

Subject:	Charging Scheme for Food Safety Rescore Inspections under the National Food Hygiene Rating Scheme		
Date of Meeting:	29 November 2016		
Report of:	Executive Director, Finance & Resources		
Contact Officer:	Name:	Nick Wilmot	Tel: 292157
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 To consider charging food businesses in the city for food safety rescore visits made under the national Food Hygiene Rating Scheme (FHRS).

2. RECOMMENDATIONS:

- 2.1 That the committee agrees to the introduction of a flat rate charge for rescore visits requests received from food businesses.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Brighton & Hove City Council are included in the FHRS co-ordinated by the Food Standards Agency (FSA). Under this scheme traders are given a rating between 0 (urgent improvement necessary) and 5 (very good) for the standards of food hygiene found at their routine inspection.
- 3.2 Where businesses are awarded a score less than the maximum 5, after undertaking necessary improvements, they are entitled to request a rescore with a view to obtaining a higher score.
- 3.3 The Food Standards Agency (FSA) has issued guidance that the adoption and implementation of the FHRS by local authorities falls within the general power under The Localism Act 2011.
- 3.4 The FSA considers that providing a re-inspection upon request by a food business operator, in circumstances where there is no statutory requirement to provide that re-inspection, also falls within the general power.
- 3.5 The FSA considers that each of these circumstances apply to re-inspections because:
- a re-inspection can be properly described as a service which a local authority provides on a non-commercial basis to a food business operator with that food business operator's agreement;

- the FHRS is a non-statutory scheme in England, meaning that the local authority is under no statutory duty to perform a re-inspection; and
- for the reasons set out in the Agency's publication of September 2010, the local authority does not have any other power to charge a food business operator for a re-inspection.

3.6 Brighton & Hove City Council was selected by the FSA to take part in a national pilot project to charge for such re-inspections. A charge of £90-00 was used in the pilot however, in order to recover costs, the charge would need to be £145.

3.7 Under the provisions of The Localism Act 2011 Brighton & Hove City Council are permitted to continue the charging scheme.

3.8 During the period of the pilot, 12th September to 7th November, 11 requests for re-scores were made by businesses. Review of the requests received since inclusion in the scheme at the beginning of 2012 indicates that 50-60 requests would be received annually.

3.9 Re-visits and inspections undertaken in order to protect public health and evaluate if further enforcement action is applicable are part of the statutory duties of the service and will not come within the scope of the charging scheme.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 Reversion to offering free of charge re-scores on request at a cost to the council would continue to divert resources from statutory duties.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Prior to introduction of the pilot project 1,200 food businesses trading in the city were advised in writing of the charging scheme. No adverse comments or correspondence were received.

6. CONCLUSION

6.1 That a charge be introduced for re-score visits on a cost recovery basis.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 The proposed charge is subject to the council's Corporate Fees and Charges Policy. The proposed charge is £145 which is less than the £160 introduced in Wales as part of a mandatory display scheme and has been calculated to ensure that costs are recovered. This service committee shall keep all fees and charges under review and will receive an annual report from the Executive Director on price variations above or below the corporately applied rate of inflation.

- 7.2 The potential revenue income is not assumed within the council's approved budget at present, but this will be incorporated in later years once more robust information on the likely take-up is available.

Finance Officer Consulted: Monica Brooks

Date: 14/11/16

Legal Implications:

- 7.3 The Council has power to charge for the discretionary service covered by this report under the Localism Act 2011 s1. There is no relevant restriction in terms of charging for this service. The charging policy must comply with the Council's statutory duties (including the Human Rights Act and Public Sector Equalities Duty) and the manner of exercising the power must comply with general administrative law principles eg propriety of purpose. As the charging is not to be undertaken through a company, the amount of the charges must be set at a level which is limited to costs recovery (which can include overheads and other central costs).

Lawyer Consulted: Elizabeth Culbert

Date: 14.11.16

Equalities Implications:

- 7.4 None

Sustainability Implications:

- 7.5 None.

Any Other Significant Implications:

- 7.6 None.

SUPPORTING DOCUMENTATION

Appendices:

1. None

Documents in Members' Rooms

1. None

Background Documents

1. None

