introduction of the food hygiene rating scheme the Food & Safety Team have received on average 15 re-visit requests per year; so whilst we aren't able to predict the numbers of requests for re-inspections under the new system, operating on a cost recovery basis means that any additional demands on resource are paid for by the business.

## 1.7 Equality Impact Assessment

- 1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## 1.8 Recommendations

- 1.8.1 It is **RECOMMENDED** that the cabinet **APPROVE** the introduction of a charge of £160.00 for a FHRS re-inspection.

Background papers:

contact: Melanie Henbest

Nil

Steve Humphrey

Director of Planning, Housing and Environmental Health