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# **A Report for Senedd Cymru**

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**The Food Hygiene Rating Scheme:**

**Review of the Implementation and  
Operation of the Statutory Food Hygiene  
Rating Scheme and Operation of the  
Appeals System in Wales**

**February 2024**

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# 1. Executive summary

- 1.1. [The Food Hygiene Rating \(Wales\) Act 2013](#) (the Act) places a duty on the Food Standards Agency (FSA) to conduct a review of the implementation and operation of the statutory Food Hygiene Rating Scheme (FHRS) at the end of the first year that the FHRS commenced, and each subsequent period of three years. The FSA is also required to review the operation of the appeals system annually. These review reports must be laid before Senedd Cymru and a copy sent to the Welsh Ministers.
- 1.2. This three-year review of the implementation and operation of the statutory FHRS has been prepared to meet the requirements of the Act. It covers the period from 28 November 2020 to 27 November 2023, and a further annual review of the operation of the appeals system to cover the period from 28 November 2022 to 27 November 2023.
- 1.3. This report presents an overview of the activity of the FSA and the Welsh Ministers and how local authorities (LAs) have discharged their responsibilities. The report also provides information on engagement with consumers and food businesses.
- 1.4. Food businesses with a rating of '5' (Very Good) currently make up 72.4% of all rated food businesses in Wales as of November 2023. Compliant food businesses in Wales, that's those with a rating of '3' (Generally Satisfactory), '4' (Good) or '5' (Very Good), account for 96.7% of all rated food businesses.
- 1.5. As this report covers the last three years, the COVID-19 pandemic has, during this period, continued to have an impact on the delivery of local authority (LA) routine inspection programmes and the operation of the FHRS. Prior to the pandemic, LAs were expected to undertake all official food controls prescribed in legislation and in line with the [Food Law Code of Practice \(Wales\)](#) (The Code),

however during the pandemic, LA resources were diverted from Food Teams to support the COVID-19 response and other non-food related duties.

- 1.6. The FSA [Recovery Plan](#) (the Plan) was published on 16 June 2021 and covered the period from 1 July 2021 to 31 March 2023. The Plan set out the advice and guidance of the FSA for re-starting the delivery of programmed inspections in line with the Code. The period of time that LAs were responding to the pandemic and realigning with the Code has undoubtedly had an impact on the routine operation of the FHRS.
- 1.7. In line with the advice and guidance in the Plan, LAs have been working to realign with the intervention frequencies and other provisions set out in the Code, despite the many challenges faced during the recovery period including resource pressures.
- 1.8. In February 2023, LAs were advised that the Plan would come to an end on 31 March 2023, and they should be realigning their services with the Code. The plan came to an end due to the positive work undertaken by LAs and the milestones set being met to bring interventions at the highest/non-compliant risk businesses back on track, with significant progress made towards returning to the normal inspection frequencies for lower risk businesses.
- 1.9. As detailed later in the report, a reduced number of inspections were delivered during the period of this report, in particular between 28 November 2020 and 27 November 2021 as a direct result of the pandemic.
- 1.10. The review of the operation of the appeals system has found that, between 28 November 2022 and 27 November 2023, LAs in Wales were largely operating the FHRS in accordance with the Act and statutory guidance. Four of the 75 appeals received were determined outside the 21-day period. Appeals against ratings account for less than 1% of the 8,312 businesses rated as '0' to '4' as of November 2023. Of the 75 appeals that were received, 59 (79%) resulted in no change to the

ratings and 16 (21%) resulted in changes to food hygiene ratings. Of the ratings that changed, one reduced whilst the other 15 businesses received a higher rating.

1.11. Whilst the review found that the number of appeals has remained consistent over the last two years, there have been less appeals received during the three-year period of this report in comparison to those received between 28 November 2017 to 27 November 2020 that informed the report laid in 2021. For the previous three-year period, 224 appeals were received in comparison to the 176 received between the 28 November 2020 to 27 November 2023. This is presumably due to a reduction in the numbers of ratings issued and in turn the numbers of appeals received in relation to those ratings awarded. The pandemic has also restricted the ability to gather full data, from November 2020 to November 2021, full data was not requested from LAs which would have been used to inform the findings of this report.

1.12. Prior to the pandemic, there were 100 appeals in the report for 2018, 94 in the 2019 report and 98 in the report for 2020. Since the pandemic there has been 32 appeals in the report for 2021, 26 in the report for 2022, 75 in the report for 2023 and also 75 for this year's report for 2024.

1.13. The FHRS in Wales continues to have a positive impact with the number of food businesses achieving the highest rating increasing by nearly three percentage points from 69.5% to 72.4% compared to November 2020. Awareness of the FHRS is important to drive compliance with food hygiene standards and [research published in 2023](#) found that more than nine in ten (92%) consumers in Wales had heard of the FHRS, with 91% recognising the green and black stickers.

## 2. Introduction

- 2.1. In November 2013, a statutory Food Hygiene Rating Scheme (FHRS) for Wales was introduced under the Food Hygiene Rating (Wales) Act 2013. This built on a non-statutory FHRS that was launched in Wales in October 2010.
- 2.2. The purpose of the FHRS is to allow consumers to make informed decisions about the places they eat out or shop for food, and, through these decisions, encourage businesses to improve their hygiene standards. It does this by providing consumers with information (in the form of a food hygiene rating) (Figure 1) about hygiene standards found in a food business when they are inspected to check compliance with food hygiene legislation. This information is based on an assessment of three component scores concerning hygiene practices, structure and confidence in management. The food hygiene rating given reflects the inspection findings and how well the business is complying with food hygiene legislation.

**Figure 1 - Food Hygiene Rating stickers**



2.3. The Act places a duty on LAs to implement the FHRS and requires food businesses supplying food to the final consumer to display their food hygiene ratings. In November 2014, the scope of the FHRS was extended to include food establishments only involved in business-to-business trade. The FHRS also requires establishments that supply takeaway food direct to consumers to publish a bilingual statement on certain hardcopy publicity materials directing customers to the food hygiene ratings website and also places an obligation on food business operators (FBOs) to provide verbal information on the businesses' food hygiene rating if requested. LAs are required to inspect food businesses in their area and produce food hygiene ratings, using [criteria published by the FSA](#). The food business is then provided with a sticker (or stickers) showing their food hygiene rating which they are required to display in a conspicuous place where it can be easily read by consumers before they enter the establishment.

2.4. The Act also provides FBOs with [safeguards](#) to ensure the FHRS is fair to businesses. These include the right to appeal their food hygiene rating if it is considered unjust; the right to reply which is published alongside the food hygiene rating on the [FSA website](#); and the ability to request a re-rating inspection if improvements have been made to the hygiene standards. Under the Act, responsibility for determining appeals lies with the LA that issued the food hygiene rating. However, the Act makes provision for the Welsh Ministers to make regulations enabling appeals to be determined by a person other than the LA.

2.5. The Act places a duty on the FSA to review the implementation and operation of the FHRS one year after its implementation, and each subsequent three years. There is also a duty on the FSA to review the operation of the appeals system annually. Since February 2015, reports have been laid before Senedd Cymru with a copy sent to the Welsh Ministers. The reports are then published on [Senedd Cymru's](#) website.



- 2.6. This report is the fourth review report of the implementation and operation of the statutory FHRS and operation of the appeals system in Wales. Previous reports have been published in February [2015](#), [2018](#), and [2021](#).
- 2.7. Subsequent annual reports on the operation of the appeals system have been published in February each year and include information provided by each of the 22 LAs in Wales.
- 2.8. This report has been prepared to meet the requirements of the Act and provides an update on the implementation and operation of the FHRS, operation of the appeals system and provides an update on the action taken to address the recommendations from previous reports.

## 3. Background

- 3.1. The Act and the Food Hygiene Rating (Wales) Regulations 2013 set out the requirements of the FHRS. When the statutory FHRS was launched in November 2013, it applied to all establishments supplying food directly to consumers, provided they were not exempt by the 2013 Regulations.
- 3.2. In November 2014, the scope of the FHRS was extended to include food establishments involved in business-to-business trade, for example food manufacturers and food packers. In November 2016, the FHRS was further developed with the introduction of the [Food Hygiene Rating \(Promotion of Food Hygiene Rating\) \(Wales\) Regulations 2016](#) (the 2016 Regulations), which requires establishments that supply takeaway food direct to consumers to publish a bilingual statement on certain hardcopy publicity materials.
- 3.3. The FSA and Welsh Government in collaboration with LAs and other key stakeholders have produced [statutory guidance](#) for the FHRS. LAs must have regard for this when exercising their functions under the Act.
- 3.4. In 2016, Northern Ireland followed Wales in launching its own statutory FHRS which came into force on 7 October 2016. This made the implementation of the FHRS by district councils, and the display of food hygiene ratings by businesses mandatory.
- 3.5. In England, businesses do not have to display their rating at their premises but are encouraged to do so. The FSA's [Three-Year Corporate Plan 2023 – 2026](#) sets out an ambition to work toward primary legislation making display of food hygiene ratings mandatory in England. The timing of this work will depend on identifying a suitable route to make primary legislation and a suitable fit with government priorities.

3.6. There is a scheme with similar aims operating in Scotland – the Food Hygiene Information Scheme (FHIS). This is a LA and Food Standards Scotland (FSS) partnership initiative. This scheme covers more than 54,000 food establishments across all 32 LAs in Scotland. As in England, it is not required by law for businesses to display the rating they receive, however, businesses are asked to voluntarily display them in a prominent position on the premises which is clearly visible to customers.

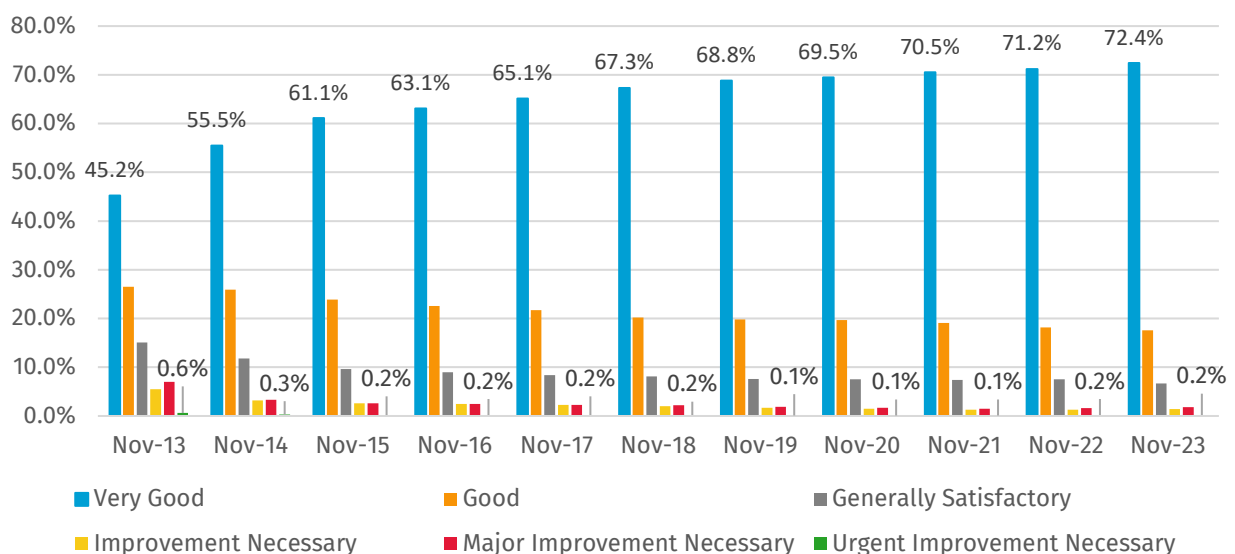
## 4. The Food Hygiene Rating Scheme

4.1. The purpose of the FHRs is to help consumers make an informed choice regarding where to eat out or shop for food, and, through those choices, encourage food businesses to improve their hygiene standards. It does this by giving clear information about a business's hygiene standards when they are inspected in the form of a rating from '0' (Urgent Improvement Necessary) to '5' (Very Good). In Wales, the FHRs is operated in partnership between, the FSA, LAs and the Welsh Ministers.

4.2. More detailed [information about the FHRs](#) can be found on the FSA's website.

4.3. Following the introduction of the statutory FHRs in November 2013, compliance in food businesses continues to improve. As of November 2023, of the 30,102 rated businesses in Wales, 29,099 (96.7%) received a rating of '3' (Generally Satisfactory) or above. Food businesses obtaining the highest rating of '5' (Very Good) stood at 21,790 (72.4%) whilst only 48 (0.2%) businesses received the lowest rating of '0' (Urgent Improvement Necessary). Figure 2 below illustrates this continued improvement in the distribution of ratings in Wales.

**Figure 2. Food Hygiene Ratings in Wales (2013-2023)**



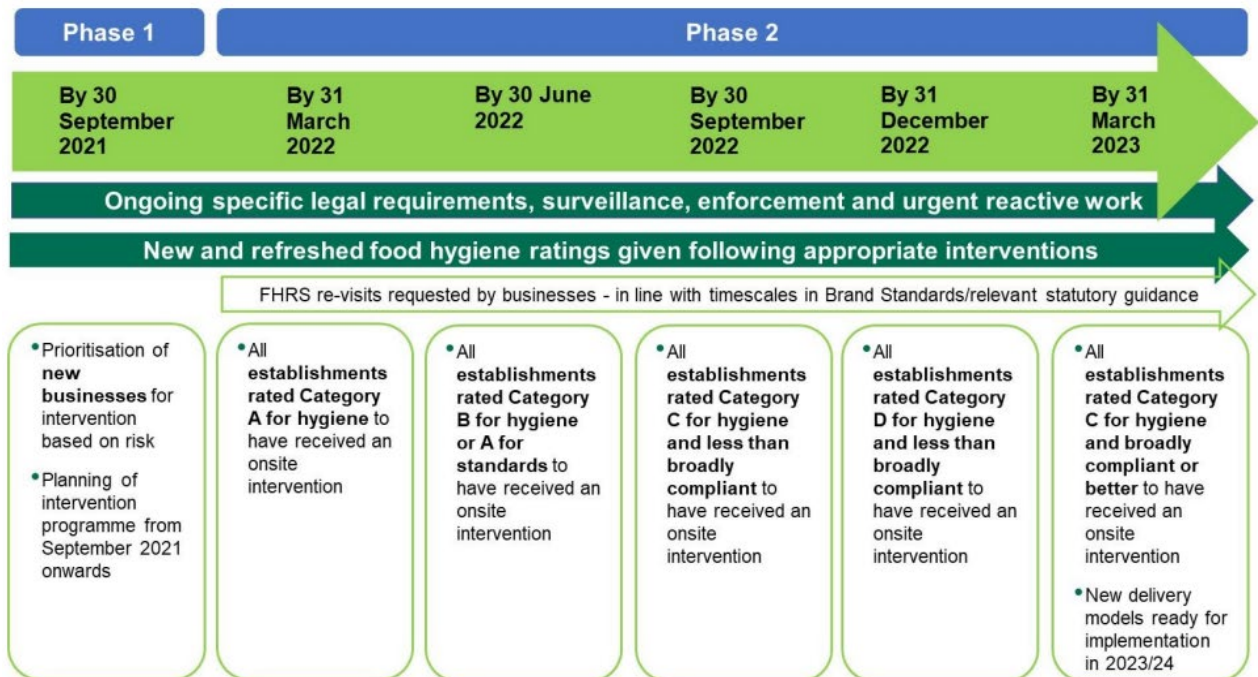
## 5. Impact of COVID-19 on the FHRS and the Local Authority Recovery Plan

- 5.1. Throughout the COVID-19 pandemic the FSA adjusted its expectations of LAs due to the challenges they faced in delivering their statutory food functions whilst having to prioritise protecting communities from COVID-19. This enabled LAs to target resources where there was highest risk and/or non-compliant establishments while deferring planned interventions, particularly for lower-risk establishments. As the FHRS is underpinned by LA planned intervention programmes, this has clearly had an impact on the routine operation of the FHRS.
- 5.2. In May 2021, the FSA Board agreed the Plan setting out FSA advice and guidance to LAs for the period from 1 July 2021 to 31 March 2023. This aimed to ensure that during the period of recovery, LA resources were targeted where they added the greatest value in providing safeguards for public health and consumer protection in relation to food. A key objective of the plan was to enable more routine operation of the FHRS and to safeguard its credibility.
- 5.3. The Plan recognised that LAs were starting from different positions in terms of the impact that COVID-19 has had, the challenges they would face during the recovery period and the resources that they had available. It made clear that LAs should, where they could, move at a faster pace in realigning with the intervention frequencies and other provisions set out in the Code.
- 5.4. Between April and July 2022, the FSA audit teams delivered a [programme of assessments](#) of LA performance against the requirements of the Plan. A representative group of LAs were given assurance checks, which were undertaken both remotely and in person. Some of the key findings were that:
- LAs within Wales were heavily affected by having key staff members seconded to the COVID-19 response and the fact that COVID-19 restrictions that were kept in place for longer than other parts of the UK

- during the pandemic, LAs demonstrated some excellent examples of collaborative working with other council teams and external public health teams, enforcement agencies and emergency services. This enabled them to share intelligence on local food businesses which was used to plan interventions
- LAs were able to demonstrate good progress implementing Phase 1 of the Plan prioritising new food businesses for a first inspection and planning their intervention programme taking a risk-based approach
- LAs ensured that the FHRS continued to be delivered in accordance with the Plan.

5.5. In February 2023, advice was provided to LAs that the Plan would end on 31 March 2023. This was due to the positive work undertaken by LAs and the milestones set (Figure 3) in the Plan being broadly met to bring interventions at the highest risk businesses back on track, with progress made towards returning to the normal inspection frequencies for lower risk businesses.

**Figure 3 – Recovery Plan milestones**

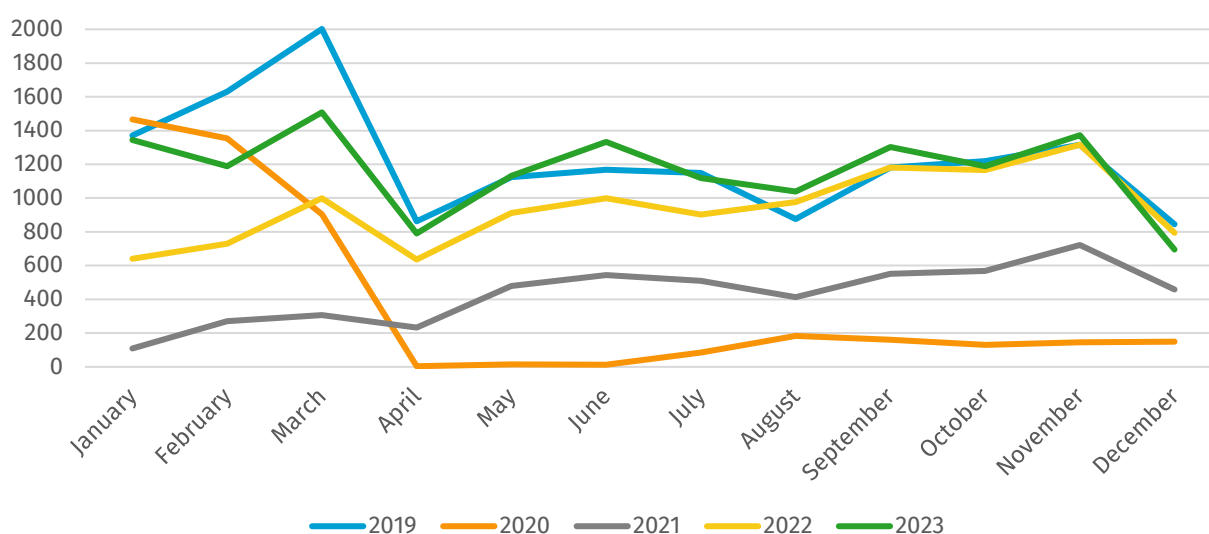


**Please note** - Figure 3 shows the two phases of the Recovery Plan, with phase 1 being complete by 30 September 2021 and phase 2 complete by 31 March 2023. Throughout the recovery plan ongoing specific legal requirements, surveillance, enforcement and urgent reactive work took place and new and refreshed food hygiene ratings were given following

appropriate interventions. Phase 1 involved the prioritisation of new businesses based on risk, and planning for phase 2 of the programme. Phase 2 involved a phased approach to interventions based on business risk categories.

5.6. As the FHRS is underpinned by LA inspection programmes, impacts to inspections during the pandemic had an impact on the FHRS. Figure 4 below illustrates the number of establishments rated in Wales on a monthly basis over the last five years.

**Figure 4 - Number of businesses rated in Wales**

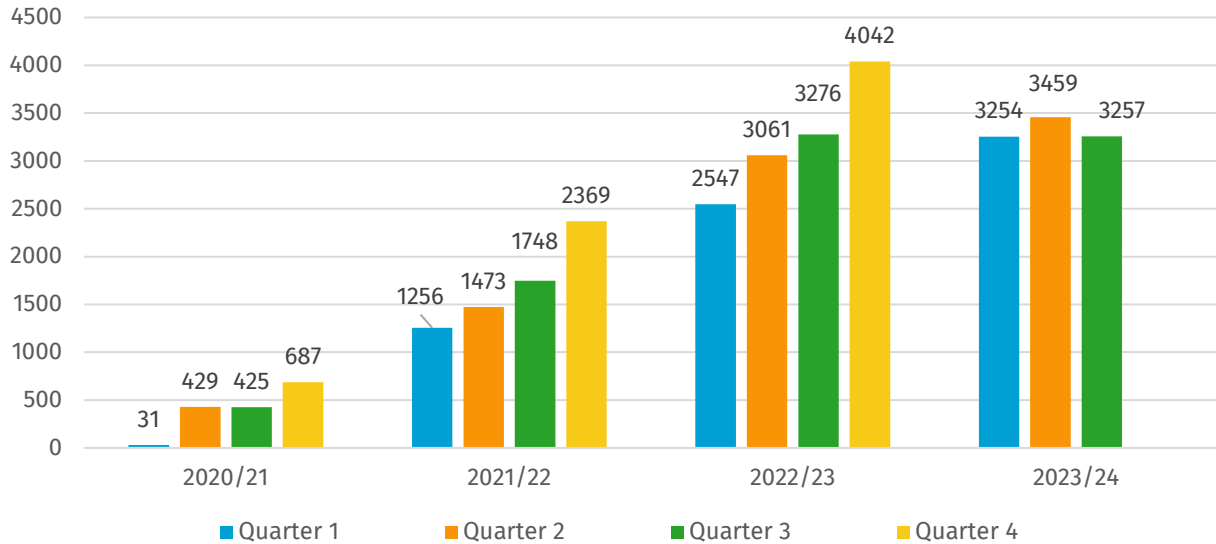


5.7. These figures show an increase in the numbers of businesses being rated to November 2023 and reflect the impact COVID-19 placed on LA resources throughout 2020 and 2021. Many businesses were closed for significant periods and others decided not to open. This affected not only LAs ability to deliver interventions at food businesses but also to carry out the administrative functions that support the publication of ratings on the FHRS website. The numbers of ratings issued gradually increased as LAs implemented the Plan and referred back to the requirements of the Code from 1 April 2023.

5.8. As illustrated in Figure 5, the number of establishments rated each month by LAs in Wales reduced significantly during 2020/21 and 2021/22 as they implemented the Plan. As the Plan has now ended, LAs are starting to meet the timescales stipulated in the Code for high and medium risk establishments and are

realigning with intervention frequencies for all other risk categories outlined in the Code.

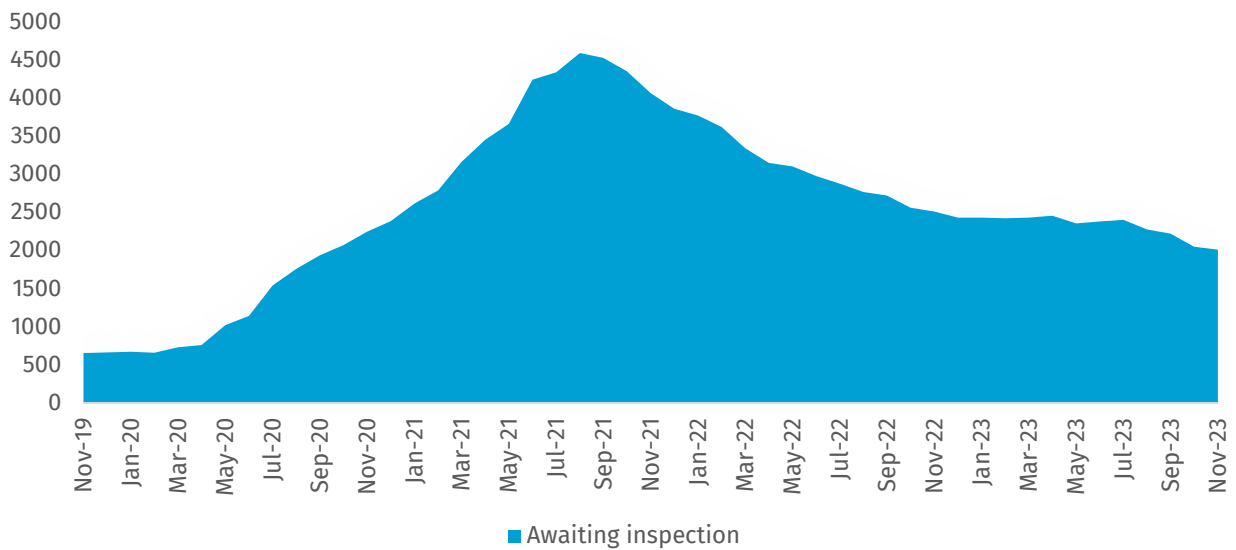
**Figure 5 - Number of establishments rated each quarter**



5.9. During the pandemic there was a sharp increase in the number of businesses published as ‘awaiting inspection’ with many new businesses awaiting their first inspection. This number fell gradually as the Plan was implemented and interventions were being carried out by LAs. Figure 6 below provides an illustration of the number of businesses published as ‘awaiting inspection’ from November 2019 through to November 2023.



**Figure 6 - Number of businesses awaiting inspection**



5.10. Figure 6 shows that prior to the pandemic there were 662 food businesses awaiting inspection in February 2020, this reached a height of 4,596 in August 2021. As of November 2023, there are currently 2,013 food businesses awaiting inspection.

5.11. In accordance with the Plan, LAs have been inspecting new food business establishments and prioritising those inspections based on risk. Many of the businesses that are currently awaiting inspection may be considered low risk based on their activities or may be exempt<sup>1</sup> from being rated under the Act. The number of businesses published as 'awaiting inspection' has started to reduce as inspections by LAs increase.

<sup>1</sup> <https://www.legislation.gov.uk/wsi/2013/2903/regulation/5/made>

## **6. Review of the delivery of the functions of the Welsh Ministers and the FSA**

6.1. This section reports on the review of the delivery of the functions of the Welsh Ministers and the FSA, as it relates to their powers and functions set out in the Act, during the three-year period from 28 November 2020 to 27 November 2023.

### **Review of the statutory guidance**

6.2. Under section 23 of the Act, the Welsh Ministers may issue guidance to the FSA and to the food authority in relation to the exercise of their functions under the Act. During the period of this report, publication of the revised statutory guidance for Wales was stalled as a result of the pandemic.

6.3. In reviewing the guidance, the FSA have been looking for opportunities to future proof and remove any duplication. This will ensure that the document remains current and will not need to be updated every time changes are made to the Code. As the Code requires periodic revision to ensure it reflects current enforcement practices and supports the delivery of food law enforcement services, any revisions are subject to consultation prior to being agreed and issued by the Welsh Ministers, therefore this will ensure that any impacts to the FHRS will always be considered.

6.4. During 2023, the FSA had intended to publish the updated statutory guidance for authorised officers who implement the FHRS. In discussion with Welsh Government, it was deemed appropriate that a full review of the statutory guidance should be conducted on behalf of the Welsh Ministers.

6.5. In collaboration with LAs and Welsh Government, the FSA intends to fully review and amend the statutory guidance. The FSA intends to set up a working group of LA representatives to review the guidance to ensure that it can assist authorised officers in successfully implementing the Act and associated Regulations.

## **Recommendation 1:**

That the FSA undertakes a review with LAs and Welsh Government of the statutory guidance. As part of this review that the FSA establishes a working group of LA representatives to review the guidance to ensure that it can assist authorised officers in successfully implementing the Act and associated Regulations.

## **Implementation of the FHRS**

6.6. The FSA continues to comply with the requirements set out in section 6 of the Act regarding the notification and publication of food hygiene ratings. Ratings of food businesses have been published on the FSA's website within seven days of being informed by the LA throughout the period of this report. To support the effective implementation of the FHRS, the FSA has also made food hygiene rating stickers readily available to LAs without charge as required by section 14 (1)(h) of the Act.

## **Right to reply**

6.7. The right to reply allows the FBO to tell consumers the actions that have been taken following the inspection and how they have improved their hygiene standards or if there were unusual circumstances at the time of inspection.

6.8. Under section 11(3) of the Act, a food authority must forward any such comments to the FSA who may publish the comments on their website with the food hygiene rating to which the comments relate.

6.9. The FBO may submit their right to reply comments at any time while the rating is valid, whether or not an appeal has been made. The comments will remain on the website until a new food hygiene rating is given.

6.10. There were 3 right to reply comments published between 28 November 2020 to 27 November 2021, 5 between 28 November 2021 to 27 November 2022 and 23 between 28 November 2022 to 27 November 2023. This equates to 31 right to reply comments published compared to the 48 reported for the preceding three-year period between 2017 – 2020.

6.11. Due to the deferral of inspections by LAs over the period of this report, there has been a reduction in the number of food hygiene ratings that have changed. For those businesses whose ratings have changed, it's possible that their focus may have been on a range of other factors relating to the pandemic, rather than submitting a right to reply.

### **Food Law Code of Practice (Wales)**

6.12. The Code is issued under section 40(1) of the Food Safety Act 1990, Regulation 6(1) of The Official Feed and Food Controls (Wales) Regulations 2009 and Regulation 24(1) of The Food Hygiene (Wales) Regulations 2006, which empower the Welsh Ministers to issue Codes of Practice concerning the execution and enforcement of that legislation by LAs.

6.13. The Code provides direction to LAs responsible for the delivery of official food controls and LAs have a statutory duty to enforce the requirements of food law, having due regard to relevant provisions of the Code.

6.14. LAs must have regard to the [Food Hygiene Scoring System](#) specified in Annex 1 of the Code when preparing and reviewing its programme for inspecting food businesses for rating purposes. The Welsh Ministers have approved Annex 1 which has been published by the FSA, under section 14(1) (b) of the Act.

6.15. Since the last review report that was published in February 2021, a review of the Code has been conducted. A formal 14-week [consultation](#) was issued on 18 December 2020, seeking stakeholders' views on proposals to amend the Code and Food Law Practice Guidance (the Practice Guidance), in Wales, and

implement the FSA Knowledge and skills for the effective delivery of official food and feed controls and other activities (Competency Framework).

6.16. The key changes in this revision of the Code were to support LAs to be able to recruit, train and deploy additional officers so that they could deal with the increase in their workload to undertake additional requirements as the UK left the EU. The revisions were also to help address reductions in resources resulting from redeployment of staff and staff absences during the pandemic. Whilst no changes were made to the Food Hygiene Scoring System, views were also sought on other changes that were proposed to ensure the Code reflected priorities, policy, and legislative requirements.

6.17. The [new documents](#) were published on the 29 July 2021 and replaced the previous Code and Practice Guidance issued in 2018 and 2012 retrospectively.

### **Reviewing the implementation and operation of the FHRS and operation of the appeals system**

6.18. The third review of the implementation and operation of the FHRS, published in [February 2021](#), concluded that LAs remain highly committed to delivering the FHRS and play a significant role in ensuring it remains credible, current and equitable for all food businesses in Wales. In the main, prior to March 2020, LAs were delivering the FHRS in accordance with legal requirements and guidance.

6.19. The last three-year review in 2021 found that the Welsh Ministers and the FSA continue to support the effective and consistent operation of the FHRS in Wales and fulfil their functions as set out in the legislation. Seven recommendations about the ongoing implementation and operation of the FHRS in Wales were identified in this review.

6.20. The FSA has carried out annual reviews of the operation of the appeals system in Wales which were published in February 2022 and February 2023. The reports confirm that, in the majority of cases, LAs are operating the appeals provisions in

accordance with their statutory obligations and outline the actions taken by the FSA. The rate of appeals against ratings remains low, averaging 0.6% (0.3% in 2022 and 0.85% in 2023) between the two years. On average 22% (31% in 2022 and 13% in 2023) of the appeals received by LAs resulted in changes to food hygiene ratings. There were ten recommendations arising from these two reviews.

6.21. All reports were completed within the timescales set out in the Act, laid before the Senedd and copies provided to the Welsh Ministers.

6.22. All the recommendations arising from the reviews are detailed in [Annex 1](#) together with the action that has been taken to address them.

## Promotion of the FHRS

6.23. During the period of this report, the FSA has developed several FHRS focused multichannel campaigns aimed at both consumer and business audiences. The consumer-focused campaigns were mainly social media campaigns using paid posts and free content shared on social media platforms. The campaigns were focused on calendar hooks to help amplify the messaging of checking a rating before eating out or buying food. The consumer-focused campaigns included:

- Promotion of the FHRS around Valentines Day, including eating out and takeaways between January and February
- The FHRS in lesser-known places, including pop-up markets, cinemas, supermarkets during May and June
- Booking Christmas parties and checking the rating during December

6.24. The FSA ran one business focused campaign during the period of this report. Other planned campaigns were postponed during this period due to the impact of the pandemic on both food businesses and LAs. The business focused campaign called Here to Help was launched in May 2023. The campaign focused on the development of a new [Business Guidance Hub](#), streamlining the user

journey to find the most popular guidance and advice for food businesses on one webpage. Case study blogs were used to demonstrate how the FSA and LAs are here to help businesses to do the right thing, with a focus on the benefits of good hygiene ratings. The FSA developed case studies featuring two Welsh businesses and one Welsh Environmental Health Officer (EHO) which were posted to the [FSA blog](#) and amplified on social media. These blogs had over 800 views and 630 unique visitors.

6.25. For every FHRS focused campaign, the FSA develops communications toolkits to enable LAs to share content through their own channels. Messaging regarding the FHRS is also included in other campaigns and media activity as a secondary message, emphasising the importance of consumers checking the ratings. The FHRS has been mentioned during interviews with Bore Cothi and Prynawn Da focused on general consumer food safety. It was also a feature of an in-depth interview with *Y Byd ar Bedwar* during a programme investigating a food business for selling meat past its use-by date.

6.26. The FSA participates in various events every year, including the Royal Welsh Show and the National Eisteddfod, which are some of the most high-profile events in Wales. The main goal of attending these events is to raise public awareness of the FSA and to allow staff to interact with key stakeholders and the general public. The FHRS is a crucial message that the FSA delivers at these events, explaining the origin and significance of the FHRS for both consumers and businesses. In 2022, FSA staff engaged with over 3,000 people over 12 days of summer events in a specially designed stand with a dedicated part of the stand focusing on the FHRS, allowing consumers and businesses to better understand the FHRS.

6.27. From 28 November 2020 to 4 July 2023<sup>2</sup>, there were around 400,000 visits to the ratings website from locations in Wales, with a total of 10.7million page views on

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<sup>2</sup> **Note:** The FSA are unable to provide statistics after 4 July. These statistics are from Google Universal Analytics which was switched off from 4 July 2023. Google Analytics 4 (GA4) was introduced in August, and we are missing nearly 2 months of data. GA4 data is not comparable to Universal Analytics data.

the site. Friday and Saturday evenings proved to be the most popular time for users to visit, corresponding with peak operating hours for food businesses. Over 80% of those using the website did so from a mobile phone.

6.28. Over 90% of visitors found the ratings website directly or were searching for the ratings site through a search engine. In Wales, nearly 23,000 visitors were referred to the ratings website from other websites. Just under 24% of these visitors arrived on the site from social media pages and 4.5% from local media. 32% of these referrals came from online aggregators (Deliveroo, Just Eat, Uber Eats).



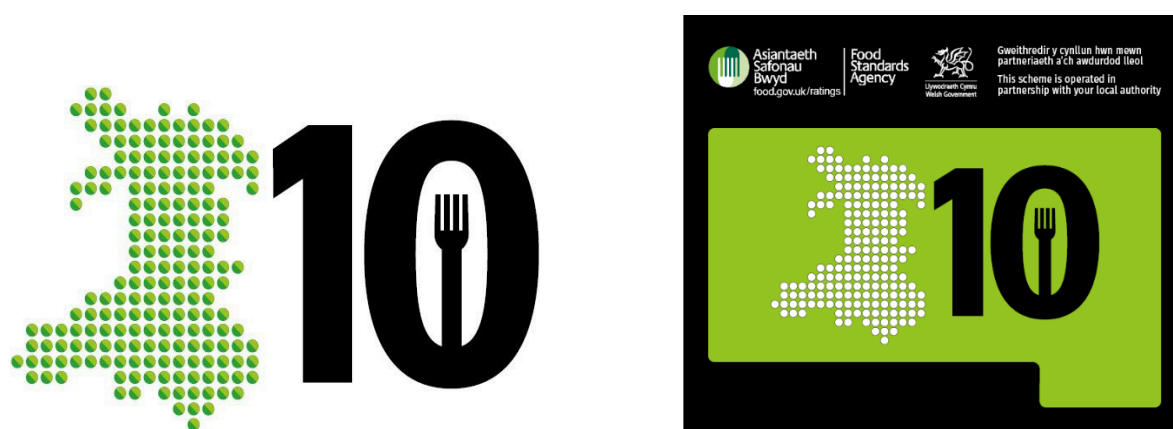
## 7. FHRS 10 year anniversary

- 7.1. The 28 November 2023 marked 10 years since the Senedd introduced the statutory FHRS for Wales under the Food Hygiene Rating (Wales) Act 2013.
- 7.2. The 10-year anniversary provided the Welsh Government, the FSA and LAs in Wales with the perfect opportunity to celebrate the FHRS. It allowed all partners to showcase the success of the FHRS and demonstrate how it has helped drive up compliance within the food industry over the last decade.
- 7.3. The FHRS has been a flagship area of work and demonstrates the collaboration between the Welsh Government, FSA and LAs. The anniversary campaign was an opportunity to celebrate this partnership working and the invaluable role that LAs have played in the operation of the FHRS.
- 7.4. The introduction of mandatory display in Wales has provided increased transparency to ratings for consumers, particularly for lower rated premises. Evidence from evaluation of the FHRS indicates that increased transparency empowers consumers which in turn incentivises businesses to improve and maintain compliance. As of November 2023, food businesses with a rating of '5' make up 72.4% of all rated food businesses in Wales. The number of compliant food businesses in Wales, account for 96.7% of all rated food businesses. Prior to the introduction of the statutory FHRS, in October 2013, 44.4% received a rating of '5', and the number of compliant businesses stood at 86.5%.
- 7.5. Over the last 10 years, the number of businesses receiving the lowest ratings of '0', '1' and '2' has reduced significantly since the introduction of the statutory FHRS. In October 2013, this stood at 13.4% of the 22,277 rated establishments. As of November 2023, 3.4% of the 30,102 rated food businesses received the lowest ratings. Despite there being an additional 7,825 rated establishments in Wales over the last 10 years, this demonstrates that food businesses are striving to get a higher rating of '3' or above.

7.6. To mark the anniversary, in collaboration with the All-Wales FHRS Steering Group, the FSA established a small Focus Group of LA representatives to provide input into the development of a communications plan to celebrate the FHRS 10-year anniversary. This was to ensure all those involved in the success of the FHRS over the last decade had the opportunity to help shape the campaign right from the very start.

7.7. The communications campaign was launched on 27 November 2023 along with a customisable [toolkit](#) that contained unique materials (Figure 7) agreed by the Focus Group for use across the campaign on all assets. This set of visuals could be used for assets to be developed and created recognition of the campaign whether it was seen on LA, Welsh Government or FSA channels.

**Figure 7 – Campaign materials**



7.8. As part of the campaign, the toolkit included suggested social media messaging and assets, press release templates, a news story with space for LAs to add quotes and statistics, campaign materials, key messages and achievements for LAs to share and also details of how the FSA could support LAs to develop local case studies. During the campaign, 46% of LAs in Wales posted the news on their own website news pages and there were an additional five pieces of media coverage from the press releases which were distributed by LAs.

7.9. The FSA worked alongside food businesses based in [Holyhead](#) and [Cardiff](#) as part of the campaign. These businesses have used the FHRS to give their company a competitive advantage and case studies were developed. In addition to this, the FSA also worked with an EHO from a LA in Wales to share their perspective of implementing the statutory FHRS and published a blog titled [debunking the myths of food hygiene rating inspections](#).

7.10. To celebrate 10 years of the FHRS, a celebratory event was held at the Senedd on 29 November 2023, alongside the launch of the FSA's annual report on Food Standards. The event was well attended by LAs, the Welsh Government, FSA, [Welsh Food Advisory Committee](#) (WFAC) members, Welsh Local Government Association (WLGA) and various other stakeholders.

7.11. A joint [press release](#) was also issued to mark the occasion by the Deputy Minister for Mental Health and Wellbeing Lynne Neagle, and Chair of the FSA, Professor Susan Jebb, who welcomed the significant improvement in hygiene ratings for Welsh food businesses on the tenth anniversary of mandatory display of food hygiene ratings.

7.12. The FSA posted 56 times about the FHRS 10 campaign and 17 times about the Senedd event, a total of 73 posts. The busiest day for posts was the day that the campaign and [news article](#) launched. Throughout the campaign, posts on X (Twitter) pages, Facebook, LinkedIn and Instagram accounts received 46,600 organic impressions and 862 post engagements.

## 8. Review of Local Authority functions

8.1. The FHRS relies on LAs carrying out food hygiene inspections using a risk-based approach to assess business compliance with the legislation to generate ratings in line with the Code. LAs are responsible for enforcing compliance with food hygiene legislation for food businesses within scope of the FHRS.

8.2. The FSA has statutory duties under the Food Standards Act 1999, and in accordance with the requirements of Assimilated Regulation (EU) No 2017/625 (OCR) on official controls, to monitor and report on LA performance.

8.3. In accordance with the Act, the matters to which LAs must have regard when preparing and reviewing their inspection programmes, are detailed in the Act as follows:

*2. (1) A food authority must prepare, and keep under review, a programme which sets out –*

*(a) whether a food business establishment in its area must be inspected, and, (b) if an inspection is required, the frequency of inspections.*

*(2) A food authority must inspect food business establishments in its area in accordance with the programme.*

*(3) When preparing and reviewing the programme a food authority must have regard to matters specified by the FSA and approved by the Welsh Ministers*

8.4. In exercising its function of monitoring LA performance, the FSA collects data on enforcement activity at food businesses. This data includes details of the number of programmed food hygiene inspections and other types of interventions undertaken at food businesses. However, it should be noted that enforcement data is collated for the year from April to March, compared to the reporting period of 28 November – 27 November for this report.

8.5. Until 2019/20, annual LA food law enforcement data was collected electronically via the Local Authority Enforcement Monitoring System (LAEMS). During the pandemic, data was collected quarterly using an online survey platform to monitor progress of LAs against the Plan. This was because LAEMS could not be reconfigured to capture the required data. The first post LAEMS data collection took place in October 2021, with an end-of-year data collection in April 2022. Further checks for monitoring the delivery of official controls have since been conducted twice yearly in October and April. This will continue until a new system for data collection is introduced.

8.6. This change was communicated to LAs in September 2021 and an update was provided through the Directors of Public Protection Wales (DPPW) Strategic Lead for Food, the Chairs of the Food Standards & Labelling Group, and the Food Safety Expert Panel. A further update was provided to LAs in June 2023 regarding the frequency of surveys to obtain data to monitor the delivery of Official Controls.

8.7. The FSA is currently looking to replace LAEMS and develop a new monitoring system. A new system is being developed because it was deemed that data collected by the LAEMS system was limited and no longer fully met the needs of the FSA. A review of the process highlighted that data collected was:

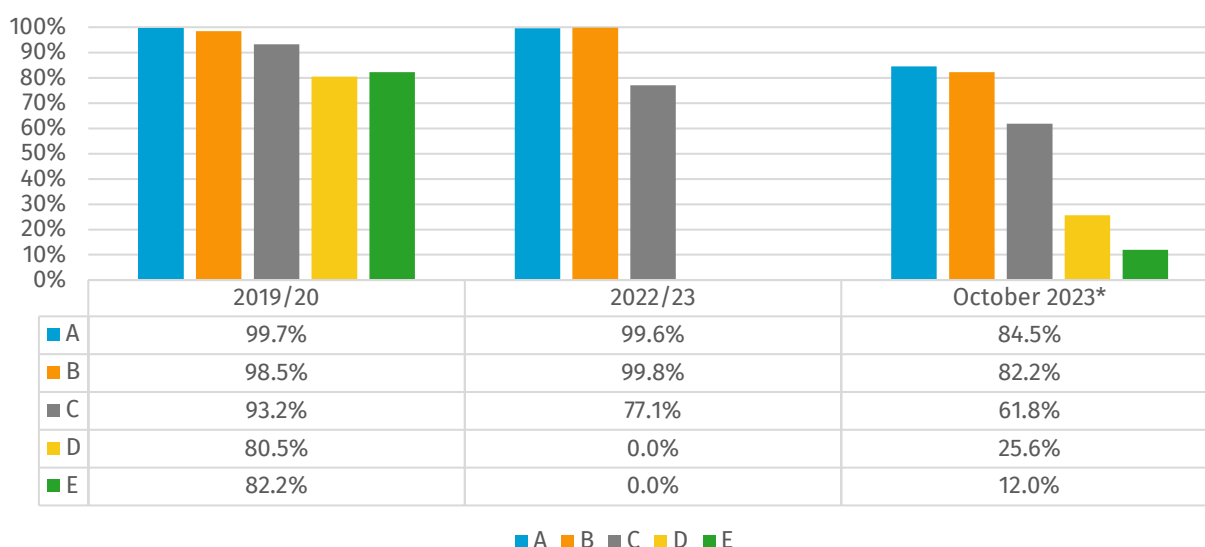
- focused on outputs, as opposed to outcomes achieved
- out of date by the time of analysis as it was provided by LAs on an annual basis
- limited with respect to monitoring of compliance levels of businesses in order to provide a true picture
- not balanced to enable a holistic account of reactive work undertaken by LAs, for example, dealing with major food poisoning outbreaks, incidents and complex investigations and prosecutions

8.8. The LAEMS system could not be easily reconfigured with the technology it used becoming increasingly out of date, and no longer supported.

8.9. By the end of the recovery period, all LAs were expected to realign with the Code for interventions at high and medium risk establishments for food hygiene, detailed in Figure 6. Since then, LAs have been advised to realign with the intervention frequencies in the Code for all risk categories.

8.10. Figure 8 below shows LA performance in delivering the hygiene interventions for establishments in each risk category.

**Figure 8 - Food hygiene interventions achieved**



**Please note** - 0% for category D and E in 2022/23 indicates data was not collected on % of interventions carried out as it was during the recovery period and there was no target for that risk rating at that point. \*October 2023 data is for half a year.

8.11. Most LAs in Wales broadly managed to deliver against the milestones in the Plan last year. Between 1 April 2022 and 31 March 2023, LAs carried out 13,291 food hygiene interventions. These are broken down as follows:

- 242 interventions at category A establishments (99.6% of those due)
- 1,381 interventions at category B establishments (99.8% of those due)
- 7,599 interventions at category C establishments (77.1% of those due)

- 1,345 interventions at category D establishments that were less than broadly compliant<sup>3</sup> at their last inspection, and
- 2,723 interventions at category E establishments

8.12. However, six months after the Plan period ended, most LAs were still not realigned with the Code frequencies of interventions in the lower risk establishments. Between 1 April 2023 and 30 September 2023 LAs carried out:

- 84.5% of due interventions at category A establishments
- 82.2% of due interventions at category B establishments
- 61.8% of due interventions at category C establishments
- 25.6% of due interventions at category D establishments
- 12% of due interventions at category E establishments

8.13. Overall, only 30.5% of due interventions were delivered between 1 April 2023 and 30 September 2023 (since the volume of establishments is greatest in the lower risk categories). Most LAs began this period with a large backlog of lower risk establishments with interventions due, and this data<sup>4</sup> provides more evidence that it will take LAs time to get back on track.

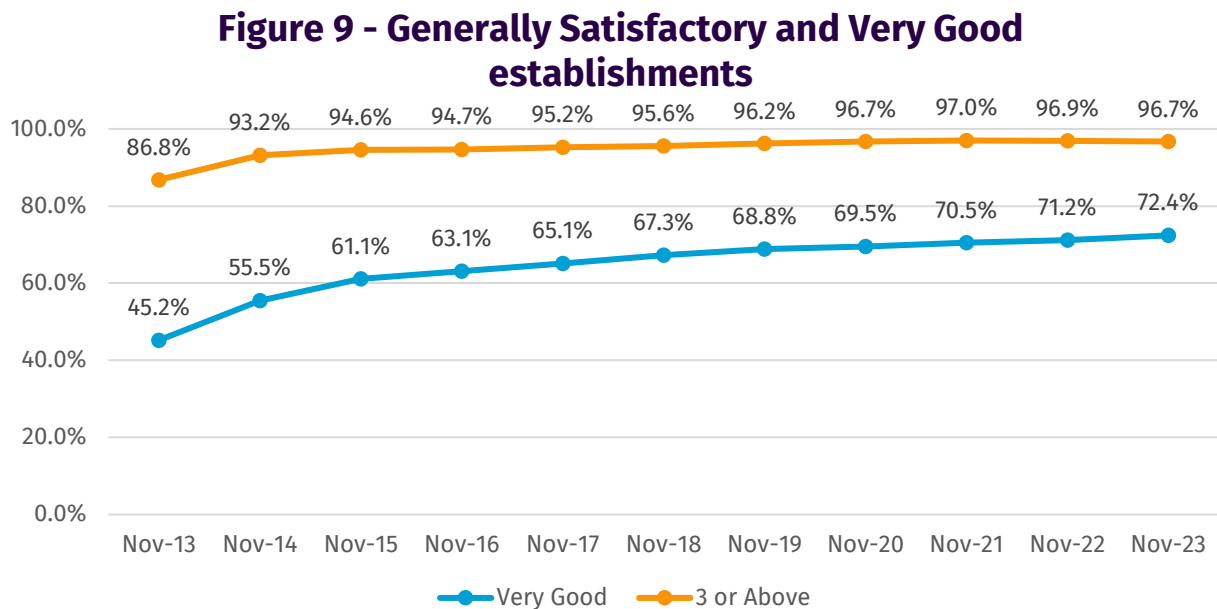
8.14. Despite the above figures regarding the number of food hygiene interventions achieved, the FSA are not currently seeing quantitative evidence of a drop in business compliance rates. The data indicates that the percentage of rated food establishments achieving a rating of '3 – Generally Satisfactory' or better has remained the same at 96.7% in November 2020 compared to November 2023. The proportion of rated establishments with the top rating of '5 – Very Good' has

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<sup>3</sup> Broadly compliant (Hygiene) is the term used for an establishment that has an intervention rating score of not more than ten points under each of the following parts of Food Hygiene Scoring System detailed in the Code: Part 2: Level of (Current) Compliance – Hygiene and Level of (Current) Compliance – Structure; and Part 3: Confidence in Management.

<sup>4</sup> Data obtained from Board paper for meeting held on 12 December 2023 providing an update on local authority performance in enforcing food law over the past year. - <https://www.food.gov.uk/board-papers/annual-local-authority-performance-review>

increased from 69.5% in November 2020 to 72.4% in November 2023. This is detailed in Figure 9 below:



8.15. Although LAs largely met the requirements of the Plan, there are still large backlogs of inspections to carry out at lower risk establishments. The October 2023 data indicates that LAs are struggling to carry out the full range of interventions outlined in the Code. Areas of highest risk are rightly being prioritised; however, this leaves a backlog of lower risk establishments that may not have received an intervention for many years. The FSA will continue to monitor progress at individual LA level on an ongoing basis and emphasise the importance of inspections for ensuring the ongoing success of the FHRS.

8.16. The Act sets out a number of functions around notification of ratings, and other specified information, to food businesses and the FSA, together with the method and prescribed timescale. The FSA monitors the timeliness of ratings data and, in general, is content that LAs have provided ratings information in accordance with the legislation.



## 9. Enforcement

- 9.1. LAs must have procedures in place to ensure that any follow up action or enforcement action taken is in accordance with the Code, the Practice Guidance and their enforcement policy. LAs have powers available to them to ensure non-compliances are rectified in an effective and timely manner.
- 9.2. Authorised officers must operate a graduated and educative approach to enforcement, moving to formal action only when informal action does not achieve the desired effect, except where circumstances indicate a significant risk to health, fraudulent practices or deceptive practices.
- 9.3. Where non-compliance is not resolved easily or quickly using an informal approach, authorised officers have the discretion to issue a Fixed Penalty Notice (FPN). This offers a FBO the opportunity to discharge any liability to conviction for the offence by payment of a fixed penalty under section 21 of the Act. The FPN powers allow LAs to adopt a graduated approach towards requiring the business to comply with its obligations under the Act and accompanying Regulations.
- 9.4. FPNs may be issued for offences such as failure to properly display a valid rating sticker, failing to provide the correct rating information verbally on request, failure to provide the prescribed statement on publicity materials in the manner required and for displaying invalid rating information on publicity materials. Where an FPN is issued, a fee of £200 is payable, discounted to £150 if payment is made within 14 days.
- 9.5. Between 28 November 2022 to 27 November 2023, 77 FPNs were issued by LAs across Wales with 50 (64.9%) paying the discounted amount as payment was made within 14 days. The number of FPNs issued during this period has increased by 31 compared to the 46 issued between 28 November 2021 to 27 November 2022.

- 9.6. Due to the COVID-19 pandemic in 2020 and throughout 2021, and to reflect FSA advice for LAs to focus on prioritising activities to support the Plan, a full comparison of this data over the last three years that this report covers cannot be made. This data was not collected between 28 November 2020 to 27 November 2021, however a total of 123 FPNs have been issued over the past two years.
- 9.7. Over the last two-year period, 90 (73%) of the FPNs issued have been issued to businesses who have failed to display a valid food hygiene rating sticker in the location and manner prescribed as per section 9 of the Act. 25 (20%) food businesses have been issued FPNs for displaying an invalid food hygiene rating sticker.
- 9.8. In accordance with the Food Hygiene Rating (Promotion of Food Hygiene Rating) (Wales) Regulations 2016, FPNs have also been issued to 8 (7%) businesses that have either failed to ensure that its publicity materials display, in a conspicuous place and in compliance with the type size requirements and bilingual statement or have failed to comply with [Schedule 1](#) of the 2016 Regulations.
- 9.9. Where there has been a deliberate or persistent failure to comply with the legislation, LAs may instigate prosecution proceedings. LAs have advised of three successful prosecutions over the three-year period of this report. These included prosecutions for offences relating to the failure to properly display a valid rating. In some instances, offences under the FHRS were included with prosecutions brought for food hygiene offences under other legislation.

## 10. Review of the operation of the appeals system

10.1. The Act provides a number of safeguards for food businesses to ensure the FHRS is fair. They include the right for a FBO to appeal against a rating, a 'right to reply,' and the opportunity to request a re-rating inspection.

### Appeals

10.2. Appeals can be made, free of charge by a FBO, to the LA which issued the original rating on the following grounds:

- that the rating does not properly reflect the food hygiene standards at the establishment at the time of inspection, and/or
- that the rating criteria were not applied correctly when producing the food hygiene rating.

10.3. Appeals must be made in writing using the [prescribed form](#) within 21 days from the date of receipt of notification of the food hygiene rating.

10.4. Under the Act, the LA that issued the food hygiene rating is responsible for determining appeals and they must notify its decision to the FBO and the FSA within 21 days. An authorised officer should consider the appeal<sup>5</sup> as specified in the Code, who was not involved in the assessment of the original rating that is being appealed.

10.5. Food hygiene rating appeals information for the period 28 November 2022 to 27 November 2023 found that:

- 75 appeals were made by FBOs in Wales across 19 of the 22 LAs

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<sup>5</sup> <https://smartercommunications.food.gov.uk/connect/lm3TO100pq> - Means a person (whether or not an officer of the enforcement authority) who is authorised by the Food Authority in writing, either generally or specifically, to act in relation to matters arising under the Food Hygiene (Wales) Regulations 2006.

- 71 were determined within the required 21-day period, with the remaining four being determined beyond the statutory timeframe
- 38 appeals were made by FBOs with a rating of '0' (Urgent Improvement Necessary), '1' (Major Improvement Necessary) or '2' (Improvement Necessary).

10.6. Further to the determination of the 75 appeals, 59 of these ratings remained the same and 16 across 12 different LAs resulted in a change to the rating.

10.7. Following determination of their appeals, of the three3 businesses with a rating of '1' (Major Improvement Necessary), two increased to a rating of '3' (Generally Satisfactory) and one to a rating of '4' (Good). Of the three businesses rated as '2' (Improvement Necessary), two increased to a rating of '3' (Generally Satisfactory) and one to a rating of '4' (Good). Of the seven businesses rated as '3' (Generally Satisfactory), five increased to a rating of '4' (Good), one increased to '5' (Very Good) whilst one had their rating reduced to a '2' (Improvement Necessary). Of the three businesses rated '4' (Good), all increased to '5' (Very Good). The 16 ratings that changed are displayed in Figure 10.

**Figure 10 - Changes to ratings before and after appeal**



10.8. Of the 75 appeals received from businesses, 35 were categorised by LAs as Restaurant/Café/Canteen, 8 as Take Aways, 7 as Restaurants and Caterers – Other, 7 as Pub/Club, 7 as Retailer – Other, 4 as Caring Premises, 3 as Small Retailer, 2 as Mobile Food Units and 1 each from Hotel/Guest House and Manufacturers/Packers.

10.9. The number of interventions carried out by LAs in Wales for this reporting period has increased significantly in comparison to that achieved over the last two years. As detailed in the 2021 report, 32 appeals were received with 5,305 interventions completed during the reporting period. For the 2022 report, 26 appeals were received after 4,855 interventions and 75 appeals during 2023 after 10,916 interventions. This year's report for 2024 highlights that there have been 75 appeals with 14,112 interventions being completed during the reporting period.

10.10. After an inspection, the business's rating will be uploaded by the LA so that it is published on the [Food hygiene ratings website](#). Ratings of '5 – Very Good' will be published as soon as the information is uploaded. Ratings of 0 – 4 will be published 3 – 5 weeks after the date of inspection to allow for the period of appeal.

### **Request for early publication of rating**

10.11. If a FBO requests for their rating to be published before the end of the appeal period has elapsed, this request can be made on the [relevant form](#) and the LA will review the request and take the appropriate action.

10.12. This process was introduced by the FSA in 2019, as previously ratings lower than '5' could not be published on the ratings website until the 21-day appeal period had elapsed. This does not affect the FBO's right to appeal. Since its introduction in October 2019, the 2021 report highlighted that there had been 46 requests for early publication across LAs in Wales between October 2019 and 27 November 2020.

10.13. For the period of this report, there have been 187 requests from FBOs for their rating to be published early. 123 (66%) of these came from businesses with a '4', 58 (31%) from businesses with a '3' and 6 (3%) from businesses with either a '1' or '2' rating. These have increased significantly during the period of this report as FBOs are now more familiar with this facility. As many aggregator platforms (such as Just Eat, Deliveroo and Uber Eats) also require FBOs with a valid rating and a minimum standard of '2' or '3' to trade on their platforms, this may be the reason for the increase in these requests.

### **Requests for re-rating inspections**

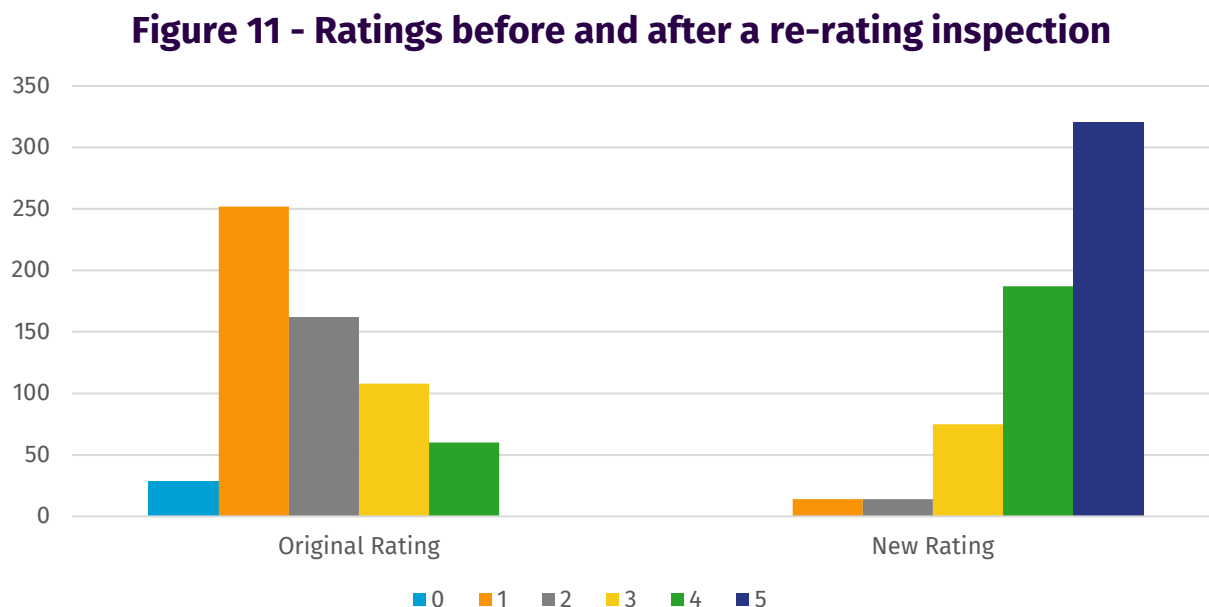
10.14. Food businesses may also request an inspection for the purpose of re-rating under the FHRS. This safeguard provides them with the opportunity to improve their ratings in advance of their next programmed inspection, where they have undertaken the necessary improvements. Re-rating inspections must be undertaken no later than three months after the request was received.

10.15. The Act stipulates that LAs must calculate the reasonable cost of the re-rating inspection and LAs in Wales have collectively agreed the fee of a re-rating inspection, which currently stands at £180. This cost is set and kept under review by LAs.

10.16. Between 28 November 2022 to 27 November 2023, LAs in Wales received 611 requests for re-rating inspections. These represent 7.4% of the 8,312 food businesses rated '0' to '4'. The review found that:

- 94.1% (575) of those businesses re-inspected achieved an improved rating
- 93.3% (570) achieved an improved rating of '3' or above
- 52.5% (321) of those re-inspected achieved the highest rating of '5'
- 2.6% (16) businesses received a reduced rating after being re-inspected and 3.3% (20) remained the same
- 81.2% (496) of the re-inspections were completed within the required three-month period.

10.17. Figure 11 below illustrates the movement in ratings after receiving a re-rating inspection across food businesses in Wales.



10.18. The number of re-rating inspection requests received by LAs between 28 November 2022 to 27 November 2023 compared 28 November 2021 to 27 November 2022 has increased by 205 (50.5%) from 406 requests to 611. This implies that use of this safeguard is increasing and that businesses are addressing the non-compliances identified at their initial inspection with 94.1% of those businesses re-inspected achieving an improved rating.

# 11. Impact of the FHRS

## Food business compliance

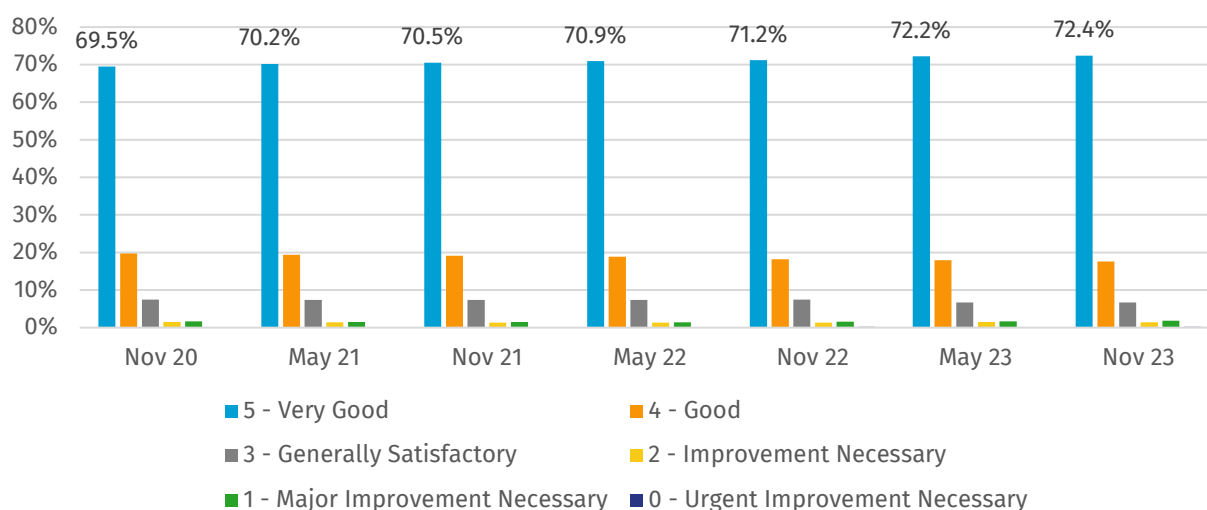
11.1. Between November 2020 and November 2023, the proportion of broadly compliant food businesses has remained consistent at 96.7%. Whilst this demonstrates the FHRS continues to have a positive impact on business compliance, it needs to be acknowledged that some LA planned official controls were deferred from March 2020 in line with FSA advice as detailed in Chapter 5 of this report. There was an increase in the numbers of food businesses awaiting inspection which currently stands at 2,013, as of November 2023 down from 4,596 in August 2021.

11.2. The proportion of non-compliant businesses has increased slightly from 3.3% to 3.4%. The change in proportion for each rating is as follows, and is illustrated in Figure 12:

- Businesses with a rating of '5' have increased from 69.5% to 72.4%
- Businesses with a rating of '4' have decreased from 19.7% to 17.6%
- Businesses with a rating of '3' have decreased from 7.5% to 6.7%
- Businesses with a rating of '2' have decreased from 1.5% to 1.4%
- Businesses with a rating of '1' have increased from 1.7% to 1.8%
- Businesses with a rating of '0' have increased from 0.1% to 0.2%



**Figure 12 - Six-monthly evolution of ratings in Wales - Nov 2020 - 2023**



11.3. The FSA has commissioned research reports assessing the display of ratings by food businesses across Wales, England and Northern Ireland. The FHS Audit of Display and Business Surveys conducted during the period of this report are detailed below:

- [Food Hygiene Rating Scheme \(FHRS\) Audit of Display and Business Survey 2022](#)
- [Food Hygiene Rating Scheme \(FHRS\) Audit of Display and Business Survey 2021](#)

11.4. This research into the display of Food Hygiene Ratings has been conducted by the FSA since 2011, no research was undertaken in 2020 due to the controls in place to control the spread of COVID-19. As with the previous waves of the research, the objectives were threefold:

- provide a representative estimate of the display of food hygiene ratings by food businesses
- explore the reasons and drivers for display and non-display
- explore business awareness and attitudes towards the FHRS

11.5. A two-pronged research approach was adopted to meet these objectives which comprised of covert audits of food businesses and telephone interviews with food businesses.

11.6. This latest research conducted in 2022 indicates that 91% of audited businesses in Wales were displaying their rating, increasing by 6% compared to the 2021 research. In the 2022 research, 67% of audited businesses in England were displaying their food hygiene rating and 87% in Northern Ireland.

11.7. In Wales, the 2022 research found that approximately one in 10 businesses were not displaying their rating in a compliant fashion. These businesses commonly reported that they did not display their rating because there was nowhere suitable to show it outdoors.

11.8. In Wales, of the businesses audited, 96% of restaurants and catering businesses were displaying their sticker, while 81% of retail businesses (e.g. supermarkets and food shops) were displaying their sticker.

## **Consumer awareness**

11.9. In November 2023, the FSA published the [Food and You 2](#) survey. This is a biannual 'Official Statistic' survey commissioned by the FSA and measures self-reported consumers' knowledge, attitudes and behaviours related to food safety and other food issues amongst adults in Wales, England and Northern Ireland.

11.10. Fieldwork for Food and You 2: Wave 6 survey was conducted between 12th October 2022 and 10th January 2023. Responses were received from 1,315 participants in Wales, 928 of these were online, and 387 returned paper questionnaires. The key findings for Wales were as follows:

- 92% of respondents had heard of the FHRS
- 69% of respondents had heard of the FHRS and knew a lot or a bit about it

- When shown an image of the food hygiene rating sticker, 91% reported that they had seen the sticker before
- 59% of respondents had checked the food hygiene rating of a food business in the previous 12 months (either at the business premises or online)
- 48% of respondents were more likely to report that they always checked the rating on arrival at a restaurant or take away, or did this most of the time
- 94% thought that food businesses should be required by law to display their food hygiene rating at their premises

11.11. Of those who had heard of the FHRS, most said that they would still eat at a restaurant or take away if they saw a food hygiene rating sticker with a rating of '4' (Good) (93%) or '3' (Generally Satisfactory) (66%). However, most respondents reported that they would not eat at a restaurant or take away if they saw a food hygiene rating sticker with a rating of '2' (Improvement Necessary) (76%), '1' (Major Improvement Necessary) (90%) or '0' (Urgent Improvement Necessary) (92%).

11.12. Respondents were also asked whether they thought businesses providing an online food ordering service should display their food hygiene rating where it can clearly be seen by customers before they order food. Of the respondents who had heard of the FHRS, 95% thought that businesses providing an online food ordering service should display their food hygiene rating where it can clearly be seen by customers before they order food.

## **The value of the FHRS**

11.13. As part of its work on the Achieving Business Compliance (ABC) programme, the FSA wanted to understand in more detail how LAs, businesses and consumers felt about the current FHRS. In addition, the FSA wanted to capture consumer views on potential changes to the regulatory approach. To this purpose, the FSA

commissioned IPSOS UK to conduct qualitative research to explore the views of businesses, consumers and LAs about the FHRS.

- 11.14. The [LA research](#) highlighted that LA representatives from across all three nations were positive about the current FHRS and its role in increasing consistency for regulating food hygiene standards in food businesses. Assessing food hygiene standards consistently was seen as a crucial feature of the FHRS, and fundamental to the value of the FHRS. While this consistency was considered a strength in Wales and Northern Ireland, LA representatives from England highlighted some differences in how the FHRS is managed.
- 11.15. LA representatives from Wales were strongly opposed to any changes to inspection frequency based on compliance. Similarly, LA representatives from Northern Ireland had reservations about reducing inspection frequency based on compliance for higher risk businesses. In England, views on reducing inspection frequency based on compliance were more mixed, reflecting LA representatives' experiences of having to prioritise resources over recent years.
- 11.16. Whilst LA representatives from Wales were unanimous in their support for the existing FHRS, LA representatives from England and Northern Ireland each suggested some changes. LAs from England discussed improving the FHRS through the introduction of mandatory display of FHRS ratings and reviewing the types of low-risk businesses included in the FHRS.
- 11.17. The [business research](#) found that overall, most businesses were content with the current FHRS system and found it hard to suggest improvements. Any suggestions for improvements linked to the concerns that businesses had raised previously: ensuring consistency, reducing the administrative burden, and improving consumer and business understanding of the FHRS. A few businesses also suggested a more collaborative relationship between regulators and businesses as a way to improve the effectiveness of the FHRS.

11.18. Finally, [research with consumers](#) identified that the FHRS was seen as valuable, although awareness and use varied. The FHRS ratings were seen as a source of trustworthy information about food hygiene standards, providing consumers with reassurance about food safety. Familiarity with a food business and amount of local choice were more important for some when choosing where to eat. Participants consistently agreed that displaying FHRS ratings should be mandatory, associating this with fairness and transparency. However, there was limited awareness across the three nations that display of ratings was not mandatory in England.

## 12. Consistency

12.1. The Act makes it a requirement for LAs to review the operation of the FHRS in its area periodically, with a view to ensuring that the rating criteria are assessed fairly and consistently.

12.2. The consistent application of the FHRS by authorised officers within and across LAs in Wales is vital to ensure fairness and provide a level playing field for food businesses and to provide meaningful information to consumers. As food hygiene ratings are calculated from scores assigned by food safety officers using the Food Hygiene Scoring System set out in the Code, consistency in scoring is, therefore, of key importance.

12.3. The FSA has a role in monitoring consistency. The statutory guidance that applies in Wales highlights that this may include the development and organisation of national consistency exercises.

12.4. The FSA has offered LA officers in Wales the opportunity to refresh their skills during the period of this report. This included funded training events and facilitating a National Consistency Exercise (NCE) across Wales, England and Northern Ireland.

12.5. During the period of this report, LAs have been asked to take part in the fifth, sixth and seventh NCE. The online, scenario-based exercises, provide LAs with exercise materials of fictitious routine interventions and officers are asked to consider the documentation and:

- determine what scores should be awarded for Hygiene, Structure and Confidence in Management, and
- calculate the corresponding food hygiene rating

12.6. In the fifth NCE which ran between September and December 2020, only one LA (4.5%) in Wales participated in this exercise. This was expected due to the

ongoing pandemic, with resources in many Food Teams being diverted to protect their communities and control the spread of the disease.

12.7. A similar participation rate was expected to the previous year for the sixth NCE which ran between November 2021 and February 2022, this was due to the ongoing pandemic and the impact of the Omicron variant in late 2021/early 2022. Resources in many Food Teams were still being diverted to protecting their communities and controlling the spread of the disease, however, 11 LAs (50%) in Wales participated in this exercise.

12.8. The seventh NCE ran between October and December 2022. Despite many LAs dealing with the ongoing recovery work faced due to the pandemic, 20 LAs in Wales (91%) participated.

12.9. The FSA did not operate a formal NCE during 2023, however as mitigation, it was agreed with the All-Wales FHRS Steering Group to provide LAs with two, unused exercises so that they could run their own consistency exercise within their authority or region. These were made available on the Smarter Communications platform.

12.10. Due to the nature of scenario-based exercises where officers are required to form an opinion based on a limited amount of information, variation in the scores provided by LAs is to be expected. LA officers are unable to seek further clarification from the FBO, as they would in practice. To ensure the consistent implementation of the FHRS, the FSA actively encourages LAs to reflect on the descriptors in the Code when scoring food businesses.

12.11. Detailed findings from each of these NCE's run by the FSA are available in [summary reports](#) on the Smarter Communications platform.

12.12. The FSA offered six virtual training workshops to LA officers responsible for rating food businesses in Wales between November 2021 and December 2021. The

workshops delivered four hours of FHRS consistency-based training to 173 officers from across all 22 LAs in Wales.

12.13. Between October 2022 and January 2023, the FSA offered five virtual training workshops to LA officers responsible for rating food businesses in Wales. The workshops delivered four hours of FHRS consistency-based training to 147 officers from across 20 LAs in Wales. Initially the FSA committed to deliver four workshops, however due to demand a fifth was run in January 2023. To ensure the consistent application of the FHRS by authorised officers within and across LAs in Wales, contractors employed by LAs in Wales also attended the workshops.

12.14. The workshops delivered a number of hypothetical scenarios that officers might witness during an inspection. A variety of types of food businesses and compliant/non-compliant situations were covered by the scenarios, allowing small groups of officers the opportunity to discuss and score the scenarios one by one using the Food Hygiene Scoring System specified in the Code. The scenarios focussed on issues relating to the three elements of the inspection process that informs the food hygiene rating. These elements are:

- the level of compliance with food hygiene and safety procedures
- structural requirements, and
- the confidence in management/control procedures

12.15. The FSA had proposed to deliver further virtual training workshops to LA officers in Wales during 2023, however this was not possible. Despite issuing a formal tender on two separate occasions, a suitable supplier could not be sourced to deliver the workshops on behalf of the FSA. This was discussed at the last All-Wales FHRS Steering Group meeting on 14 November 2023 and further discussions regarding the delivery of any future workshops will be held with the Steering Group.



**Recommendation 2:**

That the FSA continues to provide support to LAs to enable them to fulfil their statutory function to ensure that all authorised officers who rate food businesses under the FHRS continue to engage in activities that promote consistency.

## 13. Future developments of the FHRS

### Online display of ratings

- 13.1. Given the increasing use of online ordering and the development of new digital business models, online display is a key opportunity for the FHRS. The FSA recognises that the ongoing success in achieving the objectives of the FHRS depends on consumers having access to the ratings at the right time and the right place for them to make informed choices.
- 13.2. Online food sales are a growing trend in the way food is supplied and sold and that increasingly, consumers are purchasing food online. As such they may not have immediate access to ratings information in an online retail environment. The provision of ratings information online will enhance consumer accessibility, further raise awareness and understanding of the FHRS and ensure food hygiene information is provided in a consistent manner.
- 13.3. To encourage businesses to display online voluntarily, the FSA have upgraded its online ratings imagery to meet modern technology standards and provide a digital [toolkit](#) for businesses to make it easy for them to display their ratings online. Businesses can also embed a javascript code of their bilingual rating from the FSA website as opposed to downloading the image file and storing it locally. This then only needs to be done once and will automatically update on digital platforms when changes are made to the FHRS portal and it is therefore a one-off implementation.
- 13.4. The FSA also provide free programmatic access to the rating data through our Application Programming Interface (API), this allows developers to leverage the data to provide their own services and websites (such as a third-party apps providing a ratings search facility). This is also used by the three biggest online food aggregators (Deliveroo, Just Eat, and Uber Eats), meaning that display of ratings is always correct on these platforms providing that they use this service.

13.5. With an increasing trend for consumers to purchase food online, legal power exists within the Act to enable the Welsh Ministers to make regulations to support the development of the FHRs to require food businesses to display their food hygiene ratings online. This will further increase the accessibility of this information and extend the transparency about hygiene standards to the online food ordering market.

13.6. The FSA is intending to request permission from the Welsh Ministers to begin developing proposals to extend the scope of the statutory FHRs that will introduce legislation in Wales that makes it mandatory for food business operators to display their food hygiene rating online.

13.7. Any proposals will need to be credible and meaningful for consumers whilst being practicable and proportionate for food business implementation and to allow for consistent LA enforcement. This will be assessed at consultation with stakeholders to ensure that the outcomes meet these aims.

### **Recommendation 3:**

The FSA recognises the opportunity for stakeholders to work together to develop proposals to extend the scope of the statutory FHRs that will aim to introduce legislation in Wales that makes it mandatory for food business operators to display their food hygiene rating online.

## 14. Conclusions

- 14.1. During the three-year period of this report, the pandemic has continued to have an impact on the delivery of LA routine inspection programmes and the operation of the FHRs. Prior to the pandemic, LAs were expected to undertake all official controls prescribed in legislation, however, during the pandemic, LA resources were diverted from Food Teams to support the COVID-19 response and other non-food related duties.
- 14.2. The Plan for the period from 1 July 2021 to 31 March 2023 set out by the FSA for re-starting the routine delivery of inspections in line with the Code has had an impact on the routine operation of the FHRs. However, in line with the expectations in the Plan, LAs have been working to realign with the intervention frequencies and other provisions set out in the Code, despite the many challenges faced during the recovery period including resource pressures.
- 14.3. Due to the positive work undertaken by LAs and the milestones set in the Plan largely being met, the decision was made to bring the Plan to an end on 31 March 2023.
- 14.4. Throughout the three-year period of this report, the FSA have continued to engage with and support LAs. As the FHRs is underpinned by LA inspection work, impacts to inspections during the pandemic has had an impact on the FHRs. Between 28 November 2020 and 27 November 2021, 5,305 businesses were rated in Wales. This has increased by 166% to 14,112 businesses with 8,807 more being rated between 28 November 2022 to 27 November 2023.
- 14.5. Evidence gathered to support the annual reviews since the introduction of the statutory FHRs in 2013 has consistently found that FBOs continue to use the appeals process and other safeguards provided by the FHRs. The 75 appeals received by LAs between 28 November 2022 and 27 November 2023 account for less than 1% of the 8,312 businesses rated as '0' to '4' as of November 2023. For

those FBOs making an appeal, 78.7% have resulted in no change to a business's rating following the LA's determination of the appeal. All appeals have been determined by an officer that was not involved in awarding the original rating, this would suggest the decision-making process in determining appeals is objective.

14.6. Despite only 30.5% of due food hygiene interventions being delivered between 1 April 2023 and 30 September 2023 as highlighted in this report, when reviewing the FHRS data, the FSA are not currently seeing quantitative evidence of a drop in business compliance rates. The data indicates that the percentage of rated food establishments achieving a rating of '3' or better has remained the same at 96.7% in November 2020 compared to November 2023. The proportion of rated establishments with the top rating of '5' has increased from 69.5% in November 2020 to 72.4% in November 2023. This is an area that the FSA will continue to monitor at an individual LA level on an ongoing basis.

14.7. Research commissioned by the FSA provides evidence that the FHRS continues to be effective in raising awareness of food hygiene standards with 91% of consumers recognising rating stickers and 92% having heard of the FHRS. Food business display rates have also reached an all-time high with 91% of establishments displaying ratings in accordance with the requirements of the Act.

14.8. Evidence from evaluation of the FHRS indicates that increased transparency empowers consumers which in turn incentivises businesses to improve and maintain compliance. The proportion of businesses with the highest food hygiene rating has continued to rise year on year and reaching 72.4% in November 2023 compared to 69.5% in November 2020.

14.9. LAs have worked collaboratively with the FSA to ensure arrangements are in place to secure the consistent application of ratings. During a challenging period for LAs, attendance levels at consistency workshops and participation in NCEs

indicate the continuing value placed on the provision of support for activities that promote the consistent application of ratings and ensures the robustness and resilience of the FHRS. Consistency in the application of ratings under the FHRS is key to its success and ensures transparency, fairness and a level playing field for businesses.

14.10. LAs remain highly committed to delivering the FHRS and play a significant role in ensuring it remains credible, current and equitable for all food businesses in Wales. Overall, LAs are delivering the FHRS in accordance with legal requirements and guidance, despite the pressures they have experienced over recent years.

14.11. The Welsh Ministers, LAs and the FSA continue to support the effective and consistent operation of the FHRS in Wales and fulfil their functions as set out in the legislation.

14.12. This report has highlighted a number of recommendations for the future development of the FHRS in Wales, including online display of ratings with the increasing trend for consumers to purchase food online. This is an opportunity for the FHRS and will be subject to further exploration, any proposals will need to be credible and meaningful.

## 15. Recommendations

15.1. The FSA is making the following recommendations in respect of the ongoing implementation and operation of the statutory FHRS and the operation of the appeals system in Wales for 2024. These are all subject to available funding or resources:

### **Recommendation 1:**

That the FSA undertakes a review with LAs and Welsh Government of the statutory guidance. As part of this review that the FSA establishes a working group of LA representatives to review the guidance to ensure that it can assist authorised officers in successfully implementing the Act and associated Regulations.

### **Recommendation 2:**

That the FSA continues to provide support to LAs to enable them to fulfil their statutory function to ensure that all authorised officers who rate food businesses under the FHRS continue to engage in activities that promote consistency.

### **Recommendation 3:**

The FSA recognises the opportunity for stakeholders to work together to develop proposals to extend the scope of the statutory FHRS that will aim to introduce legislation in Wales that makes it mandatory for food business operators to display their food hygiene rating online.

## Annex 1 – Actions in response to recommendations in earlier reports

### 2021 – Review of the Implementation and Operation of the Statutory Food Hygiene Rating Scheme and the Operation of the Appeals System in Wales

**Recommendation 1** – The FSA, Welsh Government, Directors of Public Protection Wales (DPPW) and Safe, Sustainable and Authentic Food Wales (SSAFW) collaborate to develop a forward plan for future inspections and food hygiene ratings.

**Complete** – This recommendation was to support the recovery of official food controls following the response to the pandemic by LAs and to ensure the impact on the FHRS was considered. A recovery sub-group of SSAFW was established which informed the FSAs roadmap to recovery.

**Recommendation 2** – The FSA continues to provide support to ensure that all LA officers who issue ratings to food businesses under the FHRS continue to engage in consistency exercises.

**Complete** – The FSA offered five virtual training workshops to LA officers responsible for rating food businesses in Wales during November 2021. The five workshops delivered four hours of FHRS consistency-based training to 178 officers from across all 22 LAs in Wales. Feedback from these events was positive, confirming the benefits of virtual training opportunities during the pandemic.

**Recommendation 3** – The FSA continues to facilitate and support the work of the All-Wales Steering Group to ensure the ongoing success and development of the FHRS.

**Complete** – A review of the All-Wales FHRS Steering Group’s terms of reference was conducted in June 2021. This review concluded that meetings should be held



virtually, twice yearly, with membership, which includes FSA and Welsh Government officials, expanded to include a representative from each of the 22 LAs in Wales. The group met twice during 2021 on 16 June 2021 and 23 November 2021 to aid the consistent implementation, enforcement and future development of the FHRS to ensure it remains credible, current and equitable.

**Recommendation 4** – The FSA provides any additional data for the period 28 November 2019 to 27 November 2020 at the earliest opportunity.

**Complete** – Due to the continuation of the COVID-19 pandemic in the remainder of 2020 and throughout 2021, and to reflect FSA advice for LAs to focus on prioritising activities to support the Plan, the FSA has not asked LAs to provide additional data for the period 28 November 2019 to 27 November 2020. The data provided in the February 2021 report continues to be the available data.

**Recommendation 5** – The FSA requests LAs to provide more detailed information in relation to prosecutions in their data returns relevant to the FHRS to improve the level of reporting and allow greater analysis.

**Complete** – The FSA has received more detailed information regarding prosecutions in relation to this recommendation and will continue to monitor future returns to ensure detailed information is included for any prosecutions pursued by LAs in Wales.

**Recommendation 6** – The FSA will work with the Centre for Digital Public Services to ensure digital solutions developed in support of an online FHRS in Wales meets the Welsh Government’s Digital service standard.

**Ongoing** – This recommendation will be considered by the FSA alongside any work conducted on developing proposals to extend the scope of the statutory FHRS to make it mandatory for food business operators to display their food hygiene rating online.

**Recommendation 7** – The FSA takes account of the statutory FHRs and the views of key stakeholders in Wales when considering any of its proposals on the future regulatory system.

**Complete** – As detailed in Chapter 11, as part of its work on the ABC programme, the FSA commissioned IPSOS UK to conduct qualitative research to explore the views of businesses, consumers and LAs about the FHRs. The value of the FHRs reports detail how LAs, businesses and consumers feel about the current FHRs and also capture consumer views on potential changes to the regulatory approach.

## 2022 - The Food Hygiene Rating Scheme: Review of the operation of the appeals system in Wales

**Recommendation 1** – That the FSA explore the opportunity for the inclusion of more interactive digital methods in the delivery of consistency activities.

**Complete** – The FSA have run five virtual consistency workshops across Wales with attendance by 147 officers in 2022/23. The FSA will continue to organise and support LAs in the development and organisation of consistency events during 2023/24. The FSA will also scope what digital technology may be available in delivering more interactive consistency exercises for future events.

**Recommendation 2** – That the FSA continues to provide support to ensure all LA officers who rate businesses under the FHRS continue to engage in activities that promote consistency.

**Complete** – The FSA have run national consistency exercises across Wales, England and Northern Ireland in 2022. The consistency exercise has been carried out by 20 LAs in Wales. The FSA will continue to provide support to LA officers who rate businesses under the FHRS.

**Recommendation 3** – That the FSA ensures during 2022/23 all outstanding recommendations are completed.

**Ongoing** – The FSA will review any outstanding recommendations and progress these as necessary.

**Recommendation 4** – That the FSA works with relevant stakeholders to explore the continuing value of annual reviews and the provision of an annual report on the operation of the appeals process.

**Ongoing** – The FSA will continue to work with relevant stakeholders in 2023/24 to explore this recommendation further.

## 2023 - The Food Hygiene Rating Scheme: Review of the operation of the appeals system in Wales

**Recommendation 1** – That the FSA continues to facilitate and support the work of the All-Wales FHRS Steering Group to ensure the ongoing success and development of the FHRS. The FSA reviews the frequency, membership and Terms of Reference for the group to ensure it continues to operate successfully.

**Complete** – The FSA has continued to facilitate and support the work the All-Wales FHRS Steering Group providing Chair and Secretariat for the two virtual meetings held on 23 May 2023 and 14 November 2023. The liaison group with representatives from all LAs in Wales has worked collaboratively throughout 2023 and discussed pertinent matters in relation to the development of the FHRS.

**Recommendation 2** – That the FSA continues to provide support to ensure all LA officers who rate businesses under the FHRS continue to engage in activities that promote consistency.

**Complete** – The FSA did not operate a formal NCE during 2023, however as mitigation, it was agreed with the All-Wales FHRS Steering Group to provide LAs with two, [unused exercises](#) so that they could run their own consistency exercise within their authority or region. The FSA encourage LAs to regularly review and discuss a sample of inspection reports within teams, and Liaison Groups to conduct additional consistency exercises from time to time.

**Recommendation 3** – That the FSA reviews the results of the seventh National Consistency Exercise for LAs in Wales and works with the All-Wales Steering Group to identify the need for any additional support or guidance as necessary.

**Complete** – The seventh NCE ran between October and December 2022. Despite many LAs dealing with the ongoing recovery work faced due to the pandemic, 20 LAs in Wales (91%) participated. The expected outcome for the scenario was a food

hygiene rating of '3', 65% of the 20 LAs in Wales that participated gave this rating. Detailed [results](#) are available and the FSA will continue to engage with the All-Wales FHRS Steering Group regarding any emerging trends to update guidance and provide additional support as necessary.

**Recommendation 4** – That the FSA, in collaboration with LAs, reviews and amends, as necessary, the Statutory Guidance in 2023 on behalf of the Welsh Ministers. The updated guidance will support authorised officers in successfully implementing the Food Hygiene Rating (Wales) Act 2013 and associated Regulations.

**Ongoing** – In collaboration with LAs and Welsh Government, the FSA intends to review and amend the Statutory Guidance on behalf of the Welsh Ministers. The FSA intends to set up a working group of LA representatives to review the guidance to ensure that it can assist authorised officers in successfully implementing the Act and associated Regulations.

**Recommendation 5** – That the FSA continues to work and engage with relevant stakeholders to review the regularity of annual reviews and the provision of an annual report on the operation of the appeals process in Wales.

**Ongoing** – The FSA will continue to work with relevant stakeholders in 2024/25 to review the regularity of reports and explore this recommendation further.

**Recommendation 6** – That the FSA ensures during 2023/24 all outstanding recommendations are progressed accordingly.

**Ongoing** – The FSA will review any outstanding recommendations and progress these as necessary, if still required.