

**North Tyneside Council
Report to Head of Environment,
Housing and Leisure
Date: March 2018**

ITEM

**Title: Food Hygiene Rating
Scheme Revisit Charge**

Portfolio(s): Housing and Transport

**Cabinet Member(s): Councillor John
Harrison**

Report from Service

Area: Environment, Housing and Leisure

**Responsible Officer: Joanne Lee – Public Protection
Manager (Tel: (0191) 643
6901)**

Wards affected: ALL

PART 1

1.1 Executive Summary:

This report seeks approval for the level of charges to be applied for the re-inspection of food business operators' premises for the purposes of scoring the business in terms of its hygiene levels under the Food Standards Agency Food Hygiene Rating Scheme. This is following a decision by Cabinet on 11 December 2017 to allow for charges to be levied on such premises.

When approving these changes, Cabinet delegated specific authority to the Head of Environment, Housing and Leisure in consultation with the Cabinet Member for Environment, the Head of Finance and the Head of Law and Governance to determine the level of charges.

1.2 Recommendation(s):

It is recommended that the Head of Environment, Housing and Leisure sets, following consultation with the Cabinet Member for Housing and Transport, the Head of Finance and Head of Law and Governance, the level of charges for the re-inspection of food business operator's premises (for the purposes of scoring the business under the Food Standards Agency Food Hygiene Rating Scheme) at £160 per inspection.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 8 January 2018.

1.4 Council Plan and Policy Framework

The recommendation is in support of the Our North Tyneside Plan: Our Places will, 'Provide a clean, green, healthy, attractive and safe environment'.

1.5 Information:

1.5.1 Background

The Authority has a statutory obligation to deliver official controls for feed and food law.

Inspections of food businesses in the borough are risk based. A score (rating) of between 0 and 5 is given to each food business following an inspection using the National Food Hygiene Rating Scheme (NFHRS) which this Authority has chosen to participate in. The score given to a food business informs the public how well the operator of the food business complies with food law. The top rating is 5. The ratings of each food business premises are accessible to the public via the Food Standards Agency website.

Whilst there is a statutory obligation for the Authority to inspect food business premises, the NFHRS is a non-statutory scheme and therefore there is no obligation to re-visit and re-score any food business premises at the request of an operator who wants to achieve a higher score than that initially awarded to their premises under the NFHRS.

Ordinarily, an operator of a food business premises would be expected to wait until the next statutory inspection of their premises, which will be between 6 months to 2 years after the last inspection of the premises depending upon any inherent risks identified at the premises during the inspection.

It is permissible however for a food business operator to request the Authority to arrange for an officer to revisit their premises and to carry out a further inspection of the premises and to review the compliance score first awarded to the operator in relation to the premises following the initial inspection. Such an inspection can be carried out 3 months after the initial inspection date. The Authority currently carries out such revisits free of charge. There are approximately 12 re-visits carried out per year.

The Food Standards Agency has advised local authorities to consider the option of recouping the costs incurred in re-inspecting food business premises at the request of an operator for the purposes for rescoring such premises.

The proposed level of charges for re-inspecting and re-scoring food business premises at the request of an operator is based on an assessment of the number of average officer hours spent on administration, inspection and review of the score.

The charges sought from operators will be on a cost recovery basis and is not intended to be a means of generating income for the Authority.

A review of the impact on the requests for the re-inspection of premises on the existing service will be undertaken over a 6 month period to ascertain whether there has been any impact, positive or negative, on the service.

1.5.2 Cabinet 11 December 2017

On 11 December 2017 Cabinet determined to allow charges to be made for revisit inspections. A delegation was given to the Head of Environment, Housing and Leisure to determine the level of charge in consultation with the Cabinet Member for Housing and Environment, the Head of Finance and Head of Law and Governance.

1.5.3 Recharging calculations

Officers have undertaken a time/cost analysis to calculate the cost of undertaking the inspections. This includes time taken to undertake the inspection and the administrative processes associated with any change in score.

The charge for a revisit inspection has been calculated as £160 based on estimated direct staffing costs plus circa 25% for council administrative costs and overheads. This charge is broadly comparable with charges raised by other local authorities.

It is proposed that, should the recharging of these inspections be approved, this would commence on 1 March 2018.

The charge for inspections will be reviewed on an annual basis.

1.6 **Decision options:**

The following decision options are available for consideration by the Head of Environment, Housing and Leisure:

Option 1

Agrees to the recommendation set out in paragraph 1.2 of the report.

Option 2

Instructs officers to undertake additional work on this matter.

Option 1 is the recommended option.

1.7 **Reasons for recommended option:**

Option 1 is recommended for the following reasons:

Officers will be able to recoup their reasonable costs to reflect the time spent on supporting business in the Borough to improve their hygiene rating by undertaking re-inspection and re-scoring of food business premises.

1.8 **Appendices:**

There are no appendices to this report.

1.9 **Contact officers:**

Frances McClen, Environmental Health Group Leader, Tel. (0191) 6436640
Joanne Lee, Public Protection Manager. Tel. (0191) 6436901
Colin MacDonald, Senior Manager, Technical & Regulatory Services, Tel. (0191) 6436620
Alison Campbell, Senior Partner, Tel: (0191) 643 7038.

1.10 Background information:

The following background papers have been used in the compilation of this report and are available at the office of the author:

- (1) FSA Food Hygiene Rating Scheme “Information note for food businesses in England and Wales”

<https://www.food.gov.uk/sites/default/files/multimedia/pdfs/enforcement/fhrssafeguards.pdf>
<http://ratings.food.gov.uk/LocalAuthority.aspx?reg=NE>

- (2) Reassessment Inspection calculations

- (3) Equality Impact Assessment. - [DEC 17 - EIA - Food Hygiene.docx](#)

- (4) Cabinet report 11 December 2017 <http://my.northtyneside.gov.uk/meeting/18373>

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

It is anticipated that the introduction of these charges will generate a small additional income in the budget managed by Capita on the Authority’s behalf without additional charge to the Authority.

2.2 Legal

The Localism Act 2011 gives the Authority a “general power of competence” which means that it has the power to do anything that an individual can generally do subject to certain limitations.

The Authority can use the general power of competence to charge for the services that it provides, including in this instance, the re-visiting and re-inspection of food business premises provided that the service:-

- a) is offered on a non-commercial basis to a person who has agreed to the service being provided;
- b) is something that could be done using the new general power of competence;
- c) is not something that should be provided under any statutory duty to provide the service; and
- d) the Authority does not have any other power to charge for the service.

Following Cabinet’s decision on 11 December 2017 to agree to the introduction of charges for re-inspection of food businesses as set out in the report above and to give delegated authority to the Head of Environment, Housing and Leisure following the appropriate consultation to set the charge, it will be necessary for the Head of Environment, Housing and Leisure when exercising that delegated authority to produce a written record of the decision which must be published in accordance with the Openness of Local Government Bodies Regulations 2014.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Proposals have been developed following internal consultation with officers and Cabinet decision of 11 December 2017 and the Cabinet Member for Housing and Transport, the Head of Finance and Head of Law and Governance.

2.3.2 External Consultation/Engagement

The Food Standards Agency has been consulted about the proposal for food hygiene charging with the business community and local authorities.

Should the charging for revisits be approved all initial food inspection letters will advise of the charge for undertaking a revisit and the level of charges will be placed on the Authority's website.

2.4 Human rights

There are no human rights implications arising directly from this report.

2.5 Equalities and diversity

There are no equality and diversity implications arising directly from this report and an Equality Impact Assessment was prepared for the Cabinet meeting held on 11 December 2017..

2.6 Risk management

Risks associated with the service are managed via the Authority's Risk Management process.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications arising directly as a result of this report.

PART 3 - SIGN OFF

- Deputy Chief Executive X
- Head(s) of Service X
- Mayor/Cabinet Member(s)
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy X

 9-3-18
John Harrison 7 March 18

