

**REPORT TO:** Safer Policy & Performance Board

**DATE:** 18<sup>th</sup> September 2012

**REPORTING OFFICER:** Strategic Director, Communities

**PORTFOLIO:** Environmental Sustainability, Health and Adults

**SUBJECT:** Food Safety and the National Food Hygiene Rating Scheme

**WARD(S)** Borough-wide

## 1.0 PURPOSE OF THE REPORT

- 1.1 The report follows a request from the Chair of the board for an update on how well Halton's food businesses are performing on the National Food Hygiene Rating Scheme. This request followed a letter published in the press that was critical of the authority for allowing food premises with low scores to remain open.
- 1.2 This report will set out how well food businesses perform overall, what action is taken in relation to failing premises and some of the challenges to securing full compliance.

## 2.0 RECOMMENDATION: That:

- i) **The reported is noted; and**
- ii) **Members take the opportunity to seek further information or raise questions about the enforcement of food law and the Food Hygiene Rating Scheme.**

## 3.0 SUPPORTING INFORMATION

### 3.1 Background

The National Food Hygiene Rating Scheme is a scheme to publish the hygiene rating of food premises. The scheme is operated by the Food Standards Agency in partnership with local authority environmental health departments. The score is published on-line and businesses are provided with certificates and window stickers to display the score on their premises.

- 3.2 Halton was the first authority in Cheshire and Merseyside to launch the National Food Hygiene Rating scheme in April 2011. Previously Halton had operated its own "scores on the doors" scheme since 2007.

### 3.3 Scope of the scheme

The following premises are included in the scheme

- Takeaways
- Caterers including home caterers
- Restaurants
- Grocery Shops
- Supermarkets
- Staff Canteens
- Schools and other public buildings
- Pubs and Clubs

The following premises are generally exempt from publication although where necessary will still be subject to inspection.

- Pharmacists
- Retailers selling very low risk food (e.g. newsagents)
- Food Manufacturers

In total there are 1051 registered Food premises in Halton. 822 are included in the National Food Hygiene Rating Scheme.

### 3.4 **Publication and Display of scores**

The local authority will publish all scores on the internet because this is considered public information.

The ratings are published at [www.food.gov.uk/ratings](http://www.food.gov.uk/ratings)

However it is not compulsory for a business to display the score on their premises. In practice the premises that score 4 and 5 are happy to display their scores. However our experience is that some businesses with 3 stars are reluctant to display their score. This is disappointing as consumer research by the FSA suggests that customers would be happy to eat in a premises that scores 3 and above

In general premises with a score of 0, 1 and 2 rarely display their score.

The Welsh Assembly Government is currently working on legislation that would make it mandatory for all businesses to display their score. The UK government are monitoring this development before making a decision regarding legislation for England.

It is important to note that the score displayed for a food business may not represent the current standards. For example premises that scored 0 are likely to have made some improvements required by officers – but because the premises was rated 0 when inspected the score stands unless the business appeals or requests a revisit.







### 3.5 **Hygiene Ratings**

The score is based on the hygiene risk rating given to a business during the last food hygiene inspection by the Food Safety Team in Environmental Health. The rating is based on three key criteria;

- How hygienically the food is handled
- The structure and cleanliness of the building
- How well the business is managed and its track record

Businesses are awarded a score from 5 to Zero. Table 1 below sets out what each score means in practice

**Table 1: What the score means in practice**

Score / Description	What this means in practice
 <p>Very good</p>	The premises is fully compliant with the law
 <p>Good</p>	The premises is essentially compliant with the law but with some minor contraventions that are not critical to food safety. No follow up is needed from the environmental health department
 <p>Generally satisfactory</p>	Overall satisfactory standard – premises need to make some minor improvements but these are not critical to food safety. Business will receive written advice but is unlikely to be a priority for revisit
 <p>Improvement necessary</p>	A number of contraventions have been identified – improvement necessary to prevent fall in standards. Follow up action in accordance with enforcement policy. Premises likely to be subject to revisit to ensure action has been taken
 <p>Major improvement necessary</p>	A number of major contraventions identified some of which if not addressed may be critical to food safety. Premises subject to enforcement action in accordance with enforcement policy. Premises will be subject to revisit to ensure improvements are made
 <p>Urgent improvement necessary</p>	General failure to comply with food law. Premises <i>may</i> pose an imminent risk of injury to health. Immediate action required to improve standards – this may include closure – otherwise enforcement action in accordance with enforcement policy. Premises will be subject to regular revisits and monitoring until situation improves

### 3.6 Safeguards for businesses

The scheme includes a number of safeguards for businesses. If a business believes their score is unfair or unjust they can appeal. Initially this appeal is to management within the environmental health department. If this does not resolve the complaint then the matter is dealt with through the corporate complaint procedure.

In practice the authority has received no formal appeals in the 12 months it has been operating the national scheme. This has been attributed to the way in which the inspection reports are set out which makes clear the rationale and reasoning for the score. The team have also undergone extensive consistency training with colleagues across the region to ensure assessments are fair and consistent. In the event of an appeal the scores will not be published until the appeal is resolved.

Businesses can also request a revisit to reassess the rating but must first satisfy officers that genuine improvements have been made. Requests for revisits can be made anytime after 3 months since the initial inspection has elapsed. Officers will then make an unannounced revisit within 3 months of the request. Until the re-rating is determined the original inspection score will stand. On revisit, a rating may go up, down or stay the same. In the previous year 61 requests for a re-rating were received.

The Food Standards Agency is considering introducing a charge to businesses that request a revisit but this would require a change in legislation. The Welsh assembly government are currently working on legislation to introduce charging for revisits.

### 3.7 Distribution of Scores

Of the 822 businesses in the scheme - 89% of these achieve the top 3 scores of 5, 4 and 3 and are considered broadly compliant with the law. This figure is identical to the North West average.

The measure of broad compliance was established by the Food Standards Agency in 2008.

This figure has risen steadily in recent years as can be seen from the yearly data below

2008-2009	84%
2009-2010	84.77%
2010-2011	87.4 %
2011-2012	89%

Although it is difficult to prove conclusively; the perception amongst officers is that the reason for this increase is that the food hygiene rating scheme has provided a strong incentive for businesses to maintain standards in order to obtain a publicly acceptable rating.

Table 2 provides a breakdown of the number and percentage of businesses in Halton achieving each score.

**Table 2: Number and percentage of businesses achieving each score**

<b>Score</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>Total</b>
<b>Number of businesses</b>	334	234	162	47	39	6	822
<b>% of businesses</b>	40.6	28.5	19.7	5.7	4.8	0.7	100

Halton's rate of zero rated premises is consistent with the regional average.

### 3.8 Compliance levels across business types

Table 3 below provides a breakdown of compliance levels by food business sector by detailing the percentage of businesses achieving the top 3 (5,4,3) and bottom 3 scores (2,1,0).

**Table 3 Compliance levels across business types**

<b>Business Sector</b>	<b>% achieving top 3 scores</b>	<b>% achieving bottom 3 scores</b>
<b>Restaurant / café / canteen</b>	94	6
<b>Hotel / Guest House</b>	100	0
<b>Small retailer</b>	87	13
<b>Supermarket</b>	87	13
<b>Caring Premises</b>	99	1
<b>Other caterers</b>	98	2
<b>Pub / Club</b>	86	14
<b>Other retailers</b>	86	14
<b>Takeaways</b>	65	35
<b>Schools</b>	97	3
<b>Mobile food unit</b>	80	20
<b>Manufacturers</b>	100	0

As can be seen from the table the best performing premises are schools, caring premises and caterers – Restaurants, cafes and canteens also perform strongly.

However, whilst 65% of takeaways achieve the top 3 scores a significant proportion do not perform as well. Takeaways account for 9% of all rated food premises but represent a disproportionate 35% of the businesses achieving low scores. This figure is also identical to the regional average.

At the point of writing this report all 6 premises that score 0 are takeaways.

The food team intend to work with the compliant businesses to ensure they display their score and increase public awareness of the scheme to ensure those businesses that maintain high standards are recognised.

### 3.9 Factors that influence compliance

In order to understand why some premises perform poorly it is worthwhile considering

some of the factors that influence compliance

- Staff and management turnover

There is a large turnover of staff and management in the takeaway sector, particularly Kebab and Pizza shops. This makes it difficult to establish a long term working relationship with a proprietor. This is probably due to the strong competition amongst businesses.

- Competition

Halton has 94 takeaway food premises, this includes Chinese, Indian, fish and chip, pizza/ kebab and sandwich bars.

Of this 94, 20 are kebab and pizza premises. 10 are located in Widnes town centre and 8 are concentrated in a relatively small area of Runcorn Old Town. This concentration increases the negative effects of over competition.

In March 2012 Halton adopted a supplementary planning document (SPD) which seeks to prevent the over proliferation of takeaways in existing town and local centres and prevent new takeaways opening near schools and play areas. This new policy should help to maintain the number of takeaways at a sustainable level.

- Business Ownership

The food team occasionally experience difficulty establishing who owns or controls a food business. Officers need to know the identity of the food business operator in order to serve improvement notices and take prosecutions. The team liaise closely with other council departments such as business rates and other partner agencies such as the police to help establish business ownership.

- Tenure of premises

Many takeaway food premises are rented on a short term lease. Therefore proprietors are reluctant to invest in the premises in case the tenancy is not renewed. This makes it difficult for officers to secure long term improvements in premises. Officers can only serve legal improvement notices on the owner of the business not on the owner of the building.

- Suitability of premises

Once a premises has been granted Planning Permission for use as a hot food takeaway this consent remains in place irrespective of the type of catering operation carried out. This is a feature of the planning system nationally. Halton has a number of takeaways in small terrace shops that would historically have been traditional fish and chip fryers. This is a relatively simple and safe catering operation. However over time these premises have evolved to offer a more comprehensive menu. This involves a considerable amount of high risk food handling in a relatively small space which significantly increases the risk of cross contamination. This makes it very difficult for these smaller premises to become fully compliant.

- Training and language

In some cases the management and staff of takeaway food premises do not come into the industry from a catering background and therefore do not have any formal training in catering or food hygiene. Consequently the food team have to provide food businesses with comprehensive advice and guidance to ensure they handle food safely. However in some cases the business owner's first language is not English. The food team do provide businesses with a range of materials in alternative languages however the language barrier can make it difficult for officers to communicate food safety information that may help a proprietor to improve their business and achieve a higher score.

### **3.10 Action at poorly performing establishments**

It is often questioned why premises that receive a low score are allowed to stay open.

The authority can only close down a food business using an Emergency Prohibition Notice - if we can demonstrate to a court that there was an "imminent risk of injury to health". Although this gives officers the power to close premises on the spot – this action must be confirmed by court order within 3 days of the closure. With respect to premises with a zero rating, officers may request the proprietor to voluntarily close the premises until the immediate health risk has been removed. Therefore whilst premises with a score of Zero or 1 are allowed to stay open the officers' assessment is that the premises do not pose an imminent risk to health. However officers will be taking action and monitoring the premises to ensure standards do not deteriorate to the point where public health is compromised. Officers will also provide comprehensive advice and guidance to the business to help them improve standards.

The following are examples of the action previously taken in relation to Zero rated businesses

- Simple caution
- Emergency closure
- Voluntary closure
- Improvement notice
- Written warning with comprehensive advice and guidance.

It is also not uncommon for the management or ownership to change at premises that achieve a low score.

It is important to emphasise that although a business may have made some improvements the low score achieved at the original inspection will stand unless the business appeals or requests a revisit.

### **3.11 Action to improve compliance levels**

The food team actively target the worst performing premises.

In total the team conducted 1,203 visits to all food premises in the borough. Of this

number 327 visits were made to takeaways. Takeaways account for 9% of all food premises in the borough but 27% of all visits.

The current 6 premises that rated zero received a total of 47 visits between them over a 12 month period.

The team work with other agencies to address areas of mutual concern, including the Borders Agency, Police and Fire Service. The team have also worked with a local Chinese language interpreter to provide hygiene advice to Chinese food businesses.

The food team believe it would be difficult to improve compliance significantly more than current levels due to many of the factors described in section 3.9 above. 89% of food premises are compliant with the law and less than 1% achieve the lowest score of zero. The fact these performance figures are consistent with the North West average suggests that the challenges to securing full compliance are shared by other authorities.

#### **4.0 POLICY IMPLICATIONS**

4.1 There are not considered to be any significant policy implications associated with this report. The existing enforcement regime is considered to be performing well and is maintaining compliance at a high level.

#### **5.0 OTHER/FINANCIAL IMPLICATIONS**

5.1 There are not considered to be any other implications associated with this report

#### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

##### **6.1 Children & Young People in Halton**

Schools, nurseries and child-minders are included in the food inspection programme.

##### **6.2 Employment, Learning & Skills in Halton**

The advice and guidance provided by the team helps to maintain compliant and sustainable businesses.

##### **6.3 A Healthy Halton**

The overall objective of the service is to protect public health by reducing the incidence of food borne disease.

##### **6.4 A Safer Halton**

The overall objective of the service is to protect public health by reducing the incidence of food borne disease.

##### **6.5 Halton's Urban Renewal**



The food inspection programme contributes to the maintenance of town and neighbourhood centres by addressing matters such as refuse disposal, pests and drainage.

## **7.0 RISK ANALYSIS**

7.1 There are not considered to be any significant risks associated with the matters in this report.

## **8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 A significant proportion of food business proprietors are from ethnic minorities. Officer consistency training and on-going professional development ensure that the regulations are applied in a consistent manner to all businesses. Where necessary to protect public health or to ensure fairness in legal proceedings materials will be translated into an alternative language. The Food Standards Agency produce a number of free resources in alternative languages.

## **9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

The are no papers within the meaning of the Act.