

**Stakeholder comments – response form**

Please return this response form to **Claire Voller**:

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**We welcome your input on any aspect of our initial assessment but there are a number of questions identified in the draft document on which we would particularly value your views and comments.**

**Question 1 – Should any other options be considered? If so, please describe these, explain how they would deliver the policy objective and outline the potential costs and benefits.**

**Answer 1**

The BHA appreciates the value the Food Hygiene Rating Scheme (FHRS) as a means of encouraging food business operators (FBOs) to improve and maintain high standards. However, occasionally the scheme has been found to be lacking in a number of aspects in fairness and consistency. As such, the BHA will support a mandatory scheme providing processes are put in place to help to address such issues.

We have the following concerns:

1. Ratings sometimes made without heed to Primary Authority Assured Advice.
2. Businesses being penalised by LA who do not agree with Primary Authority Assured Advice.
3. Re-visits taking too long to take place – with evidence of over 6 months, to even over several years. This is very detrimental to business and does not encourage remedial actions to be undertaken.
4. Our members do not have the confidence in the current appeals process in place in Wales due to the lack of independence. The BHA has already put forward evidence to the FSA in Wales.

As such, the BHA would support, subject to the concerns above being dealt with satisfactorily, a variation of Option 4, where visits are undertaken based on risk rating.

Some businesses that have carried out remedial work and implemented improvements to their management have been kept waiting many months for a re-inspection, even years after they have applied for a re-assessment. This is unfair and a burden on businesses as they may suffer significant commercial loss from consumers believing that they still have poor standards.

The BHA advocates a scheme, which would set statutory times frames in which LAs must carry out revisits or reassessments. To help with the cost of this, businesses are prepared to pay for these revisits so the local authority could outsource if there are insufficient resources.

To improve confidence in the scheme it should be overseen by an independent authority and the BRDO have already agreed that they would be prepared to take on this role. As well as having an independent oversight of the scheme, the BRDO would monitor appeals relating to FHRS including Primary Authority Assured Advice, poor turnaround time and general misinterpretation.

The BHA understand there may be a role for the use of third party accredited auditors, for example as part of the appeal process to provide independence which it supports subject to there being a competitive market place for such services to ensure that no one company dominates.

We propose that if an FBO requests a revisit or reassessment, and the LA does not respond within the prescribed statutory time, then there will be a default position as there is for planning applications. We propose that after the time has lapsed, the FHR will be removed from the premises and web site and an alternative put in its place stating that the FHR is awaiting inspection.

Where confidence in management has been noted as poor and there is a lack of training or no FSMS, then it is appreciated that a three-month period may be needed for food safety culture adjustment and to give proof that the business will improve long-term.

However, there should be a potential for the revisit to take place within one month of a request being made after this three-month waiting period. Businesses should be able to submit evidence on-line and pre-book a re-visit once they feel they have systems in place that would restore confidence in their food safety, so that the re-visit can take place within a three to four month window of the initial rating. Businesses would be prepared to pay for the cost of such a revisit.

**Question 2** - Do you agree that Option 4 should be the preferred option? If you disagree, please state which option you consider should be preferred and explain your answer.

**Answer 2**

The BHA is happy for Option 4 to be taken forward on the conditions stated in Question 1.

**Question 3** - Can you identify any other groups that will be affected? If so, please list these and explain what the potential impact would be.

If option 4 is taken forward, there should be a cap on expenditure for re-visits to ensure that the scheme is fair for both large and small businesses. The charge for a revisit in Wales is £150 and therefore this should also be the maximum charge in England.

Some issues leading to a poor score are easily rectified, particularly those relating to premises or equipment; for example, where a new item of equipment is needed, or a simple technical fix is required, or premises needs improvement of facilities (e.g. installation of a wash basin). In these instances we propose that businesses may apply to the LA for a re-assessment by completing a form and sending photographic or other evidence with a legal declaration to allow a reassessment to take place without a visit, where appropriate. Similar processes take place under schemes such as the BRC Inspection schemes for food suppliers. As such, this would reduce costs, time, and a score with a true reflection of the businesses food and hygiene practices would be able to be made in a timelier manor.

**Question 4** - Do you agree that the assumptions we have made are reasonable? If not, please explain your answer. Do you have evidence that we can use to assess the costs more accurately?

**Answer 4**

(the box will expand as you type)

**Question 5** - Do you have any information or evidence that would help us monetise this cost? If so, please provide details.

**Answer 5**

(the box will expand as you type)

**Question 6** - We consider 30 minutes to be an overestimate of the time it would take a business to understand the differences between the current voluntary scheme and a statutory scheme but would welcome your views. Please explain your answer.

**Answer 6**

The BHA disagrees that 30 minutes would be an overestimate, and considers around 60 minutes a more realistic time per business to understand the differences in the scheme.

This is because a business must not only consider the understanding of the staff member responsible, but also filtering and cascading communications to other staff.

Under a mandatory scheme there is also likely to be more appeals and dissatisfaction with the scheme.

**Question 7** - Do you agree that the assumptions we have made are reasonable? If not, please explain your answer. Do you have evidence that we can use to assess the costs more accurately?

**Answer 7**

(the box will expand as you type)

**Question 8** - Do you have any other comments on the cost/benefit analysis in this Impact Assessment?

**Answer 8**

(the box will expand as you type)

**Question 9** - Do you agree with the assessments that we have made in this section? Please provide evidence to explain your answer.

**Answer 9**

(the box will expand as you type)

**Do you have any other comments on the draft initial impact assessment?**

It is worth noting that where the owner of the business is not the operator, notifications of the FHR need to be issued to both the corporate registered office and local business. The sticker should be issued to the local business. This approach needs to be consistent with all local authorities, which has not been the case in the past.

There should also be communications about what 'good' looks like. Although it is the perception of the FSA that satisfactory businesses have a score of 3 or above, the business, and we suspect the customer, considers this a 4. The FSA currently maintain that if a business complies with the regulations and nothing more, this would generate a score of 5. If this is correct then this means the FSA rate businesses as 3 or 4 in the knowledge that they will be failing in compliance in some way. This needs further clarification.

Lastly, FHRs scores give an impression to consumers of whether the business is able to manage and control risks relating to food sold or served there. Like other consumers, people with food allergies and other related conditions will use the FHRs to judge whether a business is likely to serve them safely. Unfortunately some scores are awarded without taking into account the business' competence to provide the correct information about what is in the food, or to have safe systems of work to control allergen cross contamination. A business may score 5, and yet have incorrect allergen information and / or poor allergen management. This is misleading for high risk consumers and potentially dangerous.