

## Business safeguards explained

### Important note

This guidance is for food businesses operating in **Wales** only.

The Food Hygiene Rating Scheme operates on a different basis in England and Northern Ireland and there are some differences in the way the safeguard procedures. Food businesses in England and Northern Ireland can find out more about this here

[www.food.gov.uk/policyadvice/hygieneratings/hygienscoresresources/fhrsguideforbusiness/](http://www.food.gov.uk/policyadvice/hygieneratings/hygienscoresresources/fhrsguideforbusiness/)

## Introduction

The Food Hygiene Rating Scheme is a local authority/Food Standards Agency partnership initiative. In Wales, the scheme is operated in accordance with the requirements of the Food Hygiene Rating (Wales) Act 2013<sup>1</sup> and the Food Hygiene Rating (Wales) Regulations 2013<sup>2</sup>.

The scheme provides consumers with information about hygiene standards in food premises at the time they are inspected by local authority food safety officers to check compliance with legal requirements – the food hygiene rating given reflects the inspection findings. The purpose is to allow consumers to make informed choices about the places where they eat out or shop for food thereby encouraging businesses to improve their hygiene standards.

In order to ensure that the scheme is fair to businesses, it has been designed to include a number of safeguards. These are

- a right to appeal



<sup>1</sup> <http://www.legislation.gov.uk/anaw/2013/2/contents/enacted>

<sup>2</sup> <http://www.legislation.gov.uk/wsi/2013/2903/contents/made>

- a 'right to reply'
- an opportunity to request a re-visit when improvements have been made in order to be re-assessed for a 'new' rating.

Information for food businesses about these different safeguards is provided below.

## **Appeals explained**

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### **What is the purpose of the appeal process?**

Following a hygiene inspection of your premises by a food safety officer from your local authority you will be told in writing - within 14 days (this includes weekends and public holidays) - what your food hygiene rating is. If you think that the rating is wrong or unfair – in other words it does not reflect the hygiene standards at the time of inspection or that the rating criteria were not applied correctly when the food hygiene rating was produced– you can appeal against this.

### **What should I do if I want to appeal my food hygiene rating?**

It is a good idea to speak informally first of all to the food safety officer that undertook the inspection of your premises - you will be given the contact details for this officer when you are notified about your rating. This will help you to understand how your rating was worked out and to see if still want to appeal it.

If you do still think the rating given is wrong or unfair, you can appeal. Please note that any discussions you have do not change the deadline within which the appeal must be made – see the next question.

You must make your appeal by completing a standard form. You can download the form [here](#).

You should send your completed form to your local authority's Lead Officer for Food – you will be given the contact details for this officer when you are notified about your rating.

### **How long do I have to appeal?**

You must make your appeal using the standard form (see question above) within 21 days of being notified about your food hygiene rating. This period includes weekends and public holidays.

If you do not appeal within this time, your local authority will publish your food hygiene rating online at [food.gov.uk/ratings](http://food.gov.uk/ratings).

### **What happens next and when will I know the result?**

If you make an appeal, [food.gov.uk/rating](http://food.gov.uk/rating) will show that your food hygiene rating is 'awaiting publication'.

The appeal will be considered by an authorised officer who was not involved in the assessment of the rating that is being appealed.

You will be notified of the result within 21 days from the date that the appeal was received by the local authority.

Once you have been notified of the result of your appeal, your rating will be published online at [food.gov.uk/ratings](http://food.gov.uk/ratings).

### **What if I don't agree with the outcome of the appeal?**

You can challenge the local authority's decision by judicial review.

Even if you decide to do this, your rating will still be published at [food.gov.uk/ratings](http://food.gov.uk/ratings).

If you think that your local authority has not followed processes properly, you can use the council's complaints procedure (including taking the matter to the Local Government Ombudsman where appropriate). You should be able to find details of how to complain on your local authority's website.

## **'Right to reply' explained**

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### **What is the purpose of the 'right to reply'?**

This lets you explain to your customers any actions you have taken to improve hygiene standards at your premises since your inspection or to say if there were unusual circumstances at the time of the inspection that might have affected your rating.

It is not an opportunity to complain or criticise the food hygiene rating scheme or your food safety officer.

### **What should I do if I want to use my 'right to reply'?**

You should send your comments in writing to the food safety officer that undertook the inspection of your premises - you will be given the contact details for the officer when you are notified of your rating.

You can do this by completing a standard form which you can download [here](#). There is no requirement for this form to be used, you may submit your comments in a different written format, clearly marked as the 'right to reply' comments.

### **How long do I have to submit my comments?**

There is no deadline for this so you can submit your 'right to reply' at any time up until your next inspection when you will get a new food hygiene rating.

### **What happens next?**

Any right to reply that contains offensive, defamatory, clearly inaccurate or irrelevant remarks is unacceptable. If this is the case you will be advised that the text does not meet the purpose of the 'right to reply' and will be invited to revise the text.

Other than that, what you say in your 'right to reply' will then be published online together with your hygiene rating at [food.gov.uk/ratings](http://food.gov.uk/ratings).

The 'right to reply' will remain on the website until you are given a new rating.

## **Requested re-visits explained**

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### **What is the purpose of requested re-visits?**

You will automatically be given a new food hygiene rating each time your premises are inspected by your local authority - the frequency of these programmed inspections depends on the risk to people's health. The greater the risk, the more often you will be inspected.

If you make the improvements to hygiene standards that the local authority food safety officer told you about at your last planned inspection you can ask for a re-visit before the next planned inspection so that the hygiene standards in your premises can be reassessed with a view to giving you a new and higher food hygiene rating.

### **Is there anything I should do before making a request for a re-visit?**

You are recommended to look carefully at the comments that the food safety officer made about the hygiene standards found at your last inspection in the report or letter you were given and make sure that you have taken appropriate action to address any issues raised. You can discuss anything you are unsure about with your food safety officer or ask for further help on how to make improvements.

During the re-visit the officer will be looking at standards generally – not just at the specific areas you have been working to improve – so your hygiene rating could well go up, down or remain the same.

### **What should I do if I want to request a re-visit?**

You should put your request in writing to the food safety officer that undertook the inspection of your premises - you will be given the contact details for this officer when you are notified about your rating.

You must do this by completing a standard form which you can download [here](#).

You must explain what actions you have taken on the issues raised at your last inspection and you should include supporting evidence, for example, receipts or photographs to show that work has been completed. This is important as the local authority could refuse your request if you do not provide sufficient information and evidence.

If the request is refused you will be given an explanation of why and advice on any action you need to take or evidence you need to provide before your request can be agreed. If you do not agree with the local authority's decision to refuse your request, you can raise the matter with the lead officer for food. If you cannot resolve matters with the lead officer for food, you can use the complaints procedure for your local authority, details of which may be found on the authority's website.

### **How many requests for a re-visit can I make between planned inspections?**

The number of requests made for re-visits is not limited but certain conditions must be met before the local authority agrees to a re-visit.

If you have made an appeal against your rating, this must be resolved before your local authority will agree to a re-visit.

You must be displaying your current food hygiene rating sticker at your premises in a prominent position.

You must agree that the inspector will be given access to carry out an inspection of your premises for the purpose of re-rating.

### **Will the re-visit cost me anything?**

There will be a charge for the re-visit and you may be required to pay this in advance. You should contact your local authority for information on how to make payment.

### **How long do I have to make my request?**

There is no deadline for this - you can ask at any time after you've taken action to make the necessary improvements that were identified at your inspection. You cannot, however, dictate when the re-visit will take place.

**How soon will the local authority visit?**

The re-visit will be made within three months of the date you submit a written request.

You will not be told the specific date or time that the re-visit will be carried out.

**What happens next and when will I know the result of the re-visit?**

At the re-visit, the food safety officer will assess the standards of hygiene at your premises and you will be told in writing - within 14 days (this includes weekends and bank holidays) - what your new food hygiene rating is. This could stay the same as before, it could go up, or it could down.

As with the original hygiene rating, you can appeal this if you think it is wrong or unfair or you can submit a 'right to reply' for publication online at [food.gov.uk/ratings](http://food.gov.uk/ratings).