

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:**           **CABINET**

**DATE:**                   **TUESDAY, 21 JANUARY 2014**

**REPORT BY:**           **DIRECTOR OF ENVIRONMENT**

**SUBJECT:**               **CHARGING FOR RE-RATING INSPECTIONS  
CARRIED OUT UNDER THE FOOD HYGIENE RATING  
(WALES) ACT 2013**

**1.00**   **PURPOSE OF REPORT**

1.01    To provide details of the new legislation and to seek approval for the delegation of powers and the setting of fees.

**2.00**   **BACKGROUND**

2.01    The Food Hygiene Rating (Wales) Act 2013 received Royal Assent in March 2013. The Regulations that implement this Act, namely, the Food Hygiene Rating (Wales) Regulations 2013, came in to force on 28<sup>th</sup> November 2013.

2.02    The Act requires food businesses that have received a food hygiene rating sticker under the new Regulations to display the sticker in a conspicuous place.

2.03    This Act is a stand alone Act and is separate from all other Food Hygiene offences. This Act is also separate from all other Food Hygiene Formal Enforcement such as Hygiene Emergency Prohibition Notices and Hygiene Improvement Notices, which are within EU Regulations.

2.04    The Act creates several new offences, namely:

- Failure to display a valid sticker in the location and manner prescribed on the Regulations
- Displaying an invalid sticker
- Failing to retain a valid sticker
- Parting with possession of a sticker to any other person than an Authorised Officer of the Local Authority
- Denying a person's requests to be informed verbally
- Giving false or misleading information
- Intentionally altering, defacing or tampering with a sticker other than for the purpose of removing it for specific purposes detailed in the Act.

## 2.05 Penalties

Any person guilty of the offences listed above can be fined up to £1000 for each offence. However, the Act allows for officers to issue Fixed Penalty Notices, giving the person an opportunity of discharging their liability to conviction. The penalties prescribed within Act for Fixed Penalty Notices are:

- £200 to be paid within 28 days of the penalty notice being given
- £150 for early payment i.e. within 14 days

Fixed Penalty Notices will be issued in line with the Public Protection Enforcement Policy. Welsh Government have also put forward a six month leniency period before any Fixed Penalty Notices are issued.

2.06 The new legislation applies to the prescribed new sticker only. The old sticker, issued under the non-mandatory scheme, becomes obsolete within 18 months.

2.07 As a safeguard to businesses, the Act provides a mechanism by which they can apply to be re-rated before their next programmed inspection date. Programmed inspections are carried out at frequencies dictated by the Food Law Code of Practice and can be between 6 months for most high risk premises up to 3 years for low risk premises.

2.08 The Act also allows Local Authorities to charge for the carrying out of visits to food businesses for the purpose of re-rating them. These visits are called Rescore Visits.

2.09 Local Authorities can not charge for the initial inspection which generates the Rating as this is an Official Control under Food Hygiene legislation. We can not currently charge for Official Controls.

2.10 If a request for a re-rating has been made by an operator of a food business establishment, there are certain duties placed on a Local Authority:

- The food authority must calculate the reasonable costs of the re-rating.
- Before carrying out the re-rating, the food authority must inform the operator of the costs of the re-rating and the way the costs have been calculated.
- An operator of a food business establishment must pay the costs of the re-rating.
- A food authority may require payment in advance of the re-rating being carried out.

### **3.00 CONSIDERATIONS**

3.01 The Act allows Local Authorities to charge for a Rescore Visit such that reasonable costs for administering this process, including the cost of actually undertaking the re-visit, can be recovered from the person requesting the re-rating.

3.02 Welsh Heads of Environmental Health Group “All Wales Food Safety Technical Panel” has put forward a calculation for costing of a Rescore Visit. This is with the aim of providing a single fee level for all types and sizes of food businesses.

3.03 This calculation gives a charge of £150 per Rescore visit.

### **4.00 RECOMMENDATIONS**

4.01 That Cabinet agrees to the £150 Rescore Charge recommended by the Welsh Heads of Environmental Health “All Wales Food Technical Panel”.

4.02 That Cabinet delegates authority to review the fee level in the future to the Director of Environment in consultation with the Cabinet Member for Public Protection, Waste and Recycling.

### **5.00 FINANCIAL IMPLICATIONS**

5.01 The charge for re-rating of £150 will result in some additional income. The current level of requests for rescoring is around 80 per year. If this level continues, this should see an income generation of around £12,000 per annum.

5.02 If the request for rescore level remains at a similar level seen over the last 2 years, the current resource should be able to absorb this work. However, if the level increases significantly, additional resource may be required. Therefore, the number of requests for rescoring received will be monitored closely and resource levels reviewed on a regular basis.

### **6.00 ANTI POVERTY IMPACT**

6.01 None.

### **7.00 ENVIRONMENTAL IMPACT**

7.01 None.

### **8.00 EQUALITIES IMPACT**

8.01 None.

**9.00 PERSONNEL IMPLICATIONS**

9.01 None.

**10.00 CONSULTATION REQUIRED**

10.01 None.

**11.00 CONSULTATION UNDERTAKEN**

11.01 None.

**12.00 APPENDICES**

12.01 None.

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985  
BACKGROUND DOCUMENTS**

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