



**FOCUSED AUDIT OF  
LOCAL AUTHORITY IMPLEMENTATION  
AND OPERATION OF THE STATUTORY  
FOOD HYGIENE RATING SCHEME IN  
WALES**

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## Foreword

Audits of local authority food law enforcement services are part of the Food Standards Agency's (FSA) arrangements to improve consumer protection and confidence in relation to food. These local authority regulatory functions are principally delivered through their Environmental Health and Trading Standards Services. This audit was developed to assess how local authorities are meeting their obligations for delivering the statutory Food Hygiene Rating Scheme in Wales (the Scheme) and delivering it in accordance with statutory requirements.

Data obtained from the audit was used to inform the three-year review of the implementation and operation of the Scheme. The 'Review of the implementation and operation of the statutory Food Hygiene Rating Scheme and the operation of the Appeals system in Wales'<sup>1</sup> (the 2018 review) was laid before the National Assembly for Wales on 28 February 2018. This audit report addresses one of the review recommendations (Recommendation 5), requiring the FSA to publish a report on the findings of its audit of local authority delivery of the Scheme.

Local authority delivery was assessed against the requirements of the Food Hygiene Rating (Wales) Act 2013 (the Act), the Food Hygiene Rating (Wales) Regulations 2013, (the 2013 Regulations), the Food Hygiene Rating (Promotion of Food Hygiene Rating) (Wales) Regulations 2016 (the 2016 Regulations) and the Food Law Code of Practice (Wales) 2014 (the Code) along with related centrally issued guidance; including the statutory guidance issued under section 23 of the Act 2013 (FHRS Guidance) and Food Law Practice Guidance (Wales) 2012 (the Practice Guidance). The Code contains official guidance concerning the execution and enforcement of food law by local authorities. The FHRS Guidance supports authorised officers in Wales in implementing the Food Hygiene Rating (Wales) Act 2013 and associated Regulations. The audit also considered local authority conformance against relevant parts of the Framework Agreement on Official Feed and Food Controls by Local Authorities (Framework Agreement) as amended in April 2010. Legislation relating to the Scheme, the Code, FHRS Guidance and the Framework Agreement, are available at the websites below:

<http://www.legislation.gov.uk/anaw/2013/2/contents/enacted>

<http://www.legislation.gov.uk/wsi/2013/2903/contents/made>

[https://signin.riams.org/files/display\\_inline/45532/frameworkagreementno5-18122017.pdf](https://signin.riams.org/files/display_inline/45532/frameworkagreementno5-18122017.pdf)

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<sup>1</sup> <http://www.assembly.wales/laid%20documents/gen-ld11433/gen-ld11433-e.pdf>

[https://signin.riams.org/files/display\\_inline/48645/Wales-Food-Law-Code-of-Practice--August-2018-02082018.pdf](https://signin.riams.org/files/display_inline/48645/Wales-Food-Law-Code-of-Practice--August-2018-02082018.pdf)

[https://signin.riams.org/files/display\\_inline/45973](https://signin.riams.org/files/display_inline/45973)

This audit aims to verify that local authority obligations under the Scheme are being met and to provide assurance of the effective maintenance of the Scheme in Wales. It aims to ascertain that the Scheme is being consistently applied, its credibility is being maintained and that its future sustainability is guaranteed. The audit process also provides the opportunity to identify and disseminate good practice and provide information to inform FSA policy on the execution and enforcement of food law.

The FSA is grateful for the cooperation and assistance from all local authorities and in particular their engagement with the audit and the information they have provided. The FSA also wishes to thank the Wales Heads of Environmental Health Food Safety Expert Panel for sharing their views during the development of this audit.

For assistance, a glossary of technical terms used within the audit report can be found at Annex A.

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## 1.0 Introduction

- 1.1 The Scheme was initially introduced in Wales on a voluntary basis in October 2010 to enable consumers to make informed choices about the places that supply their food and through these choices, encourage businesses to improve their hygiene standards. The Scheme became mandatory when the Act came into force on 28 November 2013. The intention of the Scheme is to ensure consumers are able to quickly and easily obtain information about the hygiene standards at food businesses. Food hygiene ratings are determined during local authority inspections, carried out by authorised officers, to verify food business compliance with food hygiene laws. Food businesses are given a rating of either 0 (urgent improvement necessary), 1 (major improvement necessary), 2 (improvement necessary), 3 (generally satisfactory), 4 (good) or 5 (very good) which reflects the hygiene standards found at the time of inspection.
- 1.2 Local authorities are responsible for delivering the Scheme, securing business compliance with legislation and generating ratings through programmed food hygiene inspections. Both local authorities and the FSA play a key role in ensuring the Scheme's equitable application throughout Wales, which serves to maintain consumer confidence and the credibility of the Scheme. This report provides a summary of the findings from the FSA focused audit of the implementation of the Scheme by local authorities in Wales. It also confirms that the FSA is fulfilling its functions as set-out in legislation and its commitment to support the effective and consistent operation of the Scheme in Wales.
- 1.3 This report is available in hard copy from the FSA's Consumer Protection Team at 11<sup>th</sup> Floor, Southgate House, Westgate Street, Cardiff, CF10 1EW, Telephone: 029 2067 8999, and electronically on the FSA's website at: <https://www.food.gov.uk/other/focused-audits>

## 2.0 Executive Summary

- 2.1 The audit examined the arrangements for the implementation and operation of the Scheme across all 22 local authorities in Wales. The process involved assessing information provided from submissions to a standard questionnaire that was sent to authorities during September 2017. This requested specific data for the previous three years relating to the operation of Scheme, as well as policies, procedures and documents such as food law enforcement service plans.
- 2.2 The majority of local authorities provided food law enforcement service delivery plans. These were generally in accordance with the Service Planning Guidance which forms part of the Framework Agreement. The service plans that were submitted by local authorities all contained a commitment to deliver a programme of interventions. Most targeted all food establishments that were due an intervention although some authorities had not made a commitment to deliver all interventions that were due in accordance with the Food Law Code of Practice (Wales). This included all types of establishments due an intervention, interventions at new establishments and interventions that were outstanding from previous years.
- 2.3 All authorities were able to demonstrate that local authority officers that administer the Scheme had received consistency training. Most authorities were able to demonstrate that all staff undertaking work on the Scheme had received consistency training within the year prior to the audit.
- 2.4 Database management procedures were provided by the majority of authorities, as were arrangements for controlling the upload of sensitive information. The database management procedures for some authorities were not sufficient to demonstrate that contingency plans had been considered.
- 2.5 The Scheme depends on local authorities being able to deliver interventions in accordance with the frequencies specified in the Code. Food hygiene interventions are generated by local authority databases. Analysis of local authority data in relation to the number of establishments overdue an intervention revealed variance across different authorities. In two authorities there was a significant variance in relation to the scale of overdue interventions. There was also variance across different authorities in the number of unrated establishments. There was a significant backlog in the number of unrated establishments within one authority.

- 2.6 All authorities submitted procedures or written materials they use to operate the Scheme with many using templates provided by the All Wales Food Safety Expert Panel to ensure consistency. The procedures covered a range of issues including interventions at newly registered businesses, revisits and monitoring the display of food hygiene rating stickers. Some of these procedures require improvements to further enhance the operation of the Scheme in Wales. Welsh local authorities had developed aides-memoire for different types of food establishments which capture and document important information arising from food hygiene inspections which form part of the Scheme.
- 2.7 Food hygiene ratings were found to have been calculated correctly with the rating being uploaded for publication on the food hygiene ratings website. Authorities were able to demonstrate that they were using inspection reports to notify businesses of their rating, in most cases within the statutory 14-day deadline after the inspection.
- 2.8 Information to confirm that businesses were being signposted to Scheme safeguards was provided by all authorities. Re-ratings resulted in an improved rating in 94% of cases. Out of those businesses that appealed their rating, 84% were deemed to have been issued with the correct rating. The 'right to reply' safeguard was seldom being used by food business operators.
- 2.9 All authorities outlined enforcement action to be taken as a result of Scheme non-compliances or indicated that the authority's enforcement policy would be considered. Local authorities were using the full range of available enforcement actions to address Scheme non-compliances. The issuing of fixed penalty notices was mainly targeted at 0 – 2 rated establishments. The information suggested that, in general, businesses had discharged their liability through payment of the fixed penalty notices. Those businesses who had not paid, had either ceased trading or had been prosecuted for the failure to display a valid sticker with an average fine per business of £407 excluding costs.
- 2.10 Authorities had undertaken a wide range of promotional activities with a focus on occasions such as Valentine's Day and Christmas. Authorities had accessed FSA funding and carried out interventions including coaching to targeted businesses such as 0 – 2 rated establishments.
- 2.11 In general, authorities provided their procedures for carrying out quantitative and qualitative checks on service delivery in respect of interventions included within the Scheme. Some opportunities for including additional Scheme specific checks were identified.

2.12 The audit has identified 13 recommendations and many examples of good practice in relation to the implementation and operation of the Scheme in Wales.



### **3.0 Methodology**

- 3.1 This audit was undertaken under section 12(4) of the Food Standards Act 1999, which provides an obligation for the FSA to assess and monitor local authority performance. It was developed to contribute to the statutory duty conferred on the FSA to conduct a review of the implementation and operation of the Scheme every three years.
- 3.2 The audit examined the arrangements for implementation and delivery of the Scheme in all 22 local authorities in Wales. The process involved assessing information provided from submissions to a standard questionnaire, a copy of which is provided in Annex B. The questionnaire was sent to authorities during September 2017 and requested specific data relating to the operation of Scheme for the previous three years, as well as policies, procedures and documents such as food law enforcement service plans. An examination of specific datasets extracted from local authorities' food establishment databases was used to inform the report. No on-site audit activity or verification visits were undertaken during this audit.

## **4.0 Audit Findings**

### **4.1 Organisation and Management**

- 4.1.1 The Service Planning Guidance (which is part of the Framework Agreement) emphasises the importance of planning interventions and detailing the programme of food establishment interventions within food law service plans. This should include the establishments profile, the numbers of interventions programmed, an estimation of the number of revisits that will be made, and an estimation of resources required e.g. staffing. The plan should also detail any targeted intervention activity that the authority intends to carry out including any extra resources this may require; this could include specific project work.
- 4.1.2 The authority should identify any national or local priorities, such as compliance with new legislation or improved compliance with existing legislation and other central government initiatives.
- 4.1.3 This audit reviewed 19 food law service delivery plans for 2017-18 and one public protection service plan, specifically to assess the level of commitment afforded to the Scheme. Two local authorities did not provide any service plans as part of the audit submission. Eleven local authorities made specific reference to the Scheme in their service aims and objectives, indicating a specific commitment to delivering the Scheme. In seven local authorities a reference was made to the Scheme in their Corporate, Strategic or higher-level Business Plans. This demonstrates a recognition of the Scheme's importance at a senior level within the organisation. The aims and objectives of all submitted service plans indicated a commitment by the local authorities to protect consumers from the risks associated with food. All 20 local authorities that provided a service plan had detailed their commitment to the delivery of a programme of interventions. This commitment included implementation and delivery of the Scheme.
- 4.1.4 Sixteen authorities had either included information on activities undertaken to promote the Scheme, had made a commitment to promote the Scheme or had included information on both within their service plan.
- 4.1.5 Most service plans contained details of food hygiene interventions due in the year ahead. These had been broken down by their risk rating categories.

**Table 1 – Food hygiene minimum intervention frequencies by risk rating category**

Category	Minimum intervention frequency
A	At least every 6 months
B	At least every 12 months
C	At least every 18 months
D	At least every 24 months
E	A programme of alternative enforcement strategies or interventions every three years

- 4.1.6 The type of intervention required by the Code varies, depending on the risk category and previous intervention activity in each establishment.
- 4.1.7 Establishments that pose a higher risk are inspected more often than establishments that pose a lower risk. In between inspections, local authorities may also monitor businesses in other ways to ensure they are maintaining hygiene standards. Where the required intervention is an inspection, partial inspection or audit, the business may be rated in accordance with the Scheme; provided sufficient information has been gathered. Other interventions will not involve a new rating being issued under the Scheme. If these other interventions reveal anything that might indicate business activities have changed, the local authority is required to undertake an inspection of the establishment and give it a new hygiene rating. Alternatively, if the local authority receives a complaint or new information about a business that they are not due to inspect, and this suggests hygiene standards are not being maintained, the local authority will investigate and may inspect the business to give it a new hygiene rating.
- 4.1.8 Most annual intervention programmes set-out to target all food establishments that were due an intervention. One authority had not included due food hygiene interventions within its service plan, whilst some authorities had not made a commitment to deliver all interventions that were due in accordance with the Code. Of these, five authorities were not planning to deliver all interventions due in high risk establishments whilst one other authority was planning to deliver both high and lower risk interventions within

each quarter of the year, rather than within 28 days of the due date as required by the Code. This may lead to some establishments not receiving a timely food hygiene rating under the Scheme. The 2018 review identified that the timely rating of food businesses was important to consumers.

- 4.1.9 With regard to lower risk establishments, 16 authorities had provided a commitment in their service plans to deliver all interventions that would become due. Four authorities did not include all due interventions. Where interventions other than inspections are not delivered in accordance with required frequencies, changes in business activities that may prompt an inspection will not be identified and ratings will not be issued as required.
- 4.1.10 Seventeen local authorities had provided information within their programmes on the number of unrated establishments that were due an intervention and eleven of these had committed to prioritising an intervention in accordance with the Practice Guidance. One authority had not specified whether the number of unrated establishments in the intervention programme included an estimate of the number of projected new establishments. Two authorities had not included within their service plans the number of new establishments requiring an intervention. If new establishments are not inspected in accordance with the Code, ratings will not be issued as required.
- 4.1.11 Of the 20 local authorities that submitted service plans, nine had included a commitment to undertake interventions that were outstanding from the previous years' programmes. Six of those authorities had provided information on the numbers and risk categories of outstanding interventions. In 11 service plans, insufficient information was provided on how the authorities intended to address all of their outstanding interventions. It is important that outstanding interventions from previous years are addressed to ensure that the food hygiene rating is updated.

### ***Recommendation 1***

Local authorities must include in their annual intervention programmes, a commitment to undertake all interventions due in accordance with the Food Law Code of Practice (Wales), an estimate of the number of new businesses requiring a first rating inspection in the year and include the numbers of all outstanding interventions carried over from previous years. [The Standard 3.1]

## **4.2 Authorised Officers**

- 4.2.1 Food hygiene ratings are determined during local authority inspections, carried out by authorised officers, to verify food business compliance with food hygiene laws. Authorised and competent officers are fundamental to the consistent implementation and operation of the Scheme. They are critical to the Scheme's integrity by ensuring that businesses are treated consistently, fairly and equitably. By consistently allocating fair and appropriate ratings, authorised officers ensure that consumers are able to make meaningful comparisons of hygiene ratings for establishments in their local area and across Wales.
- 4.2.2 In 14 of the 21 authorities that provided information, all staff undertaking work on the Scheme had received consistency training within the last year. In the seven remaining authorities, whilst the majority of officers had received consistency training within the last year, at least one officer had not received such training during this time period. In one of these authorities this related solely to a newly appointed officer. In two of these authorities, officers that had not received consistency training within the last year included contractors. It is important that all officers issuing ratings under the Scheme receive regular consistency training. The 2018 review recommended that the FSA should continue to provide support to ensure that all local authority officers who rate food businesses under the Scheme continue to engage in activities that promote consistency. The FSA co-ordinates and funds an annual national consistency exercise facilitated by Powys County Council.

## **4.3 Database/Systems Management**

- 4.3.1 The credibility and integrity of the Scheme depends on up-to-date and accurate food hygiene rating information being available to consumers. Regular transfer of local authority data to the national database and timely publication of ratings at [food.gov.uk/ratings](http://food.gov.uk/ratings) is key to this. Effective database management is therefore vital in facilitating accurate Scheme uploads to the FSA and ensuring the accuracy of published data. Data and other information relating to safeguards and enforcement actions was not always provided as requested on the audit questionnaire.
- 4.3.2 Authorities are required to set up, maintain and implement a documented procedure to ensure that their food premises database is accurate, reliable and up to date. Authorities are maintaining their databases through a range of software packages and in some cases, web-based platforms. Procedures

on database management were provided by the majority of authorities, however the management and monitoring of them varied. The database management procedures for six authorities were not sufficient to demonstrate that back up systems and procedures had been considered. In another four authorities, back up systems and procedures had been partially addressed.

- 4.3.3 The FSA has automated arrangements in place for the online publication of food hygiene ratings at [www.food.gov.uk/ratings](http://www.food.gov.uk/ratings). These include an IT platform, comprising a central database for storing data on food business establishments uploaded by local authorities; a portal that enables local authorities to review and validate its data and upload information not collected in the automated processes, a consumer facing website and a reporting facility which allows for management reports to be generated.
- 4.3.4 The FHRS guidance stipulates that, as a minimum an authority must upload data once every 28 days. Most authorities had documented instructions, guidance or a procedure referencing the minimum upload frequency. Some signposted officers to the FSA document containing advice on the use of the IT platform. Two authorities did not document the requirement. Three authorities did not submit a procedure covering the frequency of data upload.
- 4.3.5 Data should only be uploaded for those businesses that are within the scope of the Scheme. The upload of data must therefore be controlled to ensure only appropriate data is included and that sensitive information is not uploaded. Twenty-one local authorities had documented instructions, guidance documents or a procedure which stipulated arrangements for controlling the upload of sensitive information. These generally covered scoping arrangements as well as the upload of sensitive details. In some cases, procedures included the upload process.

### ***Recommendation 2***

Local authorities shall set up, maintain and implement appropriate back up systems for any electronic databases, and systems or documented procedures which have been designed to minimise the risk of corruption or loss of information held on its databases. Local authorities should ensure that reasonable security measures are in place to prevent access and amendment by unauthorised persons. [The Standard – 6.4]

### ***Recommendation 3***

Local authorities should ensure their databases are operated in such a way as to be able to provide the required information to the FSA. Procedures must include a requirement to upload Scheme ratings within the prescribed time period and to avoid the upload of sensitive information. Databases should record scheme information in relation to safeguards and enforcement; including any re-ratings and dates of all actions taken. [The Standard – 6.3]

## **4.4 Inspections/Interventions**

- 4.4.1 The Scheme depends on local authorities being able to deliver interventions in accordance with the frequencies specified in the Code.
- 4.4.2 It was possible to analyse the databases of 20 local authorities in relation to the numbers of establishments overdue an intervention. Five local authorities had completed almost all of their due interventions, indicating that their intervention programmes were broadly in accordance with the Code. The nature and scale of overdue interventions in a further 13 authorities indicated that it was within the capability of each of these local authorities to operate their intervention programmes as required. The scale of overdue interventions within the remaining two authorities indicated a significant variance in operating their intervention programmes in accordance with the Code.
- 4.4.3 An establishment will remain unrated whilst awaiting its first inspection. All but one local authority had provided information on the unrated establishments within their areas. An initial inspection should normally take place within 28 days of registration or from when the authority becomes aware that the establishment is in operation. Where there is a conflict of resources with other high priority activities, prioritisation of interventions

should be undertaken in a risk-based manner. One local authority did not have any unrated establishments, whilst the scale of unrated establishments within 19 authorities indicated that new businesses were being managed alongside the wider intervention programme. The scale of unrated establishments within one authority indicated a significant backlog. The majority of these establishments were likely to be involved in the preparation, cooking or handling of open, high-risk food based on information provided in relation to the establishment type.

- 4.4.4 Food hygiene interventions are generated by local authority databases and scheduled according to the frequencies prescribed in the Code. Where calculation errors occur, this may result in interventions being completed at the incorrect frequency. Data from 19 local authorities was analysed to determine whether the calculation of due intervention dates was longer than that permitted by the Code. Two authorities had correctly calculated all their due intervention dates, whilst in another 15 authorities, almost all due intervention dates were found to be correct. In the remaining two authorities the nature and scale of calculation errors were considered to be within the capability of those authorities to identify and resolve.

#### ***Recommendation 4***

Local authorities must carry out interventions / inspections at all food establishments in their area, at a frequency which is not less than that determined under the intervention rating schemes set out in the relevant legislation, Codes of Practice or other centrally issued guidance. [The Standard 7.1]

## **Procedures**

- 4.4.5 All authorities submitted procedures or written materials they use to operate the Scheme. All authorities confirmed that new businesses were being provided with information on the Scheme. Ten authorities, stipulated that the information was being brought to the attention of new businesses within 14 days in accordance with the FHRS guidance. Several authorities send new businesses the advice leaflet 'Food hygiene is getting easier to spot in Wales'.



- 4.4.6 Many local authorities referred to the prioritisation of newly registered businesses, as required by the Code, in their documented procedures. These ensured that higher risk businesses, including those within the remit of the Scheme are inspected first. Three local authorities specified a method of prioritising risk amongst unrated premises.

### ***Good Practice***

Rhondda Cynon Taff CBC prioritises unrated inspections using a red, amber and green coding system. Caerphilly CBC uses a desk top risk assessment based on the premise usage, whilst Ceredigion CBC enters a risk assessment for unrated premises onto an unrated premises spreadsheet.

- 4.4.7 Category E risk rated establishments are considered low-risk. These need not be included in the planned inspection programme, however if they are not included, they must be subject to an alternative enforcement strategy (AES) at least once in every 3 years. A food hygiene rating cannot be issued as a result of an AES.
- 4.4.8 AES procedures were provided by 16 authorities, of which 12 made specific reference to the Scheme. Some AES procedures detailed that a rating cannot be issued as a result of an AES. Many authorities use a self-assessment questionnaire, other methods include requesting that businesses complete a new registration form which is then reviewed, others complete a low-risk premises inspection checklist pro forma. Some authorities prioritise low risk establishments within the scope of the Scheme for inspection.
- 4.4.9 When new information arises, for example, in the case of a justified complaint or unsatisfactory sampling result, revision of the intervention type and rating would need to be considered in accordance with the requirements of the Code. Seven local authorities had detailed the need to consider these revisions in their documented procedures.
- 4.4.10 In relation to mobile establishments, it is the responsibility of the local authority in whose area the food business is ordinarily kept overnight ('the registering authority') to determine the food hygiene rating. Where an establishment trades outside of the area of the registering authority, there will be a need for the inspecting and registering authority to liaise closely and share information relating to the establishment.

- 4.4.11 In general, local authorities submitted information which indicated that they were promoting the sharing of information in relation to mobile establishments between local authorities. Some local authorities made use of standard paragraphs and aides-memoire to capture appropriate information such as the name of the registering authority. Sixteen local authorities specifically detailed within their procedures that inspection reports should be copied to the registering authority to assist them in determining an appropriate rating. These procedures also indicated that where businesses are registered with an authority but operating outside of the area, inspection reports issued by other local authorities should be considered when issuing a rating.
- 4.4.12 Written procedures detailed the timescale of 14 days for notification of inspection letters, including ratings, which was in accordance with the requirements of the Scheme in all cases. However, two authorities, operated an intervention procedure that conflicted with their FHRS procedure regarding timescales for sending out inspection letters.
- 4.4.13 Communication of the rating to the business in the case of multi-site operations was referred to within written procedures submitted by eleven authorities. In order to ensure correct legal service of inspection reports and notification of Scheme information to the correct business address, it is essential to ensure that reports are addressed to the appropriate registered business or company address. Where this differs from the local establishment, there will also be a need to send the report and information, along with the appropriate number of rating stickers to the local establishment address.
- 4.4.14 Several authorities provided evidence of standard paragraphs that have been developed for use within inspection letters when dealing with multi-site operations. Whilst some procedures correctly remind officers that rating stickers should be sent to the premises inspected rather than to the head office, the wording within some documented procedures could be improved by highlighting the importance of directing findings to the registered business or company office location where appropriate.
- 4.4.15 Where the authority is also the food business operator, there is a requirement to provide the notification to the appropriate person within the authority and also send the notification and stickers to the establishment. Five authorities had provided their documented arrangements for notifying the appropriate person by name and/or position within the authority, where it is also the food business operator.

- 4.4.16 Consumers are provided with information highlighting that establishments rated as 3 or above are broadly compliant. This means the food hygiene standards are generally satisfactory, good or very good. There is an expectation amongst consumers that 0 - 2 rated establishments will receive follow up action to secure improvements in a timely manner. In situations where there is an imminent risk to public health, businesses are required to cease trading until such time that the authorised officer is satisfied that the risk to health has been removed.
- 4.4.17 Most authorities had adopted a consistent approach in terms of maximum timescales for revisits in 0 - 2 rated premises. Fourteen authorities provided documented procedures that indicated '0' rated establishments would be revisited within 28 days and that those establishments with a '1' or '2' rating would be revisited within three months. Some authority procedures emphasised that where there is major concern for example relating to poor cleanliness, a shorter timescale would be more appropriate.
- 4.4.18 A revisit timeframe to check total compliance was stated within the procedures of most authorities. Where an inspection report indicates multiple contraventions, timescales specific to each contravention are required. This will enable the business owner to prioritise and secure improvements in a timely manner.
- 4.4.19 All authorities had documented arrangements in place to ensure consistency in the application of the Scheme. This included representation at stakeholder meetings, including the All Wales Food Safety Expert Panel and the All Wales FHRS Steering Group. Consistency in the application of the Scheme is discussed at these groups and information cascaded to relevant parties. Several local authorities had adopted, within their procedures, the FHRS general steers document prepared by the All Wales Food Safety Expert Panel as a means of ensuring consistent ratings throughout Wales. There has been widespread attendance at All Wales consistency training events set-up and facilitated by Powys County Council. This training includes reference to the content of the All Wales FHRS general steers document.
- 4.4.20 The law requires food businesses to display ratings in a conspicuous manner. It is important for the credibility of the Scheme that authorised officers interpret 'conspicuous display' consistently. Nine authorities had provided limited guidance on conspicuous display within their procedures, report templates or on inspection checklists. However, none had documented comprehensive advice to officers within their procedures.

### ***Good Practice***

Denbighshire CC, Flintshire CC, Gwynedd CC, Merthyr Tydfil CBC and Rhondda Cynon Taff CBC had adopted the procedure of agreeing the display locations with businesses and documenting this decision.

- 4.4.21 Eight authorities had a documented procedure requiring rating display checks. In four cases, these checks related only to re-rating visits. One authority had also detailed the need to check display during other reactive visits. A further seven authorities had submitted information that indicated they were undertaking monitoring activities during a variety of interventions. The instruction to check the display of ratings during those interventions had not been documented in the authorities' procedures.

### ***Good Practice***

Merthyr Tydfil CBC and Wrexham CBC included display checks for 0 – 2 rated premises within their procedures. Merthyr Tydfil CBC also referred to other targeted activity including monitoring outside of normal working hours.

- 4.4.22 One local authority had provided advice to officers on the display of stickers where multiple food business operators operated from one establishment.
- 4.4.23 Seven local authorities had provided officers with an instruction to check previously issued stickers had been removed from display. One authority specifically included an instruction for officers to remove stickers belonging to the old business during new businesses inspections. The remaining 14 authorities had not included instructions relating to the checking and removal of old stickers in their procedures, however, four of these had advised that they were routinely doing so during visits.

### **Recommendation 5**

Local authorities should ensure that documented procedures:

- Specify the method they use to prioritise risk amongst unrated premises to ensure that higher risk businesses, including those within the remit of the Scheme, are inspected first.
- Specify that revision of the intervention type and rating should be considered when new information arises.
- Specify that in relation to multi-site businesses, reports must be provided to the food business operator and copied to the local outlet where appropriate.
- Include instructions to check for the display of valid rating stickers and to ensure the removal of stickers where they are not valid.
- Include advice to officers in relation to conspicuous display and to ensure that checks are made at all entrances and in all relevant locations where multiple businesses operate from one establishment.

[The Standard – 7.4]

### **Aides-Memoire**

- 4.4.24 Authorities in Wales have developed aides-memoire for different types of food establishments including caterers, low-risk businesses and approved establishments to assist officers in consistently recording and summarising key findings.
- 4.4.25 Aides-memoire for use when inspecting businesses such as caterers preparing high-risk foods were submitted by 21 authorities, 20 of which provided some way of capturing information on the display of the FHRs rating. Whilst, some aides-memoire captured a simple yes or no answer for display of the existing rating, others provided a space to record where a business was outside of the scheme and that stickers were being prominently displayed. Some aides-memoire capture information relating to the display of valid stickers (bearing the Welsh Government logo), provided space to record the location of stickers (to confirm the conspicuous display) and space to record any action needed. This could include removal of the

existing FHRs sticker, for example, where the business had changed ownership since the previous inspection.

***Good Practice***

Four local authorities (Gwynedd Council, Flintshire CC, Rhondda Cynon Taff CBC and Merthyr Tydfil CBC) incorporated the agreed locations for FHRs stickers or provided space to record discussions on the siting of the FHRs sticker as part of the aide-memoire for businesses preparing high-risk foods.

- 4.4.26 The law requires food businesses to display ratings at every public entrance. One local authority included a specific prompt on an ancillary FHRs display aide-memoire to check display at all entrances. The remaining authorities had not included any documented instruction to their officers to check display at all entrances.

***Good Practice***

An ancillary FHRs display aide-memoire used by Blaenau Gwent CBC prompts officers to record the display of ratings at all customer entrances to a food business establishment.

- 4.4.27 Information on the number of public entrances or number of stickers requested by the business was provided on 15 aides-memoire. Eighteen aides-memoire provided space to record the new FHRs rating following an inspection.

***Good Practice***

The aide-memoire provided by Denbighshire CC specifically captured the number of wall and window stickers required which assists in securing business compliance.

- 4.4.28 The 2016 Regulations made it a requirement for those that provide takeaway food to signpost consumers to ratings information on their publicity materials. Sixteen authorities that had provided an aide-memoire for use when

inspecting such businesses included some reference to publicity materials. Some of these aides-memoire explicitly referred to menus and specified the required wording to enable officers to easily check the accuracy of any statement whilst at the business.

### ***Good Practice***

The aide-memoire of Carmarthenshire CC included a prompt to check that the correct food hygiene rating was displayed on other publicity materials including television screens and posters.

- 4.4.29 Eleven authorities provided an aide-memoire that was used when inspecting lower risk food establishments. Three of the aides-memoire for low-risk food businesses prompted officers to record the current FHRs rating, five included space to record the new FHRs rating and four prompted capture of information on the display of ratings. Six aides-memoires for low-risk food businesses prompted capture of information on public entrances or number of stickers requested by the business.
- 4.4.30 Three authorities provided an aide-memoire that was used when inspecting approved establishments. None of these included space to record the existing FHRs rating, however, two included space to record the new rating. One prompted officers to capture information on the display of the FHRs rating and one prompted officers to record the number of public entrances or number of stickers requested by the business.

### ***Recommendation 6***

Local authorities should ensure that aides-memoire include prompts to check for the display of valid rating stickers and ensure the removal of stickers where they are not valid. Further, aides-memoire should include prompts to officers in relation to conspicuous display and to ensure that checks are made at all entrances and in all relevant locations including where multiple businesses operate from one establishment. Local authorities should also review their aides-memoire to ensure that all requirements of the Scheme in relation to publicity materials are sufficiently included. [The Standard – 7.4]

## Risk Rating

- 4.4.31 Establishments are risk rated in accordance with Annex 5 of the Code. The risk rating scheme within the Code is made up of eight criteria which determine the intervention frequency.
- 4.4.32 The combined scores of all eight criteria make up the total risk score for the establishment. The data from 19 authorities was assessed to determine if the total risk score had been calculated correctly. This score was calculated correctly in all cases by 11 authorities. In the remaining eight authorities almost all scores were correctly calculated, however, where anomalies were identified, these indicated that at least one of the eight criteria may not be correct. If the incorrect score was relevant to the calculation of the food hygiene rating, this may affect the rating issued. Further, where the total score is incorrect this may alter the frequency of the intervention. This could lead to a delay in conducting an intervention which may affect the currency of the food hygiene rating.
- 4.4.33 Three of the eight criteria are relevant to the calculation of the food hygiene rating. These consist of the level of (current) compliance for food hygiene and safety procedures (including food handling practices and procedures, and temperature control), the structure of the establishment (including cleanliness, layout, condition of structure, lighting, ventilation, facilities etc.) and confidence in management / control procedures.
- 4.4.34 The data from 20 authorities enabled an assessment as to whether the food hygiene rating had been correctly calculated using the three criteria. The ratings were all found to be calculated correctly in these 20 local authorities.
- 4.4.35 The assessment of confidence in management / control systems must be consistent with the significant risk score which is applied where there is a significant risk of contamination or survival in ready to eat food by specified pathogens. If confidence in management is assessed as high or moderate, and there is also assessed to be a significant risk, then one of the assessments is incorrect.
- 4.4.36 An assessment of the confidence in management / control systems score in relation to the significant risk score was able to be undertaken on the data provided by 20 authorities. In half of these local authorities, the application of the confidence in management / control systems score was consistent with the use of the significant risk score. In the remaining 10 authorities almost



all scores were consistent, however, where anomalies were identified, these indicated that one of the two criteria was not correct. If the incorrect score was the confidence in management / control systems score, this may affect the rating issued.

- 4.4.37 A sample of food hygiene ratings from 21 authorities was cross referenced against the food hygiene rating website. The sample of ratings issued by 20 authorities were correctly displayed. In one authority, for one of the sampled establishments, the website was displaying the correct score but the incorrect inspection date which indicated an error in uploading the most recent inspection to the food hygiene rating website.

### ***Recommendation 7***

Local authorities must ensure that risk rating data is consistent with Annex 5 of the Food Law Code of Practice (Wales) to ensure the correct intervention frequency and allocation of the correct food hygiene rating under the Scheme. [The Standard – 7.2]

## **4.5 Records and Interventions / Inspections Reports**

- 4.5.1 As part of the information required to accompany notifications to food businesses, a copy of the inspection report used to calculate the rating needs to be provided. In cases where the highest rating has not been given, details of the action needed, with reference to each of the three criteria, (the level of (current) compliance for hygiene, the level of (current) compliance for structure and confidence in management/control procedures) must be provided before the highest rating can be given. This enables the business to understand how to achieve compliance and provides justification for the rating issued.
- 4.5.2 Twenty-one authorities submitted a template inspection report which all referred to the three criteria. Seventeen included descriptors, the wording of which was consistent within Annex 5 of the Code. This provides clarity to businesses on how their score was calculated.
- 4.5.3 Food hygiene ratings must be displayed at establishments using a prescribed sticker. All letter templates included a statement regarding the statutory requirement to display the sticker.
- 4.5.4 When businesses are informed of their rating they must be informed of the circumstances in which both the rating and sticker cease to be valid. Eight

authorities fully explained these on their letter templates whilst 10 provided a partial explanation. Three authorities did not inform the business of the circumstances in which a rating and sticker ceased to be valid.

### ***Good Practice***

Neath Port Talbot CBC clearly describe the circumstances in which both the rating and sticker cease to be valid in a document annexed to their standard notification report, which also incorporates the prescribed safeguard information.

- 4.5.5 The FHRS guidance requires that businesses are informed when, where and how their ratings will be published. Most authorities were providing this information clearly on letter templates and some chose to attach leaflets explaining the Scheme or links to their own or the FSA website, where this information could be found. In some cases, authorities failed to provide all required elements of this information.
- 4.5.6 Authorities are required to notify businesses of their rating and provide accompanying information within 14 days of the inspection. It was possible to analyse the data submitted by 13 authorities to assess compliance with this requirement. In all these authorities, some letters were sent out beyond the statutory 14-day deadline. In five authorities the data indicates that over 50 letters in each authority were sent beyond the mandatory 14-day deadline.

## **Safeguards**

- 4.5.7 The Scheme incorporates three safeguard measures to ensure fairness to businesses, an appeal procedure; a 'right to reply' and a procedure for requesting a re-inspection/re-visit for the purposes of re-rating when improvements have been made. Safeguards are fundamental to both consumer and food business operator confidence.
- 4.5.8 The Wales Food Safety Expert Panel has worked to develop template policies, procedures and letters with the aim of facilitating a consistent approach across Wales. These documents help to ensure consistency.
- 4.5.9 All authorities had provided information to confirm that businesses were being signposted to Scheme safeguards. Twenty submitted a documented food hygiene rating scheme procedure which included safeguards.

Businesses were typically signposted to safeguards via standard letter templates and enclosed leaflets or embedded weblinks within them. Application forms for appeals, 'right to reply' and requests for re-rating inspections were available for download and in most cases, letter templates informed businesses that they could obtain paper copies on request.

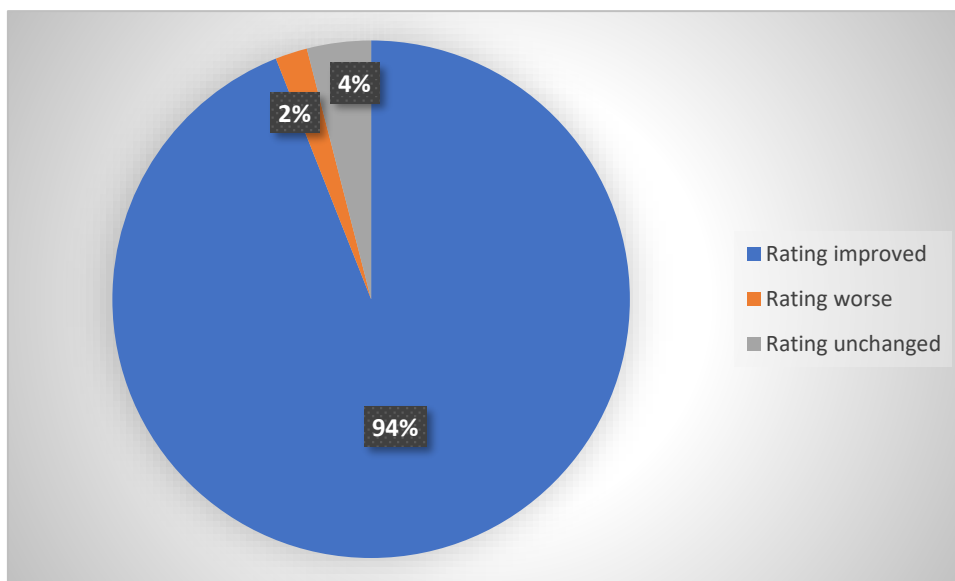
## Re-ratings

- 4.5.10 A re-rating inspection provides businesses with the opportunity to improve their rating in advance of their next programmed inspection, where they have undertaken the necessary improvements. Where a business has made the request in writing on the prescribed form, has agreed to pay the reasonable costs of re-rating and has met the conditions listed in the FHRS guidance, a re-rating inspection must be undertaken no later than 3 months after the request was received by the authority. The twenty scheme specific procedures included a general requirement for re-rating visits to be conducted unannounced, within a 3-month timescale and only if current ratings were displayed.
- 4.5.11 Authorities must send the following information on re-ratings to business's along with the rating notification:
- Information on how to request an inspection for the purpose of re-rating
  - That the request can be made at any time
  - Details of how to obtain the form for making a request
  - To whom the completed form must be sent
  - Details of the costs for the inspection
  - How and when these must be paid
- 4.5.12 All authorities that submitted standard notification templates included information on how to request a re-rating. The majority indicated, that following the necessary improvements being carried out, a request for a re-rating could be made. Not all authorities made it clear that a request could be made at any time. Details of how to obtain the form for making a request were not provided within two of the letter templates.
- 4.5.13 All 21 authorities that provided a standard letter template had notified businesses of the re-rating costs or included a link to on-line information. Welsh authorities have calculated and agreed the reasonable cost of a re-rating, initially the fee was agreed at £150, this has now risen to £160. Two authorities had not updated the cost to £160 within all of the documentation provided. Information on how and when the re-rating cost must be paid was

provided in full by 12 authorities whilst the remaining nine authorities had not provided the information in full.

- 4.5.14 The data from seven authorities enabled an assessment of the timescale for re-rating visits. There was generally a high level of compliance with the statutory period. Two authorities had conducted all of their re-ratings within three months. In the case of the remaining five authorities, re-ratings were carried out on time within a range of 86% to 98% of cases.
- 4.5.15 Statutory guidance stipulates that, where the improvements needed are 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 3-month period, in order to establish that the improvements are fully implemented and sustained. Where there were issues concerned with confidence in management / control procedures, it was only possible to ascertain whether the re-rating inspection took place towards the end of the 3-month period in three authorities. In one authority 18% of eligible re-rating inspections took place within the last month of the period, followed by 23% and 29% for the remaining two authorities.
- 4.5.16 A total of 2076 re-ratings had been undertaken within the three years since the last review of the Scheme. Due to variations in the data received, a comparison between original and subsequent ratings was available for 1286 of these re-ratings.

**Figure 1 - The distribution of re-rating outcomes.**



- 4.5.17 It was possible to establish whether the re-rating was calculated correctly from the data provided by 15 authorities. In eight authorities, a sample of re-ratings indicated that the calculation was correct in all selected cases. In seven local authorities, there was evidence of a trend in the allocation of 0 or 5 scores for rating confidence in management where significant compliance issues had been identified during the last inspection.
- 4.5.18 A sample of re-rating data from 18 authorities was checked against the FSA website. In 13 local authorities, all re-rating scores corresponded to those published on the FSA website. Re-rating inconsistencies were found in two of the 18 authorities. In three authorities whilst the re-ratings matched those displayed on the website, the date on which the re-rating visit took place did not always match.

## Appeals

- 4.5.19 Authorities must have an appeals procedure in place for businesses to dispute their food hygiene rating if the business considers the rating to be unjust. Details of the procedure for making an appeal must be sent to the business at the time of the rating notification. The following information should be included:
- The name and contact details of the officer who carried out the inspection.
  - The period within which the appeal must be made.
  - How to obtain the form for making an appeal.
  - The name and contact details to whom the completed appeal form must be sent.
  - The process by which the appeal will be decided, and the business informed of the outcome.
- 4.5.20 Of the 21 authorities that submitted letter templates, the majority included most of the required information. This information appeared either in the template itself, links to websites or enclosed leaflets. All authorities included the name and contact details of the officer who carried out the inspection on their templates, one did not include the time period within which the appeal must be made. Five templates did not include information on how to obtain the form for making the appeal or the name and contact details to whom the completed appeal form must be sent. Eleven authorities had provided some information on the process by which the appeal will be decided, and the business informed of the outcome. No template letters had fully incorporated all the information required by the 2013 Regulations and FHRS guidance.

- 4.5.21 Reviews of the operation of the Scheme's appeals system were undertaken by the FSA on an annual basis between May 2015 and February 2018. Each review was the subject of a report to the National Assembly for Wales. The reviews have found that appeals were largely being determined by local authorities objectively and in accordance with the Act and FHRS guidance.
- 4.5.22 Between 28 November 2016 and 27 November 2017, authorities in Wales were largely operating the appeals process in accordance with the Act and statutory guidance. A total of 100 appeals were raised across 19 of the 22 authorities in Wales, four of the 100 appeals received were determined outside the 21-day period and all were concluded within 25 days. A recommendation was included in the 2018 review, advising authorities to ensure all appeals are determined and the business operator and FSA notified of the outcome within 21 days of the appeal being received. The recommendation also advised where delays have occurred, the FSA should ascertain the reasons for these delays and remind authorities of their statutory obligations.
- 4.5.23 The 100 appeals against ratings that were made during the period represent 1.84% of the 5,424 food establishments rated 0 (urgent improvement necessary) to 4 (good). This figure does not include food businesses issued with a rating of '5', as these would not be expected to appeal. Of these, 84 businesses who appealed their rating were deemed to have been issued with the correct rating whilst 16 resulted in changes to food hygiene ratings. In respect of the 16 revised ratings, 15 were increased and one resulted in a lower rating. Most of the appeals, 61, were raised by food businesses issued with a rating below 3. All appeals were determined by an authorised officer not involved in the assessment of the food hygiene rating appealed.

## **Right to reply**

- 4.5.24 The 'right to reply', affords businesses the opportunity to comment on a rating and provide an explanation of any action taken since the rating was applied or to say if there were circumstances at the time of the inspection that might have affected the rating. The 'right to reply' comments must be submitted in writing to the relevant authority for review before being submitted to the FSA for publication on the ratings website.
- 4.5.25 A standard template that businesses may use to submit a 'right to reply' is available on the FSA website. There is no requirement for this form to be used, and a business is free to submit their comments in a different written format, clearly marked as their 'right to reply' comments.

- 4.5.26 Of the 21 authorities that provided a standard letter template, one did not state that the right to reply comments would be submitted for publication on the website. There was variation in the way in which local authorities were signposting the name and contact details of the person to whom the comments must be sent. Whilst most templates included the name and contact details, some signposted businesses to this information via a website or leaflet.
- 4.5.27 The 'right to reply' safeguard was seldom being used by food business operators. Twelve authorities received a total of 37 right to reply comments within the three years since the last review of the Scheme. Eight had not received any 'right to reply' comments and in two cases no data was submitted regarding this safeguard.

### ***Recommendation 8***

Local authorities must ensure that within 14 days of an inspection the operator of an establishment is provided with all the necessary information required under the Scheme. The prescribed statutory information relating to requests for re-rating visits, submitting right to reply comments and how the appeals process will be decided, and the business informed of the outcome, is to be provided when the rating is notified. Local authorities must also ensure that the circumstances in which a rating and sticker cease to be valid is clearly given when the rating is notified to the business. [The Standard – 7.2]

### ***Recommendation 9***

Local authorities should ensure that their documented procedures include provision for the issue of the prescribed statutory information relating to safeguards. [The Standard - 7.4]

### ***Recommendation 10***

Local authorities must ensure that all re-ratings are conducted within three months of the date of request. Further, where the improvements that have been made are issues concerned with confidence in management / control procedures, re-rating inspections should take place towards the end of the 3-month period in order to establish that the improvements are fully implemented and sustained. [The Standard – 7.2]

## 4.6 Enforcement

4.6.1 A number of offences are provided in relation to the Scheme, as listed below:

- Failure to properly display a valid rating sticker.
- Displaying an invalid rating sticker.
- Failure to retain a valid rating sticker.
- Parting with possession of a rating sticker.
- Failing to provide the correct rating information verbally on request.
- Providing misleading information verbally on request.
- Intentionally altering, defacing or otherwise tampering with a rating sticker (unless it is invalid and is to be destroyed).
- Failure to provide the prescribed statement on publicity materials.
- Displaying invalid rating information on publicity materials.

4.6.2 Authorities have a number of enforcement options available to them to ensure the requirements of the Scheme are implemented by food businesses. Issues of non-compliance should follow a hierarchy of enforcement. Where non-compliance is not resolved easily or quickly using an informal approach, authorities have the discretion to issue a fixed penalty notice (FPN), or to instigate simple caution or prosecution proceedings. A FPN offers a food business the opportunity to discharge any liability to conviction for an offence by payment of a fixed penalty.

4.6.3 Procedures outlining enforcement action to be taken as a result of Scheme non-compliances, were provided by 18 of the 22 authorities. Three authorities provided documented procedures for all enforcement sanctions whilst 15 provided them specifically for the service of FPNs. In the four authorities where documented procedures did not address Scheme contraventions, information was provided to indicate that the authority's Enforcement Policy would be considered.

### ***Good Practice***

Ceredigion CC's interventions procedure considers that all businesses are warned about the offences relating to display when they receive their notification letter and that no additional written warnings are required prior to service of a fixed penalty notice.



- 4.6.4 All authorities operate establishments where they have responsibility for being the food business operator. These establishments will also be subject to interventions by the authority and be included within their intervention programme. Eleven authorities made specific reference to dealing with non-compliance in such establishments within documented enforcement procedures. These included, ensuring that enforcement decisions are free from any conflict of interest, clarifying communication channels and detailing arrangements for escalation in the event of ongoing or serious contraventions.

### ***Good Practice***

Four local authorities (Caerphilly CBC, Wrexham CBC, Merthyr Tydfil CBC & Pembrokeshire CC) submitted policies or procedures that specifically considered the Scheme in relation to establishments where the authority is the food business operator or holds an interest. Of these, two local authorities stipulated a minimum standard of 'broadly compliant' in relation to food businesses attending events organised by the local authority.

## **Written Warnings**

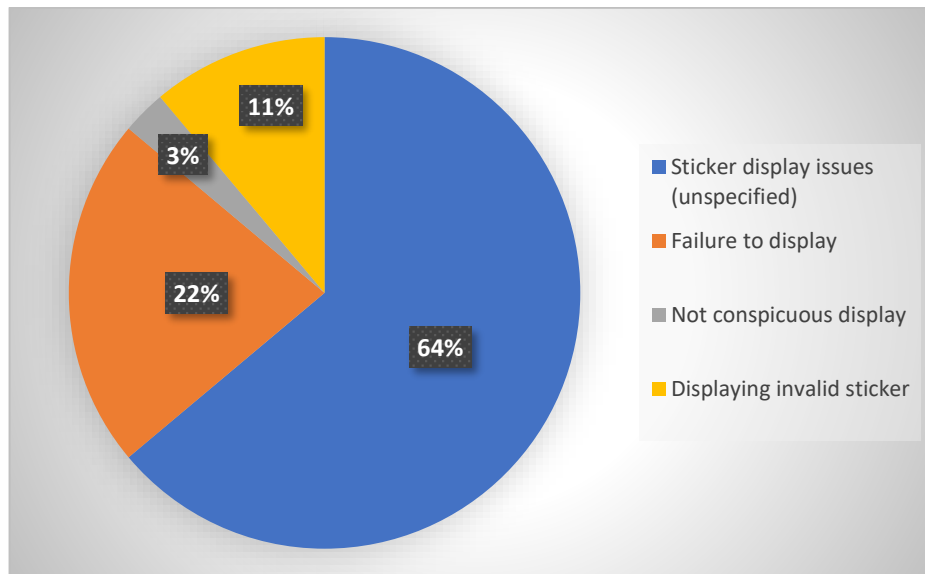
- 4.6.5 Authorities resolve most breaches through constructive compliance dialogue with the business, taking a graduated approach to enforcement. Written warnings are often used initially as part of the escalation process. Some local authorities had issued written warnings to businesses failing to display their ratings in accordance with the law. Using information from nine local authorities, five had issued a single written warning to business establishments whilst in four local authorities, there were a small number of examples where multiple written warnings had been issued to the same establishment. The audit was unable to discern whether ownership of the business establishment had changed hands in these cases.

## **Fixed Penalty Notices**

- 4.6.6 The service of a Fixed Penalty Notice (FPN) allows authorities to adopt a graduated approach towards requiring a business to comply. Figures for the number of FPNs issued were submitted by 21 local authorities indicating that 219 FPNs had been served over the last three years. The data provided by ten authorities indicated that most FPNs were served on establishments supplying open, high risk food including restaurants, cafés or canteens, pubs

or clubs and takeaways. In six authorities it was possible to assess the broad reasons for serving the FPN in a total of 35 cases.

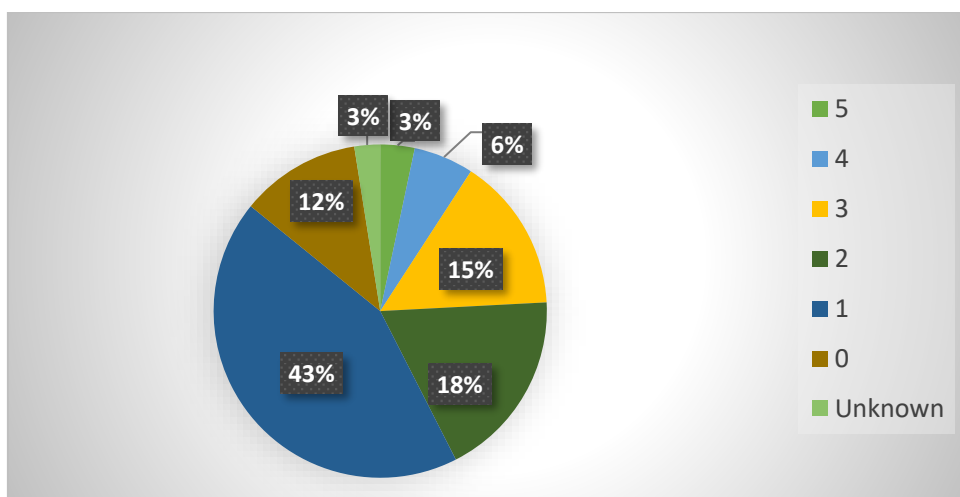
**Figure 2 – Reason for serving a fixed penalty notice**



4.6.7 The timescale for the service of FPNs was available for 12 authorities. In all these cases, the FPNs had been issued after the appeal period had expired in accordance with the Act and FHRS guidance.

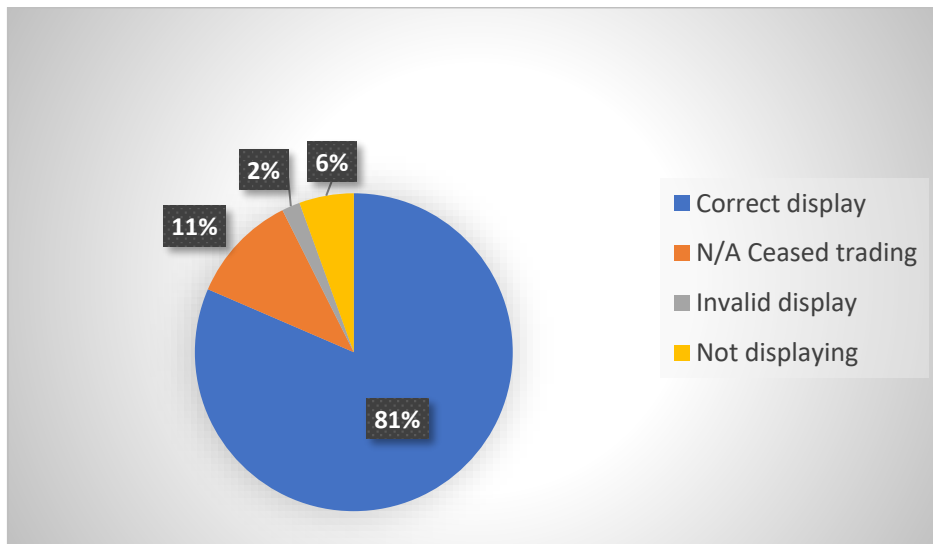
4.6.8 In a total of 120 cases across 14 authorities, it was possible to assess the existing food hygiene rating in establishments where a FPN had been issued.

**Figure 3 - The distribution of FHRS ratings where a fixed penalty notice had been issued**



- 4.6.9 The outcome of each FPN was able to be assessed in relation to data provided by nine authorities. The information suggested that, in general, businesses had discharged their liability through payment of the FPNs. Those businesses who had not paid, were either prosecuted or had ceased trading without further action being taken against the operators.
- 4.6.10 It was possible to identify whether FPNs had previously been issued to the same business address based on information from 18 local authorities. 13 of these had not issued multiple FPNs for the same business establishment. A small number of cases across the remaining five local authorities indicated that multiple FPNs had been served. It was not possible to assess if the food business operator had remained the same in these cases.
- 4.6.11 In eight authorities, it was possible to assess information that was provided relating to visits to check rating display after the service of FPNs. Seven of these had checked the display of rating stickers after the service of a FPN whilst one authority indicated that it had checked display where a FPN had not been paid. Seven authorities provided information on the rating sticker display status following the completion of the FPN process.

**Figure 4 – The display of FHRs ratings after completion of the fixed penalty notice process**



## Simple Cautions

4.6.12 Simple cautions offer an alternative formal enforcement sanction where prosecution is possible, but the offender has admitted the offence and circumstances indicate it may be preferable to address the matter without recourse to Court proceedings. The Simple Caution records an individual's criminal conduct for possible reference in future criminal proceedings. Nineteen authorities provided simple caution data. No simple cautions had been issued for offences relating to FHRs contraventions.

## Prosecutions

4.6.13 Prosecutions are the final option in the hierarchy of enforcement sanctions. Twenty authorities submitted information in relation to prosecutions and ten of these had prosecuted a total of 17 businesses for offences relating to rating display. The prosecutions generally related to 0 – 2 rated premises where FPNs had previously been issued and involved a failure to display; although a small number of other offences were included. Information on the reasons for the contravention was not always provided but in two cases offences were recorded as a failure to pay the FPN which is not an offence.

4.6.14 Information on the fines issued was provided for nine businesses. The average fine per business was £407 excluding costs. The range of fines issued was from £100 - £1,000 per business.

### ***Recommendation 11***

Local authorities should document their procedure for enforcement action to be taken for contraventions of the Scheme in accordance with the Food Law Code of Practice (Wales) and official guidance. Such procedures should include checking compliance with display requirements following completion of the FPN process.  
[The Standard – 15.2]

## 4.7 Promotion of the Scheme

4.7.1 The majority of authorities had undertaken some form of promotional activity relating to the Scheme. Information supplied by authorities indicated that they had developed a range of initiatives for providing food hygiene advice to

businesses on both a proactive and reactive basis. These included the dissemination of business advice leaflets, undertaking advisory visits, organising bespoke training sessions, presentations, offering coaching to new businesses in food safety management and engaging new Council members through display stands. A significant proportion of promotional activity involved the use of mailshots to coincide with the extension of the Scheme to include establishments involved in business to business trade. Mailshots were also used when the 2016 Regulations introduced requirements for those that provide takeaway food to signpost consumers to ratings information on their publicity materials.

4.7.2 Promotional activities were undertaken by authorities by utilising the following:

- Press releases.
- Council websites.
- Mailshots.
- Social media posts via Facebook and Twitter.
- YouTube videos.
- Newsletters.
- Member bulletins.
- FSA toolkits.
- Presentations.
- Displays at events.

### ***Good Practice***

Caerphilly County Borough Council has produced a video of an environmental health officer explaining the Scheme and the factors affecting the scoring at a school that has achieved a '5' rating. This authority also uses social media as a way of promoting the scheme by highlighting businesses who have achieved a '5' rating.

4.7.3 Occasions such as Christmas, Valentine's Day and Shrove Tuesday have been used as a focus for promotional activities, with authorities using FSA toolkits to promote the Scheme. Social media has been used to encourage consumers to 'look before they book', use the ratings website, 'search for the green and black sticker' and 'report if you can't see the sticker'. These activities reminded consumers to use the Scheme when eating out.

- 4.7.4 The FSA has provided grant funding to authorities to carry out targeted interventions, including coaching at 0 – 2 rated establishments. Local authorities have accessed funding that has been made available with the aim of securing increased business compliance through improving food safety management arrangements. This approach recognises the considerable impact that a robust food safety management system has on food business compliance and the consequent rating.

## **4.8 Internal Monitoring of Interventions**

- 4.8.1 Internal monitoring is important to ensure performance targets are met and services are being delivered in accordance with legislative requirements, centrally issued guidance and the authority's procedures. It also ensures consistency in service delivery.
- 4.8.2 Twenty-one authorities provided their procedures for carrying out internal monitoring checks on the quality of service delivery in respect of interventions included within the Scheme. In 15 authorities, procedures included the person responsible for undertaking the internal monitoring as well as the frequency and number of checks. In one authority, the minimum number of checks to be undertaken was not specified for all monitoring activities, whilst in the remaining five authorities, the minimum frequency for monitoring checks to take place had not been detailed in procedures.
- 4.8.3 All of the internal monitoring procedures included officers being monitored during accompanied inspections and checks on interventions at establishments operated by the local authorities. Database checks were included in 19 procedures. Checks to ensure the rating notification was made within 14 days were included in 18 of the available procedures. Checks to ensure that the rating had been calculated correctly, were also made in 18 of the available procedures. Two procedures included checks that information on safeguards had been sent with the rating notification.
- 4.8.4 Evidence that a variety of internal monitoring activity had been undertaken was provided by 13 local authorities. Whilst all internal monitoring had included some checks that were able to test certain aspects of the Scheme, none had included the checks required to ensure the correct operation of all elements of the Scheme.
- 4.8.5 All authorities had participated in the FSA's national ratings consistency exercise in 2017. In 2016, twenty authorities participated in the consistency exercise and in 2015, all but one authority had taken part. Evidence of

additional internal or all-Wales consistency exercises was also provided for all 22 local authorities. Consistency is also now a standing item on the agenda for the All Wales FHRS Steering Group meetings.

- 4.8.6 Information was provided on the outcome of internal monitoring or consistency exercises for 14 authorities. Six of these authorities had not identified any inconsistencies. In the remaining eight authorities, inconsistencies had been identified in relation to database errors, incorrect rating, timescales and information included with letters. In seven of these authorities, evidence was provided to illustrate that the inconsistencies had been addressed and this included, where applicable, feedback to officers. In the remaining authority, the action taken in response to identifying inconsistencies was unclear.

### ***Recommendation 12***

Local authorities should document internal monitoring procedures that include checking a specified sample of interventions at prescribed frequencies to ensure they meet the requirements of the Scheme. Documented internal monitoring procedures should include the following checks:

- That the risk rating, food hygiene rating and due intervention date are correct.
- Scores in relation to confidence in management / control procedures accurately reflect the compliance track record of the business.
- That the food hygiene rating is notified within 14 days.
- Information on safeguards is provided.
- Information held on establishment files is consistent with that held on the database.
- Information on the database is consistent with the FSA ratings website.

[The Standard – 19.1]

### ***Recommendation 13***

Internal monitoring procedures should be fully implemented, and local authorities should record the outcome of any check and the action taken in relation to any inconsistency identified. [The Standard – 19.1 & 19.3]

## 5.0 Conclusions

- 5.1 Local authorities play a key role in ensuring the Scheme's equitable application throughout Wales. They have responsibility for delivering the Scheme, securing business compliance with legislation and generating ratings through programmed food hygiene inspections. The commitment of local authorities to deliver a programme of interventions was contained within all the service plans that were submitted as part of this audit.
- 5.2 Local authorities have worked collaboratively to develop consistent procedures and to ensure arrangements are in place to secure the consistent application of ratings. All authorities were able to demonstrate that local authority officers that administer the Scheme received consistency training. Whilst some procedures required improvements to further enhance the consistent operation of the Scheme in Wales, many areas of good practice were also identified.
- 5.3 In general, local authorities were found to be capable of delivering the intervention programmes upon which the Scheme relies. Where this was not the case, the scale of overdue interventions and number of unrated establishments presented a challenge to those local authorities. Food hygiene ratings were being calculated correctly and those ratings were being uploaded for publication on the food hygiene ratings website.
- 5.4 Information to confirm that businesses were being signposted to Scheme safeguards was provided by all authorities. Re-ratings resulted in an improved rating in 94% of cases, whilst 84% of businesses that appealed their rating were deemed to have been issued with the correct rating. The 'right to reply' safeguard was seldom being used by food business operators. Local authorities were using the full range of available enforcement actions to address Scheme non-compliances, including informal action, fixed penalty notices and prosecution. The issuing of fixed penalty notices was mainly targeted at 0 – 2 rated establishments.
- 5.5 In general, authorities had developed procedures for carrying out quantitative and qualitative checks on service delivery in respect of interventions included within the Scheme. Some opportunities for including additional Scheme specific checks were identified.



## 6.0 Summary of Recommendations

6.1 The audit has identified the following recommendations in relation to the implementation and operation of the Scheme in Wales.

### **Recommendation 1**

Local authorities must include in their annual intervention programmes, a commitment to undertake all interventions due in accordance with the Food Law Code of Practice (Wales), an estimate of the number of new businesses requiring a first rating inspection in the year and include the numbers of all outstanding interventions carried over from previous years. [The Standard 3.1]

### **Recommendation 2**

Local authorities should set up, maintain and implement appropriate back up systems for any electronic databases, and systems or documented procedures which have been designed to minimise the risk of corruption or loss of information held on its databases. Local authorities should ensure that reasonable security measures are in place to prevent access and amendment by unauthorised persons. [The Standard – 6.4]

### **Recommendation 3**

Local authorities should ensure their databases are operated in such a way as to be able to provide the required information to the FSA. Procedures must include a requirement to upload Scheme ratings within the prescribed time period and to avoid the upload of sensitive information. Databases should record scheme information in relation to safeguards and enforcement; including any re-ratings and dates of all actions taken. [The Standard – 6.3]

### **Recommendation 4**

Local authorities must carry out interventions/inspections at all food establishments in their area, at a frequency which is not less than that determined under the intervention rating schemes set out in the relevant legislation, codes of practice or other centrally issued guidance. [The Standard 7.1]

### **Recommendation 5**

Local authorities should ensure that documented procedures:

- Specify the method they use to prioritise risk amongst unrated premises to ensure that higher risk businesses, including those within the remit of the Scheme, are inspected first.
- Specify that revision of the intervention type and rating should be considered when new information arises.
- Specify that in relation to multi-site businesses, reports must be provided to the food business operator and copied to the local outlet where appropriate.
- Include instructions to check for the display of valid rating stickers and to ensure the removal of stickers where they are not valid.
- Include advice to officers in relation to conspicuous display and to ensure that checks are made at all entrances and in all relevant locations where multiple businesses operate from one establishment. [The Standard- 7.4]

### **Recommendation 6**

Local authorities should ensure that aides-memoire include prompts to check for the display of valid rating stickers and ensure the removal of stickers where they are not valid. Further, aides-memoire should include prompts to officers in relation to conspicuous display and to ensure that checks are made at all entrances and in all relevant locations including where multiple businesses operate from one establishment. Local authorities should also review their aides-memoire to ensure that all requirements of the Scheme in relation to publicity materials are sufficiently included. [The Standard- 7.4]

### **Recommendation 7**

Local authorities must ensure that risk rating data is consistent with Annex 5 of the Food Law Code of Practice (Wales) to ensure the correct intervention frequency and allocation of the correct food hygiene rating under the Scheme. [The Standard – 7.2]

### **Recommendation 8**

Local authorities must ensure that within 14 days of an inspection the operator of an establishment is provided with all the necessary information required under the Scheme. The prescribed statutory information relating to requests for re-rating visits, submitting right to reply comments and how the appeals process will be decided, and the business informed of the outcome, is to be provided when the rating is notified. Local authorities must also ensure that the circumstances in which a rating and sticker cease to be valid is clearly given when the rating is notified to the business. [The Standard – 7.2]

### **Recommendation 9**

Local authorities should ensure that their documented procedures include provision for the issue of the prescribed statutory information relating to safeguards. [The Standard – 7.4]

### **Recommendation 10**

Local authorities must ensure that all re-ratings are conducted within three months of the date of request. Further, where the improvements that have been made are issues concerned with confidence in management/control procedures, re-rating inspections should take place towards the end of the 3-month period in order to establish that the improvements are fully implemented and sustained. [The Standard – 7.2]

### **Recommendation 11**

Local authorities should document their procedure for enforcement action to be taken for contraventions of the Scheme in accordance with the Food Law Code of Practice (Wales) and official guidance. Such procedures should include checking compliance with display requirements following completion of the FPN process. [The Standard – 15.2]

### **Recommendation 12**

Local authorities should document internal monitoring procedures that include checking a specified sample of interventions at prescribed frequencies to ensure they meet the requirements of the Scheme. Documented internal monitoring procedures should include the following checks:

- That the risk rating, food hygiene rating and due intervention date are correct.
- Scores in relation to confidence in management/control procedures accurately reflect the compliance track record of the business.
- That the food hygiene rating is notified within 14 days.
- Information on safeguards is provided.
- Information held on establishment files is consistent with that held on the database.
- Information on the database is consistent with the FSA ratings website. [The Standard -19.1]

### **Recommendation 13**

Internal monitoring procedures should be fully implemented, and local authorities should record the outcome of any check and the action taken in relation to any inconsistency identified. [The Standard - 19.1 & 19.3]

**Programme Auditors:** Craig Sewell  
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## ANNEX A: Glossary

Approved establishments	Food manufacturing establishment that has been approved by the local authority, within the context of specific legislation, and issued a unique identification code relevant in national and/or international trade.
Authorised officer	A suitably qualified officer who is authorised by the local authority to act on its behalf in, for example, the enforcement of legislation.
Codes of Practice	Government Codes of Practice issued under Section 40 of the Food Safety Act 1990 as guidance to local authorities on the enforcement of food legislation.
Critical Control Point (CCP)	A stage in the operations of a food business at which control is essential to prevent or eliminate a food hazard or to reduce it to acceptable levels.
Environmental Health Officer (EHO)	Officer employed by the local authority to enforce food safety legislation.
Food hygiene	The legal requirements covering the safety and wholesomeness of food.
Food Hygiene Rating Scheme (FHRS)	A scheme of rating food businesses to provide consumers with information on their hygiene standards.
Food Standards Agency (FSA)	The UK regulator for food safety, food standards and animal feed.
Framework Agreement	The Framework Agreement consists of: <ul style="list-style-type: none"><li>• Food Law Enforcement Standard</li><li>• Service Planning Guidance</li><li>• Monitoring Scheme</li><li>• Audit Scheme</li></ul>

The **Standard** and the **Service Planning Guidance** set out the Agency's expectations on the planning and delivery of food and feed law enforcement.

The **Monitoring Scheme** requires local authorities to submit annual returns to the Agency on their food enforcement activities i.e. numbers of inspections, samples and prosecutions.

Under the **Audit Scheme** the Food Standards Agency will be conducting audits of the food law enforcement services of local authorities against the criteria set out in the Standard.

Inspection	The examination of a food establishment in order to verify compliance with food and feed law.
Intervention	A methods or technique used by an authority for verifying or supporting business compliance with food or feed law.
Official Controls (OC)	Any form of control for the verification of compliance with food and feed law.
Registration	A legal process requiring all food business operators to notify the appropriate food authority when setting-up a food business.
Risk rating	A system that rates food establishments according to risk and determines how frequently those establishments should be inspected. For example, high risk hygiene establishments should be inspected at least every 6 months.
Service plan	A document produced by a local authority setting out their plans on providing and

delivering a food service to the local community.

Unrated business

A food business identified by an authority that has not been subject to a regulatory risk rating assessment.

## ANNEX B: Audit Questionnaire



# Review of the Operation and Implementation of the Food Hygiene Rating Scheme (FHRS) by Local Authorities in Wales

## FHRS Wales Review Questionnaire

### Completing the questionnaire

This questionnaire should be completed by the nominated Lead Officer for food law enforcement. Please provide details:

Name of Officer:	
Position:	
Telephone:	
Email:	

The completed questionnaire should be sent, together with any relevant documents, to [wales.audit@foodstandards.gsi.gov.uk](mailto:wales.audit@foodstandards.gsi.gov.uk) by the date specified in the accompanying communication.

For any enquiries please contact a member of the audit team on 029 2067 8963.

### Section A – General information

**A1** Local authority name

**A2** Local authority address (of food hygiene safety department):

For the purpose of the audit you are asked to designate an Audit Liaison Officer (ALO).

**A3** Name of ALO:

Telephone (direct line):

Email:

Contact address (if different from above)




## Section B – Documentation

### Notes

You are requested to provide copies of the documents/records listed below. Please complete the table to indicate which you are and are not providing.

For those you provide, please mark up each with the appropriate document reference number, for example, 'Document B1 - Food Safety Service Plan'.

For those you are not providing, please indicate the reason for this.

Reference	Document Name	Detail	Enclosed – Yes or No?	Reason for not enclosing
B1	Food Safety Service Plan	Copy of 2017/18 Food Law Service Plan or draft if not yet approved, including :- <ul style="list-style-type: none"> <li>• Inspection programme of year ahead;</li> <li>• Demands of the service.</li> </ul>		
B2	Corporate/Strategic Plans	Where FHRS is specifically referenced other than in the Food Safety Service Plan, please provide in an attachment.		
B3	FHRS related procedures	Copies of all procedures, work instructions/guidance notes relating to the administration and implementation of FHRS, such as:- <ul style="list-style-type: none"> <li>• Data base management, including data upload and contingency arrangements following IT issues;</li> <li>• Arrangements for controlling/preventing upload of sensitive information;</li> </ul>		

Reference	Document Name	Detail	Enclosed – Yes or No?	Reason for not enclosing
		<ul style="list-style-type: none"> <li>• Signposting FBO's to the use of safeguards;</li> <li>• Conduct of interventions including checks on publicity materials, application of risk rating, and issue of reports and statutory stickers;</li> <li>• Alternative enforcement strategy;</li> <li>• Dealing with appeals, requests for re-visits and 'right to reply' submissions;</li> <li>• Monitoring to ensure FBO's display statutory sticker;</li> <li>• Monitoring to ensure previously issued non statutory and statutory stickers are removed;</li> <li>• Enforcement procedures for non-display of sticker including issue of written warnings, Fixed Penalty notices, prosecutions and simple cautions</li> <li>• Revisit of food business procedure;</li> <li>• Project plans/initiatives relating to FHRS i.e. enforcement campaigns;</li> <li>• Consistency steers;</li> </ul> <p>These may be separate procedures or incorporated in others, or may form part of B1 above. If the authority has not got a</p>		

Reference	Document Name	Detail	Enclosed – Yes or No?	Reason for not enclosing
		documented procedure, please provide a description of the approach applied for any or all of the above matters.		
B4	Standard aides-memoire, inspection reports and letter templates applicable to FHRS	Blank copies of these should be provided.		
B5	<p>Excel spreadsheet of <u>current</u> database (See Annex 1)</p> <p>FHRS safeguard measures</p> <p>FHRS enforcement sanctions</p>	<p>This should include the following as a minimum:</p> <ul style="list-style-type: none"> <li>• The last inspection date and next inspection due date;</li> <li>• Individual scores for the hygiene, structure, confidence in management, and other elements of FLCoP Annex 5 risk rating for each food business;</li> <li>• FHRS rating.</li> </ul> <p>It should also include information on unrated premises including any not inspected but assigned a risk category. This may be provided in a separate list, rather than included in the table at Annex 1.</p> <p>Detailed information where, following their last inspection, businesses have:</p> <ul style="list-style-type: none"> <li>• Lodged an appeal;</li> <li>• Requested a rescore revisit;</li> <li>• Submitted a 'right to reply'.</li> </ul>		

Reference	Document Name	Detail	Enclosed – Yes or No?	Reason for not enclosing
		<p>Detailed information where, following their last inspection businesses have received:</p> <ul style="list-style-type: none"> <li>• A written warning;</li> <li>• Fixed penalty notice;</li> <li>• Simple Caution;</li> <li>• Prosecution.</li> </ul>		
B6	FHRS safeguard measures (last 3 years, from 1 <sup>st</sup> September)	<p>Please provide a separate list of establishments that:</p> <ul style="list-style-type: none"> <li>• Requested a rescore revisit; including dates of inspection and rescore revisit, and original and rescored compliance scores and overall ratings.</li> <li>• Submitted a 'right to reply'; including the date of inspection and date of submission.</li> </ul>		
B7	FHRS enforcement sanctions (last 3 years, from 1 <sup>st</sup> September)	<p>Please provide a separate list of establishments that received a:</p> <ul style="list-style-type: none"> <li>• Fixed penalty notice;</li> <li>• Simple caution;</li> <li>• Prosecution.</li> </ul> <p>Please include for each of these, the date of inspection, overall rating, date of enforcement action, brief description of outcome (Displaying? Sentence?)</p>		
B8	Internal Monitoring Procedures	Copies of these should be provided to verify the scheme is being operated in		

Reference	Document Name	Detail	Enclosed – Yes or No?	Reason for not enclosing
		<p>accordance with statutory requirements, including:-</p> <ul style="list-style-type: none"> <li>• Ensuring officers deliver against statutory requirements; e.g. timescales;</li> <li>• Data integrity and accuracy;</li> <li>• Consistency of interventions and intervention rating;</li> <li>• Conduct of enforcement activities; including appropriate escalation.</li> </ul>		
B9	Internal reports or records of consistency and monitoring exercises	Copies of any reports/records should be provided.		
B10	FHRS Promotion	Please detail any educational/awareness raising campaigns undertaken in the last 3 years (from 1 <sup>st</sup> September).		

Date of prosecution	Date
Date of Simple caution	Date
Date of FPN	Date
RTR submission	Included
Rescore visit	Date
Rescore request	Y/N
Date of appeal	Date
Date of inspection report letter sent	Date
FHRS status	Included
FH Rating	2
Significant Risk	0
Confidence	10
Structure	15
Hygiene	10
Vulnerable Group	0
Consumers	5
Processing	0
Type Food	30
Total Score	70
FLCoP Chapt 5.6 Category	C
Next inspection	21/1/15
Last inspection	21/05/14
LAEMS Business Category	Pub/club
Address	High St.
Business Name	Bizzies

**Annex 1**

## Section C – Staff resource

### Notes

Please list ALL staff involved in FHRS, including the Lead Officer with special responsibility for food hygiene, manager(s) and temporary/agency staff and systems administrator(s). Please add more rows to the table if needed.

For Authorised Officers only, please indicate the number of years of food law enforcement experience, the proportion of time (in FTEs) spent on food enforcement and whether or not the officer is authorised to inspect high risk establishments.

For all staff involved in FHRS		For authorised officers only			
Officer name	Position/job title	Number of years of food enforcement experience	FTE on food enforcement	Authorised to inspect high risk establishments – Yes or No	Relevant courses attended in the last 12 months
	Lead Officer with special responsibility for food hygiene				