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Food Hygiene Rating Scheme:

A review for the Department of Health Northern Ireland

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**Review of the implementation and operation
of the statutory Food Hygiene Rating Scheme
in Northern Ireland**

November 2020

Food Standards Agency

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Executive Summary

The Food Hygiene Rating Act (Northern Ireland) 2016 (the Act), places a duty on the Food Standards Agency (FSA) to conduct a review of the operation of the Act throughout Northern Ireland (NI) within three years of the commencement of the statutory Scheme. Having conducted the review, a report must be prepared and sent to the Department of Health (the Department). The Department must then publish the report.

The Act stipulates three aspects which must be included in the review:

1. Where the Act specifies a period in which something may or must be done, whether that period is adequate for the purpose;
2. Whether section 3 of the Act (appeals) is operating satisfactorily; and
3. Whether section 4 of the Act (re-rating mechanism) is operating satisfactorily and, in particular, whether there should be a limit on the number of occasions on which the right to make a request for a re-rating under that section may be exercised.

This report contains the findings from a holistic review of the implementation and operation of the statutory Food Hygiene Rating Scheme (the Scheme) in NI between October 2016 and October 2019, and therefore includes the following:

- Findings pertaining to the three aspects detailed in section 14 of the Act (listed above) which must be included in the review;
- Details of other statutory requirements under the Act including district council (DC) review of the Scheme, information for food businesses, FSA promotion of the Scheme, the 'right to reply', a review of enforcement, how the Scheme is delivered; and also non-statutory elements including the impact of the Scheme, rates of display and business attitudes towards the Scheme; and
- A conclusion outlining the recommendations of the review, areas of improvement for consideration and the future operation of the Scheme.

Key findings

Time frames specified within the Act

The review concludes that all the time frames specified within the Act were met as follows:

- Having been informed of a food hygiene rating by a DC, the FSA has, in accordance with the Act, published that rating online no later than 7 days after the end of the appeals period;
- The FSA, within 7 days of receiving representations, has published the 'right to reply' representations online;
- FSA audit of DCs, carried out in summer 2019 (FSA 2019 DC audit)¹, reported no failings in relation to providing newly registered businesses with information on the Scheme within 14 days of registration;
- The above-mentioned audit identified that businesses were notified of their food hygiene rating within 14 days of carrying out an inspection;
- FSA IT reported that DCs in NI have, with the exception of a number of occasions on which there were problems with DC IT systems, satisfied the requirement to provide ratings data to FSA within 34 days from carrying out a ratings inspection; and
- The FSA 2019 DC audit, reported no failings in relation to the determination of appeals, and notifying the food business operator of the determination, within 21 days.

Appeals

- The DCs operation of the appeals process was found to be in compliance with the Act, however, an anomaly was identified with the appeals data reported by DCs and that held by the FSA; and

¹ Report on District Council Food Hygiene Rating Scheme implementation in NI. FSA. September 2019

- Whilst not a breach of the Act, stakeholders raised some concerns in relation to the 21-day appeal period delaying online publication of ratings following a food hygiene rating inspection.

Request for a re-rating

- The request for re-rating system was found to be operating to the satisfaction of both businesses and DCs across NI. A limit on the number of requests for a re-rating visit is not required at this time.

Summary of Recommendations²

1. The FSA in NI should review the current appeals data collection and data storage system to assist DCs in meeting their requirement under the Act and enable FSA to process the data efficiently and effectively;
2. Review of the operation of the request for re-rating mechanism indicates that this legal requirement is being operated satisfactorily. The FSA in NI therefore recommends that a limit on the number of re-rating inspections is not necessary at this time; and
3. The FSA in NI should give further consideration to the introduction of a process to allow ratings to be published before the end of the appeal period in order to address concerns regarding the 21 day delay of publication on the FSA's ratings website, to offer businesses in NI the same flexibility of the scheme in England and Wales and to address inconsistencies between ratings published online and those on display at the food business.

² The recommendations proposed in this report are restricted to the three areas which FSA are required, under regulation 14(3) of the Act, to review within three years of commencement of the statutory Scheme (timeframes prescribed by the Act, appeals and requests for re-rating). Review of the statutory Scheme did however identify a number of other areas where improvements to the operation of the Scheme could be made. These have been identified as "Improvement opportunities" within the report.

Introduction

In October 2016, the Act made operation of the Scheme in NI statutory (prior to this the scheme had operated on a voluntary basis for both DC and Food Business Operator (FBO) participation since 2011). Food Hygiene Ratings (FHR) are determined by DCs following inspections carried out to verify food business compliance with food hygiene laws. Food businesses are given a rating from 0 (urgent improvement necessary) to 5 (very good) which reflects the food hygiene standards found at the time of inspection.

More detailed information about the Scheme can be found on the [FSA's website](#).

The Act places a requirement on DCs to participate in the Scheme and for food businesses within scope, to display their FHR. To fully implement the Act, the Department made the Food Hygiene Rating Regulations (Northern Ireland) 2016.

The Act places a duty on the FSA to conduct a review of the operation of the Act throughout NI within three years of the commencement of the Scheme. The Act also provides for the FSA to carry out subsequent reviews as and when it considers appropriate. This report has been prepared to meet the above-mentioned requirement by reviewing the implementation and operation of the statutory Scheme in NI between October 2016 and October 2019.

Scope of the review

The Act requires that the review assesses:

1. The adequacy of any prescribed time scales in the Act, by which something may or must be done;
2. Whether the appeals process is operating satisfactorily; and
3. Whether the request for re-rating processes are operating satisfactorily and, in particular, whether there should be a limit on the number of occasions on which the right to make a request for a re-rating may be exercised.

Along with the 'right to reply', the above-mentioned safeguards (appeals process and re-rating process) are incorporated into the statutory Scheme to ensure fairness to food businesses.

Although not required to be included in the review under the Act, this report also examines other statutory obligations contained within the Act (e.g. the 'right to reply', promotion of the Scheme, enforcement etc.) and also non-statutory elements (e.g. impact of the Scheme, business attitudes towards the Scheme etc.).

Methodology

The review draws on findings from a range of sources including:

- BMG Research: Display of Food Hygiene Ratings and Business Attitudes Survey (England, Wales and Northern Ireland)³
- Food and You Survey (England, Wales and Northern Ireland)⁴
- Food Hygiene Rating Scheme Consumer Attitudes Tracker Survey (England, Wales and Northern Ireland)⁵
- Review of Food Hygiene Rating Scheme (FHRS) Safeguards for Food Businesses (John Barnes, 2019)⁶
- FHRS Research in Northern Ireland. 2CV and Community Research. August 2019⁷
- Information gathered through engagement with the 11 DCs across NI
- FSA 2019 DC FHRS focused audit report⁸

³ [Display of food hygiene ratings in England, NI and Wales. BMG Research. March 2019](#)

⁴ [The Food and You Survey, Wave 5. FSA. 2019](#)

⁵ [Food Hygiene Rating Scheme \(FHRS\) Public Attitudes Tracker, Wave 7. October 2018](#)

⁶ [A review of policy and procedures for the Food Hygiene Rating Scheme \(FHRS\) safeguards for food businesses. John Barnes, Enmoore Ltd. February 2019.](#)

⁷ FHRS Northern Ireland, Research with food businesses. Community Research and 2CV. August 2019

⁸ Report on District Council Food Hygiene Rating Scheme implementation in NI. FSA. September 2019

Overview of findings pertaining to Section 14 of the Act

Review of time periods specified within the Act

The report considers the operation of the Act in respect to any specified periods of time in which something may or must be done. The adequacy of these periods of time are also considered. For the purposes of this report these are split into the duties for the FSA and the DCs.

Duties of the FSA

The Act requires:

1. That the FSA, having been informed of an FHR publishes the rating online no later than 7 days after the end of the appeals period.
2. The FSA, within 7 days of receiving representations, must publish the 'right to reply' representations online in the form in which it receives them alongside the food hygiene rating to which they relate.

Findings

The FSA has robust, automated arrangements in place for the online publication of food hygiene ratings at www.food.gov.uk/ratings. These include a Food Hygiene Rating Scheme IT platform, comprising:

1. A central database for storing data on food business establishments uploaded by DCs;
2. A portal that enables DCs to review and validate its data and enter information not collected in the automated processes, such as 'right to reply' comments;
3. A consumer facing website; and
4. A reporting facility which allows for management reports to be generated.

The design and functionality of the Food Hygiene Rating Scheme IT platform has enabled the FSA to effectively fulfil both obligations within the specified time periods.

Duties of the DCs

The Act places a duty on DCs to:

1. Notify an FBO in writing, of the food hygiene rating for their establishment within 14 days of carrying out an inspection;
2. To provide newly registered food businesses with information on the Scheme within 14 days of registration; and
3. Inform FSA of the food hygiene rating of a food business within 34 days of carrying out an inspection on the basis of which it prepares a food hygiene rating.

Findings

As part of the FSA's function of providing assurance of official control delivery by DCs in NI, the FSA conducted a focused audit programme in 2019 (FSA 2019 DC audit)⁹, to verify the extent to which DCs are meeting the requirements of the food hygiene rating legislation^{10,11} and statutory Food Hygiene Rating Scheme guidance¹². With regard to the DC duties outlined above, the DC audit findings (points 1 & 2) and FSA IT reported findings (point 3) are outlined below:

1. FBOs were notified of their FHR by DCs within the required time frame; and
2. There were no reported failings in relation to how the provision of information to new food businesses requirement is fulfilled in any of the councils that were audited;
3. The FSA has robust systems in place to monitor the timeliness of ratings data provided by DCs. Review of this data identified that the majority of DCs in NI have provided ratings data to FSA within the required time frames. On the rare occasions where provision of ratings has been delayed i.e. due to implementation of new database software and staffing, the DCs were contacted and the matter quickly rectified.

⁹ Report on District Council Food Hygiene Rating Scheme implementation in Northern Ireland. FSA. September 2019.

¹⁰ [The Food Hygiene Rating Act \(Northern Ireland\) 2016](#)

¹¹ [The Food Hygiene Rating Regulations \(Northern Ireland\) 2016](#)

¹² [Implementation and operation of the statutory Food Hygiene Rating Scheme in Northern Ireland. Guidance for district councils. FSA. Oct 2016](#)

Review of the appeal process

The Act requires that within three years of commencement of the Scheme, the FSA must carry out a review of the operation of the appeal process. In addition to the statutory roles of the DC and the FSA, the views and experiences of food business and key industry stakeholders on this safeguard are also explored within this report.

The FSA 2019 DC audit¹³ examined the operation of the appeal process, including how an FBO can appeal a FHR score, the timing and the process around determining appeals, as well as FSA notification. In all cases the review found that DCs were meeting the regulatory requirements, and the appeal process was fit for purpose. All appeals assessed as part of the audit programme were found to be suitably processed.

The Act requires a DC to inform the FSA of its determination on an appeal within 21 days of receiving it. Between the introduction of the mandatory scheme in October 2016 and October 2019, FSA held on file a total of 14 DCs' reported requests for an appeal. The Scheme's implementation guidance stipulates how this information can be either emailed or posted to FSA. The information held by FSA at the time of this report did not reconcile with the information obtained following individual contact with each council in 2019 for the purposes of this review. The table below outlines the total appeals figures reported by DCs up to October 2019.

Table 1: NI Appeals figures (October 2016-October 2019)

Result of appeal	Number of appeals since the introduction of the mandatory Scheme
Rating Upheld	30
Rating revised upwards	7
Rating revised downwards	0
Total number of appeals	37

¹³ Report on District Council Food Hygiene Rating Scheme implementation in Northern Ireland. FSA. September 2019.

Recommendation 1:

FSA in NI implement an improved appeals data collection and data storage system to assist DCs in meeting their requirement under the Act and enable FSA to process the data efficiently and effectively.

Research carried out in 2019 to seek views on the Scheme from a range of NI food businesses found that food businesses have a general assumption that safeguards exist but reported low levels of understanding¹⁴. Some respondents remembered seeing information about safeguards when they received their ratings but most assumed, they would simply contact their DC if they wanted to find out more.

Amongst those food businesses who had not used any of the safeguards, there was limited awareness of the options available to them or the difference between them. Whilst for some of those who had been through the safeguards there was a definite confusion around the difference between a request for a re-rating inspection and a request for an appeal.

While the Act does refer to an appeal being heard by the DC that produced the rating, it also makes provision for the legislation to be amended to allow someone from outside the DC to be involved in the determination of the appeal.

The afore-mentioned research found that most food businesses did not raise concerns about a potential lack of independence in relation to the decision-making process. Overall, food businesses throughout NI thought that the Scheme was fair and that the appeals process would be fairly conducted as well. These findings are in contrast with FHRS research carried out across England, Wales and NI in 2018 which reported a perceived lack of independence within the appeal process from some industry representatives, resulting in a recommendation for improved independence and FSA oversight in this area¹⁵.

¹⁴ FHRS Northern Ireland, Research with food businesses. Community Research and 2CV. August 2019

¹⁵ [A review of policy and procedures for the Food Hygiene Rating Scheme \(FHRS\) safeguards for food businesses. John Barnes, Enmoore Ltd. February 2019](#)

Both reports demonstrated that the primary focus of food businesses is to improve their rating and request a prompt re-rating rather than appealing. Most food businesses have expressed that they are content to make the necessary changes to achieve a higher rating as it's considered easier than challenging the decision itself. In addition, many food businesses expressed their fear that an appeal could have a potentially negative impact on their relationship with their DC.

Review of the request for re-rating mechanism

The Act requires that within three years of commencement of the Scheme, the request for re-rating mechanism is reviewed and consideration be given to whether there should be a limit on the number of occasions on which the right to make a request for a re-rating is exercised. This report reviews this requirement but also considers the views and experiences of food businesses and industry stakeholders in respect to the request for re-rating safeguard.

Since introduction of the Scheme in NI DCs expressed concern regarding unrestricted numbers of re-rating requests from food businesses and the additional resource pressures that could be potentially placed on Environmental Health Departments as a result. Consultation with DCs in NI in 2019, via the NI Food Hygiene Subgroup, reported that multiple requests for re-rating visits were not an issue for any of the 11 DCs.

The table below outlines the number of requested re-rating inspections carried out by DCs since the introduction of the statutory Scheme:

Table 2: Number of re-rating inspections between October 2016 and June 2019

District Council	Number of re-rating inspections, October 2016- June 2019
Antrim & Newtownabbey	106
Mid and East Antrim	46
Causeway Coast and Glens	86
Mid Ulster	23

Armagh Banbridge and Craigavon	23
Belfast CC	121
Ards and North Down	46
Lisburn and Castlereagh	51
Newry Mourne and Down	24
Derry City and Strabane	65
Fermanagh and Omagh	46
Total	630

The FSA 2019 DC audit found that all of the request for re-rating cases examined were processed in line with the FHRS statutory guidance, timings specified within the Act were met and letters to FBOs, following interventions, were clear about legal requirements and advice¹⁶.

Recommendation 2

Review of the operation of the request for re-rating mechanism indicates that this facility is operating satisfactorily. The FSA therefore recommends that a limit on the number of re-rating inspections is not necessary at this time.

Research on the request for re-rating safeguard found that most food businesses in NI were aware of the option to request a revisit for a re-rating¹⁷. There were mixed opinions on the fee, with some suggestion that it should be proportionate to the size of the business. However, most were generally positive about the revisit safeguard in that it provided them with a way of potentially improving a rating without having to wait for the next programmed inspection.

Requests for a re-rating are the most used of the Scheme's safeguards. A review of the FHRS business safeguards acknowledged the consistency of approach in the

¹⁶ Report on District Council Food Hygiene Rating Scheme implementation in Northern Ireland. FSA. September 2019

¹⁷ FHRS Northern Ireland, Research with food businesses. Community Research and 2CV. August 2019

implementation of this safeguard across NI and reported that the facility to get a prompt re-rating inspection is viewed positively by both industry and most DC stakeholders. The report describes how the approach to re-rating inspections in NI (charging and removing the three month 'standstill' period) has been well received by industry and DCs alike.

As with any FHR inspection, a newly assigned rating following a re-rating inspection will not be published on the FSA's rating website until the 21-day appeal period has expired unless the top rating of '5' is achieved. Consequently, for food businesses who achieve a re-rating less than '5', the website will automatically display their previous rating until the 21-day appeal period has lapsed. This has the potential knock-on effect of creating an inconsistency between the FSA website and the rating on display at the food business. For example, a business that has moved from a rating of 2 to a rating of 4 following an inspection, will most likely display their new improved rating upon receipt of their FHR sticker but their rating on the FSA rating website will continue to show a rating of 2 until the 21-day appeal period has lapsed.

FSA are aware, via DC feedback, that some food businesses have expressed frustration with the inability to have their new rating published on the FSA ratings website before the end of the appeal period. Similar feedback was detailed in an FSA-commissioned FHRS safeguard research report published in February 2019¹⁸. In response to the report, the FSA in England and Wales created a facility to allow ratings to be published before the end of the appeal period, following a written request from the food business to their local authority. Due to the current legislative restrictions of the Act the same provision could not be facilitated in NI at the same time.

Recommendation 3

FSA in NI should give further consideration to the introduction of a process that would allow ratings to be published before the end of the appeals period in order to address concerns regarding the 21 day delay for online publication on the FSA's

¹⁸[A review of policy and procedures for the Food Hygiene Rating Scheme \(FHRS\) safeguards for food businesses. John Barnes, Enmoore Ltd. February 2019.](#)

ratings website, to offer businesses in NI the same flexibility of the scheme in England and Wales, and to address possible inconsistencies between the ratings published online and those on display at the food business

Overview of additional statutory and non-statutory considerations pertaining to the Scheme

This report also examines aspects of the Scheme which are not required to be reviewed under the Act but which give a holistic view of the operation of the Scheme. Areas reviewed include statutory elements (FHRS information for food businesses, DC review and promotion of the Scheme, 'right to reply' and enforcement) and non-statutory elements (delivery of Scheme/consistency, evaluation of the impact of the Scheme and rates of display and business attitudes towards the Scheme).

FHRS information for food businesses, DC review and promotion of the Scheme

1. In addition to the requirement on DCs to notify FBOs of their FHR within 14-days, the FHR notification must be accompanied by:
 - a sticker showing the rating;
 - details of the reasons for the rating, including actions required to achieve compliance with the relevant food hygiene laws;
 - information on the right of appeal;
 - information on requesting a re-rating; and
 - information on the right to reply mechanism.
2. The Act places an obligation on each DC to keep the operation of the Act under review.
3. The Act also places a duty on FSA to promote the Scheme.

Findings

1. During the FSA 2019 DC audit¹⁹, auditors found that:
 - Records examined indicated that notifications were carried out correctly

¹⁹ Report on District Council Food Hygiene Rating Scheme implementation in Northern Ireland. FSA. September 2019

- DC letters, sent to FBOs following interventions, were clear about the legal requirements and the actions required to achieve compliance, and
 - FHR scores were appropriate in all cases.
2. DCs in NI have informed the FSA of a variety of ways in which they keep the operation of the Act under review:
- Participation in national and regional consistency exercises;
 - Internal monitoring procedures (examination and analysis of all FHRS related documentation on business's file, including completion of proforma, score check, adherence to specified timeframes and accompanied inspections);
 - FHRS agenda item at team meetings (discussion of related matters and reminding staff of specified timeframes);
 - Peer review, including review of all 0, 1 and 2 scores prior to issuing
 - Uploading data to portal every fortnight and verification check against food.gov.uk/ratings;
 - Records kept for all safeguard cases;
 - Regular review of accuracy of food business database e.g. business categories;
 - Competency frameworks for food officers;
 - Monitoring of the Scheme's related key performance indicators
 - Annual business plan (includes review of Food Hygiene Rating Scheme activity); and
 - Report for council operation of the Scheme (including profile of ratings 0-5).
3. The Scheme is continually promoted by FSA in collaboration with the DCs, via social media channels and more heavily at times during the year when consumers are more likely to eat out at restaurants. These include Valentine's, Day, Mother's Day, Christmas and local, cultural and major sporting events. Messages are aimed at consumers and are primarily communicated digitally, through online, social media, and partner websites, as well as at trade events and in print through press and advertisements. In addition, FHRS data is openly available and is utilised by a variety of media outlets for related articles and reports.

Review of the right of reply

The Act provides an opportunity for a food business to make a written representation on their FHR through the 'right of reply'. Although not a requirement under the Act, the review highlights some findings in relation to this safeguard.

Food business research carried out in NI found very low awareness of the right to reply safeguard²⁰. When it was explained, most food businesses struggled to see value in it, generally favouring the safeguards that would allow them to improve their rating rather than trying to justify a low one. These findings are reflected in the low number of right to reply notifications (two since Oct 2016).

Similar findings were reported in an FSA FHRS safeguard research report²¹ with the explanation for the low uptake being consistent with food businesses expressing a preference for improving their rating rather than spending time justifying a poor rating. The review reported a low use of the 'right to reply' mechanism but found that within industry there is support for this option to remain available. Business research, as well as DC audit and consultation, has not revealed any substantive concerns with regard to the right to reply safeguard.

Enforcement

The Scheme implementation guidance²² encourages DCs to resolve breaches of the Act by promoting dialogue with the food business and providing advice and education. If informal approaches fail to resolve non-compliance easily or quickly, the Fixed Penalty Notice (FPN) powers provided for under the Act allow the DC to adopt a graduated approach towards requiring a business to comply with its legal obligations. FPNs may be

²⁰ FHRS Northern Ireland, Research with food businesses. Community Research and 2CV. August 2019

²¹ [A review of policy and procedures for the Food Hygiene Rating Scheme \(FHRS\) safeguards for food businesses. John Barnes, Enmoore Ltd. February 2019.](#)

²² [Implementation and operation of the statutory Food Hygiene Rating Scheme in Northern Ireland. Guidance for district councils. FSA. Oct 2016.](#)

issued for failure to properly display a valid rating sticker and failing to provide the correct rating information verbally on request.

Where an FPN is issued a fee of £200 is payable. The period of payment is 28 days and the fee is discounted by 25% if payment is made within the first 14 days. The alleged offence can also be tried on request. DCs may instigate prosecution proceedings if the penalty fee is not paid. Between October 2016 and October 2019, a total of 70 FPNs were issued across the 11 councils in NI.

In cases where there is deliberate or persistent failure to comply with the requirement to display a valid sticker showing the establishments rating, DCs may instigate prosecution. Since October 2016 to the time of this review there has been only one prosecution brought by a DC in relation to a failure of a food business operator to display their valid rating.

The FSA 2019 DC audit identified that councils have a comprehensive range of procedures to address enforcement activities with the Scheme including how they resolve breaches of the Act²³. These ranged from informal action such as issuing warning letters to formal enforcement e.g. issuing of FPNs.

The audit identified different approaches in respect to the Scheme's enforcement among individual councils, particularly in relation to the ratio of FPNs to warning letters.

Table 3: Number of Fixed Penalty Notices and Fixed Penalty Notice warning letters

Number of FPNs served by DCs in NI (December 2016 to June 2019)	70
Number of FPN warning letters (December 2016 to June 2019)	914

²³ Report on District Council Food Hygiene Rating Scheme implementation in Northern Ireland. FSA. September 2019

Feedback from DCs has demonstrated support for a repeat of the ‘week of action’ initiative previously undertaken by DC officers. The ‘week of action’ involved officers carrying out surveillance work focusing on display of ratings at food businesses within their DC areas. The initiative was carried out across the 11 district council areas over a one-week period. Where non-display was observed follow-up action was taken, including written warnings and fixed penalty notices.

Improvement Opportunity 1

A focused initiative carried out by DC officers to audit display rates, and take action where non-display is found, would encourage consistency of FHRS enforcement across DCs in NI and assist with business awareness with regards to FHR display.

Delivery of the Scheme/consistency

FSA has long recognised that consistent implementation and operation of the Scheme is critical to ensuring that food businesses are treated fairly, and consumers are able to make meaningful comparisons of food businesses hygiene ratings. To support DCs with the consistent delivery of the Scheme, FSA developed statutory guidance for the implementation and operation of the Scheme in NI²⁴. The Act requires DCs to have regard to this guidance.

There are a range of processes in place to aid consistent delivery of the Scheme within DCs, across NI and at a national level. The statutory FHRS guidance²⁴ highlights that monitoring should take place within the DC, within a liaison group/region and at a national level by the FSA.

At DC level internal monitoring activities are undertaken to ensure consistency in the way interventions are carried out as well as ensuring consistent application of the Scheme

²⁴ [Implementation and operation of the statutory Food Hygiene Rating Scheme in Northern Ireland. Guidance for district councils. FSA. Oct 2016](#)

guidance in conjunction with the Food Law Code of Practice (NI). These monitoring activities are subject to both internal and external audit.

The FSA 2019 DC audit reported that councils audited had developed and implemented documented internal monitoring procedures and that comprehensive records were available for all activities covered by the procedure²⁵. It was noted, on occasion, that the task of internal monitoring was assigned to one person, subsequently the audit report recommended that additional resource be allocated to this task to ensure the continuation of the monitoring process in the absence of an environmental health manager.

In an effort to monitor and promote the level of consistency in delivery of the Scheme, FSA facilitates a National Consistency Exercise (NCE) programme for DCs across NI, England and Wales. The DCs are presented with food business inspection scenarios which they work through and assign an FHR . There have been four NCEs to date with the latest having taken place in November 2018. All 11 DCs in NI participated in the exercise with 81.8% of DCs in NI awarding a rating of 5 and 18.2% awarding a rating of 4. The results indicate a high level of consistency in approach to FHR scoring across NI but also highlight the importance of a continued commitment to consistency exercises across FSA.

Whilst recent Scheme research carried out in NI found that most food businesses thought the Scheme was a fair one there were also examples of inconsistencies voiced by some food businesses, particularly in relation to advice from DCs²⁶. It was reported that some DCs issued compliance advice via advisory visits to new food businesses in advance of their rating inspection whereas in others this was not an available option. Food businesses asserted that this gave those food businesses given an advisory visit an unfair advantage over other businesses, allowing them to put the necessary changes in place prior to their rating inspection. There were also reports of inconsistency in

²⁵ Report on District Council Food Hygiene Rating Scheme implementation in Northern Ireland. FSA. September 2019

²⁶ FHRS Northern Ireland, Research with food businesses. Community Research and 2CV. August 2019

approach within DCs, with EHOs giving conflicting information or being more or less 'strict'.

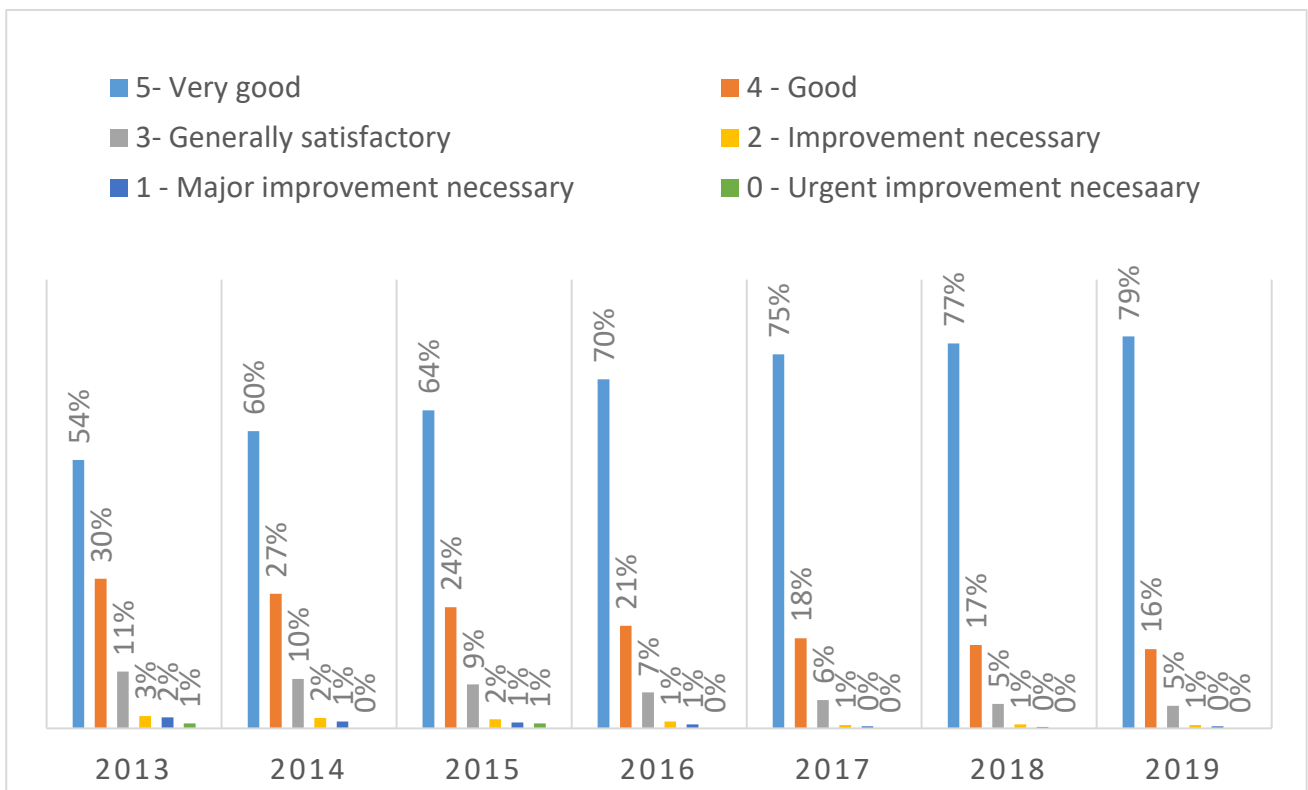
Improvement Opportunity 2

With particular respect to advice for new food businesses, the implementation of a consistent approach to FHS across all DCs in NI would ensure fairness to businesses and promote the reputation of DCs and the Scheme. In addition, FSA supports the continued participation of officers in the FSA's National Consistency Exercise programme to maintain and improve consistency of scoring and enforcement in relation to food hygiene inspections and the Scheme.

Impact of the Scheme

The impact of the introduction of the non-statutory Scheme through to the statutory Scheme in 2016 saw a change in the rate of compliance with food hygiene law among food businesses in NI. This is best illustrated by the changing profile of ratings depicted in figure 1 below:

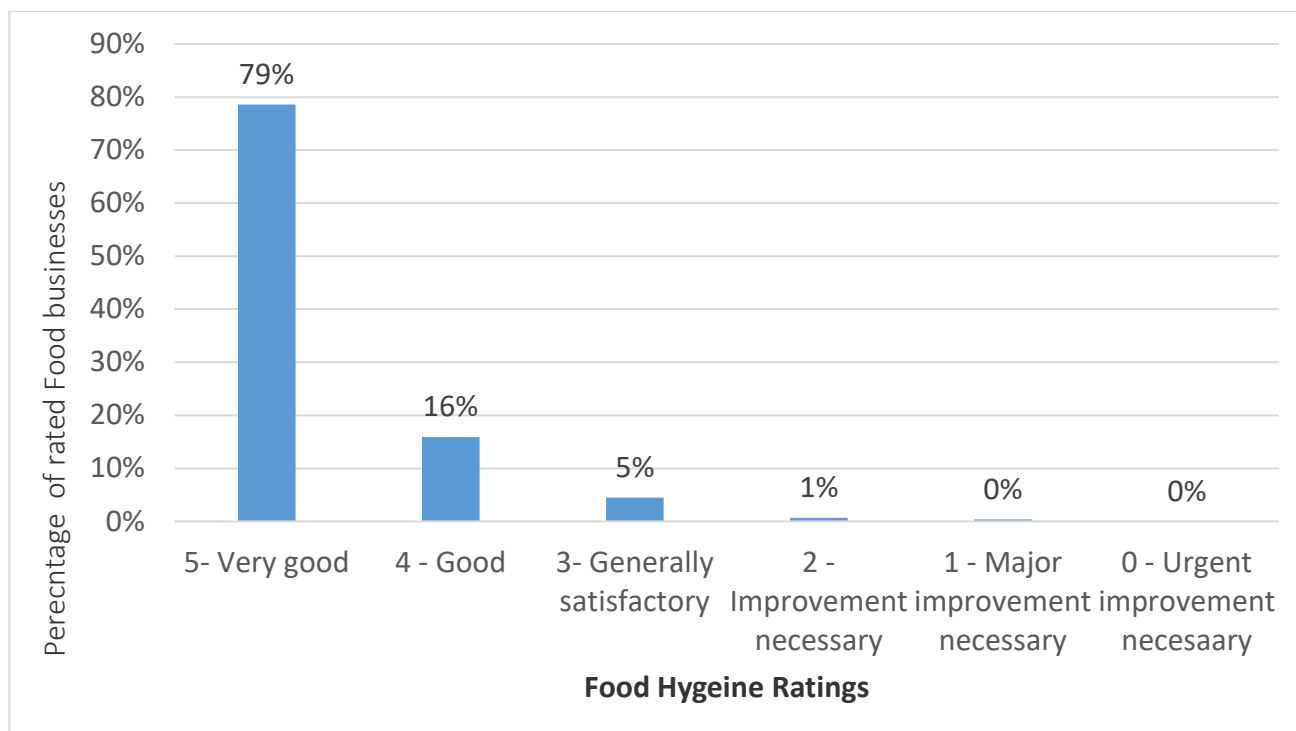
Figure 1: Profile of Food Hygiene Ratings (0 to 5) in Northern Ireland, 2013-2019



The chart shows how the percentage of 5 rated premises has increased year on year since the introduction of the voluntary Scheme while ratings lower than 5 have steadily decreased. The figures demonstrate the impact of the Scheme becoming mandatory in 2016 with the biggest increase in 5 rated premises occurring around this time. A similar impact is seen on 0, 1 and 2 rated premises falling to less than 1% with the introduction of the mandatory Scheme in 2016.

At the time of this review the percentage of food businesses in NI with a rating of less than 3 was 1.1%, while 94.5 % of food businesses had a rating of 4 (good) or 5 (very good) (see figure 2) and 5% had a rating of 3. This equates to 99% of food businesses in Northern Ireland being 'broadly complaint' (rating of 3-5). The figures provide evidence of the positive impact the Scheme has had on driving up compliance in the food industry here. The figures demonstrate the impact of the various initiatives, implemented by DCs, to target lower rated premises enabling food businesses to improve their ratings and increase compliance.

Figure 2: Profile of Food Hygiene Ratings in NI, September 2019



Research carried out in 2018 supports this evidence, reporting that 79% of food businesses in NI receiving a rating of 4 or below, stated they have taken action to improve their rating²⁷.

Focusing on the age profile of rated food businesses, the above-mentioned research found that there is a significantly higher proportion of younger food businesses amongst low performing (ratings of 0-2) food businesses with more than two-fifths trading for less than 5 years (44%).

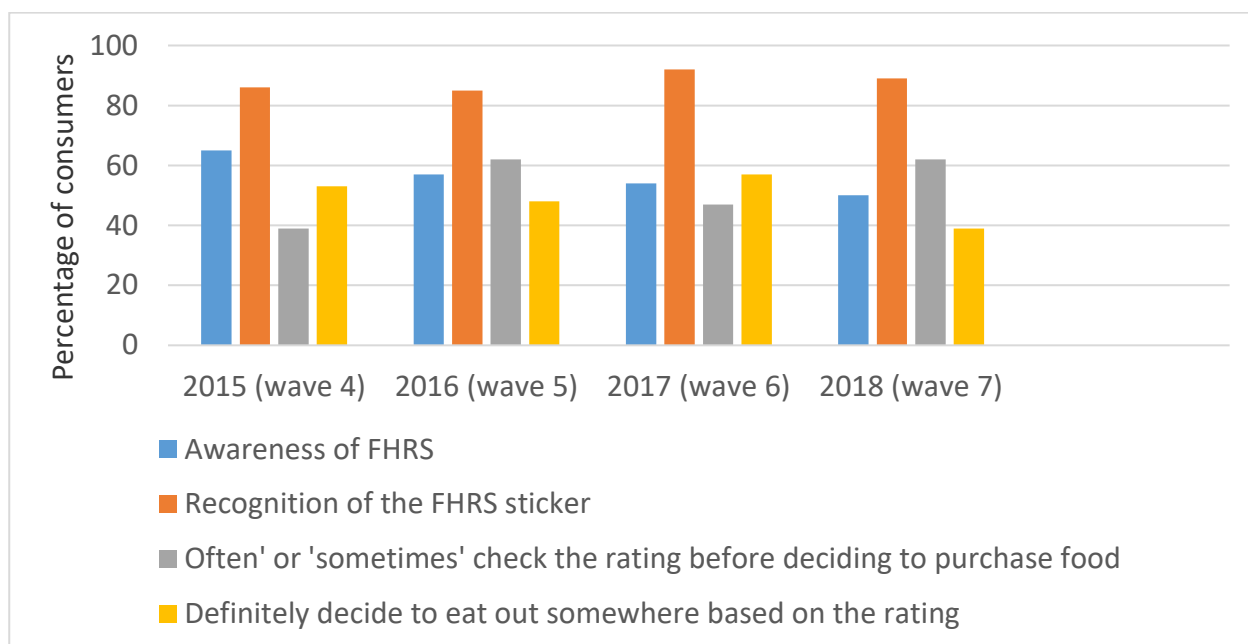
Consumer awareness and attitudes

The FSA's Food and You Survey examines the growth of consumption of food and beverages from outside the home over the last decade²⁸. The survey explores different information sources that consumers considered when deciding where to eat out in NI. Of those interviewed, 70% mentioned a good FHR as an important influence on their decision about where to eat out. The report also noted differences between countries, with the FHR being more important to respondents in NI and Wales (71%) compared to those in England (59%). The survey also found that younger respondents were most likely to mention the FHR (89% of under 35s, 88% aged 35-44) and the proportion declined with age to 32% of those aged 75 or over.

²⁷ [Display of food hygiene ratings in England, Northern Ireland and Wales. BMG Research. March 2019](#)

²⁸ [The Food and You Survey, Wave 5. FSA. 2019](#)

Figure 3: NI consumer behaviours reported in the FHRs public attitudes tracker surveys



The FSA’s annual consumer attitudes survey on the Scheme (2018, Wave 7), used to track awareness of the Scheme (Figure 3). demonstrated that half of the respondents in NI (50%) were aware of the Scheme. This figure had decreased from 54% in 2017 and 57% in 2016 indicating a decline in consumer awareness in NI²⁹. The figures for 2018 are in line with England however, it they behind Wales where consumer awareness is at 62%.

The 2018 wave of research found that 93% of all respondents in NI thought that food businesses should display their ratings at their premises with 96% of respondents (of those aware of the Scheme) in NI reported having seen a food business displaying a food business rating in the last 12 months. These figures have been generally consistent in each survey wave.

A total of 39% of consumers in NI said they would definitely decide to eat out somewhere based on the FHR the business received and 37% said they would ‘maybe’ do this. This is a significant decrease from the last wave when a total of 57% of respondents in NI said

²⁹ [Food Hygiene Rating Scheme \(FHRs\) Public Attitudes Tracker, Wave 7. October 2018](#)

that they would definitely decide to eat out somewhere based on the FHR the business received and 31% said that they would 'maybe' do this. However, this most recent survey saw an increase in the percentage of respondents who said they would 'often' or 'sometimes' check the rating before deciding to purchase food (62% in 2018 compared with 47% in 2017).

Only 7% of respondents in NI said they would consider buying food from a lower rated premises. Generally, ratings of 3 and 4 were reported as the lowest acceptable rating consumers would consider when buying food in NI (38% and 34% respectively). A total of 37% of respondents said they would often check a business' FHR before deciding to eat out or purchase takeaway food in the last 12 months (25% of the sample hadn't eaten out or bought a takeaway in the last 12 months).

Rates of display and business attitudes towards the Food Hygiene Rating Scheme

The Act places a duty on food businesses to display a valid FHR sticker while the Regulations stipulate that the manner and location of display must be at or near an entrance where it can be readily seen and easily read. The FSA monitors the proportion of food businesses that are displaying their rating through covert mystery shopping audits. This research also includes a telephone survey with food businesses to explore attitudes towards the Scheme including the reasons for display and non-display.

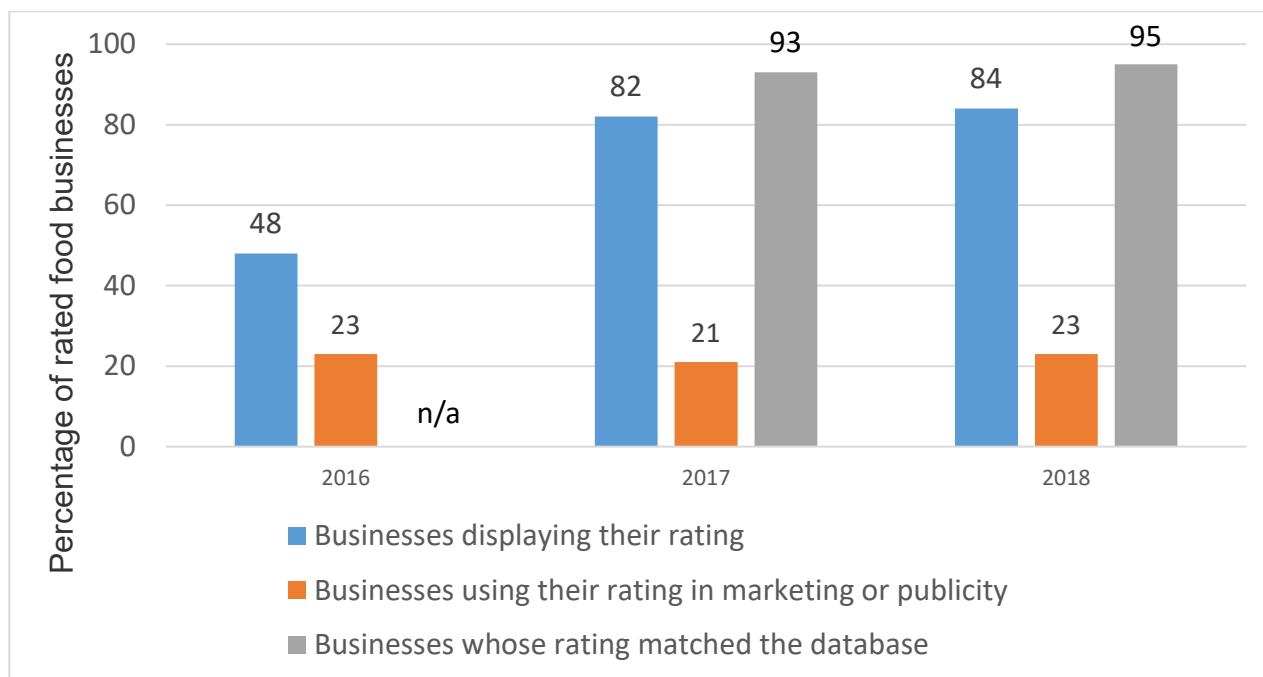
The 2018 wave of the FHR display audit survey (published March 2019) found that 84% of establishments in NI were displaying their rating with the most common, self-reported, driver of display being the compulsory element³⁰.

The BMG report also explores business use of ratings, reporting that 23% of outlets in NI currently use their rating in some form of marketing or publicity materials (figure 4), a higher percentage than England and Wales (18% and 21% respectively). In a comparison of rating on display to those recorded in the database, it was reported that

³⁰ [Display of food hygiene ratings in England, Northern Ireland and Wales. BMG Research. March 2019](#)

95% of ratings on display in NI match the database, while 4% are displaying higher and 1% are displaying lower (figure 4). It should be noted that, in some instances the disparity between these ratings may have been due to the 21 day appeal period delaying online publication of a recently awarded rating.

Figure 4: BMG Research: Display of food hygiene ratings in Northern Ireland



In other research carried out within NI, food businesses expressed a general view that consumers who noticed and cared about ratings were more likely to be deterred by a low rating than be drawn in by a high score, asserting that a high rating is seen as a base requirement³¹.

In a similar vein, the 2018 wave of BMG research reported that 66% of food businesses said that display had no impact or they do not know the impact upon their business and positive comments about the impact of display had fallen in NI (32%, compared to 39% in 2017)³². Encouragingly the proportion of food businesses who felt the Scheme had a negative impact was only 1%. The research also reported that 90% of food businesses expressed positive sentiments about compulsory display, an increase from the previous

³¹ FHRS Northern Ireland, Research with food businesses. Community Research and 2CV. August 2019

³² [Display of food hygiene ratings in England, Northern Ireland and Wales. BMG Research. March 2019.](#)

year (87%). The same survey reported that 94% of food businesses were satisfied with the rating they received. These findings were in line with research carried in NI in 2019 where the majority of respondents felt the system was fair and that receiving a good rating was achievable³³.

Research carried out across food businesses in NI highlighted the importance of the relationship between the DC and the food business. Food businesses who had close relationships with their local Environmental Health teams felt able to contact them with specific compliance queries³³. These findings are consistent with BMG Research which outlined how micro and small food businesses are heavily reliant on their local council/authority for information and support³⁴. The report reaffirmed that food businesses rate their DCs highly in their dealings with them with 81% spontaneously reporting that these local agencies play a role in providing food safety and regulatory advice.

³³ FHRS Northern Ireland, Research with food businesses. Community Research and 2CV. August 2019.

³⁴ [BMG Research. FSA Small and Micro FBO Tracking Survey W1 Report. February 2019.](#)

Conclusion

This section summarises the recommendations of the review, identifies areas for improvement for the Scheme and how these will be progressed. An update on future proposals for the operation of the Scheme is also provided in this section.

Recommendations

The recommendations made in this report will be led by FSA in collaboration with the DCs. As a result of the recommendations proposed it will be necessary for a review of the Scheme's Statutory Guidance³⁵ to be completed. This will be incorporated as an area for improvement.

Recommendation 1

FSA in NI implement an improved appeals data collection and data storage system to assist DCs in meeting their requirement under the Act and enable FSA to process the data efficiently and effectively.

The above-mentioned data will be collected in an agreed format (e.g. Excel spreadsheet) from DCs on a 6-monthly basis. The data will be collated and saved on the FSA's document and records management system.

Recommendation 2

Review of the operation of the request for re-rating mechanism indicates that this facility is operating satisfactorily. The FSA therefore recommends that a limit on the number of re-rating inspections is not necessary at this time.

Taking the above into consideration there is no further action required at this time.

³⁵ [Implementation and operation of the statutory Food Hygiene Rating Scheme in Northern Ireland. Guidance for district councils. FSA. Oct 2016](#)

Recommendation 3

FSA in NI should give further consideration to the introduction of a process that would allow ratings to be published before the end of the appeals period in order to address concerns regarding the 21 day delay for online publication on the FSA's ratings website, to offer businesses in NI the same flexibility of the scheme in England and Wales, and to address possible inconsistencies between the ratings published online and those on display at the food business.

The FSA are currently exploring how the above recommendation can be achieved within the legislative parameters of the Act.

Improvement Opportunities

It is proposed that improvement opportunities 1 and 2 (outlined below) are led by DCs in collaboration with FSA. The FSA will support DCs in the implementation of these improvement opportunities to aid inclusivity and consistency of approach.

Improvement Opportunity 1

A focused initiative carried out by DC officers to audit display rates, and take action where non-display is found, would encourage consistency of FHRs enforcement across DCs in NI and assist with business awareness with regards to FHR display.

The FSA will support DCs in rolling out the above improvement opportunity in conjunction with Northern Ireland Food Managers Group (NIFMG) and the food hygiene subgroup.

Improvement Opportunity 2

With particular respect to advice for new food businesses, the implementation of a consistent approach to FHRs across all DCs in NI would ensure fairness to businesses and promote the reputation of DCs and the Scheme. In addition, FSA supports the continued participation of officers in the FSA's National Consistency Exercise programme to maintain and improve consistency of scoring and enforcement in relation to food hygiene inspections and the Scheme.

The FSA will support DCs to implement these objectives in conjunction with NIFMG and the food hygiene subgroup.

Improvement Opportunity 3

FSA review of the statutory guidance in line with the recommendations made in this review

Following publication of the review by the Department, guidance for the implementation and operation of the statutory Scheme³⁶ will be reviewed in line with the recommendations.

Future operation of the Scheme in NI

The Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2017

The Act makes provision for the Department to make secondary legislation to implement the Scheme with regards to the online display provision. The Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2017 were drafted and consulted on in 2017 however at that time the NI Assembly was suspended, and the draft legislation was not laid. The draft legislation is now undergoing review to take into consideration research findings and other related developments that have taken place over intervening period.

³⁶ [Implementation and operation of the statutory Food Hygiene Rating Scheme in Northern Ireland. Guidance for district councils. FSA. Oct 2016](#)

Addendum

Since completion of this review there have been a number of developments in relation to the operation of the statutory Scheme in NI. These developments and related implications are outlined in the paragraphs below.

Impact of Regulation (EU) 2017/625 (The Official Control Regulations) on the operation of the Act

On 14 December 2019, Regulation (EC) 882/2004 was replaced by Regulation (EU) 2017/625 having a significant impact on the operation of the Act. As the Act defines an 'inspection', on the basis of which a mandatory rating can be produced, as a reference to an inspection in accordance with Regulation (EC) 882/2004, all inspections carried out from 14 December 2019 do not produce valid FHRs under the Act. Furthermore, food businesses are legally obliged to display the rating produced from the previous inspection. In order to allow the Scheme to continue an approach was agreed in conjunction with the DCs to allow the Scheme to continue to operate on the basis of voluntary display.

In November 2020, The Food Hygiene Rating Act (Amendment) Regulations (NI) 2020 were made, coming into operation on 23 December 2020. The regulations replace all references to repealed Regulation (EC) 882/2004 with Regulation (EU) 2017/625, or Regulation (EC) 178/2002, in the Act and therefore allows the issuing of statutory food hygiene ratings, following an inspection, to resume.

Findings from BMG Research, November 2019

Since the review, the findings from the 2019 round of BMG Research on FHR display across England, Wales and NI reported that the proportion of establishments in NI displaying a rating has increased (87% in 2018 to 89% in 2019)³⁷.

³⁷ [Display of food hygiene ratings in England, Northern Ireland and Wales. BMG Research. June 2020](#)

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