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## Section 2: Scope

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### Introduction

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- 2.1 The **scope** of the FHRs **extends to establishments supplying food direct to consumers**. This includes restaurants, cafes, takeaways, sandwich shops and other places where people eat food prepared outside of the home, as well as food retailers. The aim is to provide information on hygiene standards to consumers in circumstances where they are making a choice about eating or purchasing food. Certain businesses that supply food direct to consumers are, however, not given a rating because specific circumstances apply.
- 2.2 Guidance in Q&A format is provided below to assist local authorities in determining if establishments should be rated under the FHRs. Establishments fall into three broad categories:
- those that supply food direct to consumers (fall within the scope of the FHRs) and should be rated;
  - those that supply food direct to consumers (fall within the scope of the FHRs) but are not rated because specific circumstances apply; and
  - those that do not supply food direct to consumers (fall outside the scope of the FHRs) and are, therefore, not rated.
- 2.3 The decision tree at page 18 may also assist local authorities when considering which establishments should be rated (guidance on the status of each establishment for the purposes of IT is provided in [Section 10](#)).
- 2.4 Local authorities may also get an initial steer on how to categorise food business establishments from the FSA's [Local Authority Enforcement Monitoring System \(LAEMS\) guidance](#).

### Question and answer guidance

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#### Q1. How is the scope of the FHRs defined?

- A1. The scope extends to all food establishments to which registration requirements apply and which supply food directly to consumers for consumption either on or off the premises.<sup>8</sup> Each registered food business establishment within the scope should receive a food hygiene rating under the FHRs when they are inspected unless specific circumstances apply (see Q&A 17 to 19).

Approved establishments may have a retail element. Although this retail element does not require a separate registration, it will fall within the scope of the FHRs and so the establishment should receive a food hygiene rating when it is inspected unless specific circumstances apply (see Q&A 17 to 19). The food hygiene rating should be determined from the intervention rating for the establishment as a whole (and local authorities should not start registering separately the retail element of the establishment and giving it a separate intervention rating to that for the non-retail element of the operation).

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<sup>8</sup> Food business operators must register new food business establishments at least 28 days before food operations commence.

**Q2. What categories of food business establishments fall within the scope?**

A2. The categories include:

- caterers such as restaurants, cafes, takeaways, sandwich shops, mobile traders, and other places where people eat food prepared/cooked/served outside of the home;
- food retailers such as supermarkets; and
- establishments where public access is limited but where food is prepared, cooked, or handled and served to consumers, such as schools, nurseries and residential care homes.

Some establishments within these categories will not be given a food hygiene rating because specific circumstances apply (see Q&A 17 to 19).

**Q3. What categories of food business establishment are outside the scope?**

A3. Establishments that do not supply food direct to consumers fall outside the scope and should not be rated under the FHRs – they are ‘excluded’ from scope. This includes primary producers, manufacturers and packers, importers and exporters, distributors (including wholesalers, and other inter-business suppliers) and transporters. Examples of the types of business included in these categories may be found in the [LAEMS Guidance](#).

Where wholesalers, e.g. cash & carries, are supplying food direct to consumers as well as to other businesses, they fall within the definition of scope and should be rated.

**Q4. How should local authorities deal with requests from food business operators (FBOs) of 'excluded' establishments (such as manufacturers) to opt into the FHRs?**

A4. It is the FSA’s intention to keep extension of the scope of the scheme to such businesses under review (in Wales, these businesses have been included in the statutory scheme since November 2014).

In the meantime, businesses that request to 'opt in' should be advised that they are outside of the FHRs at present.

**Q5. Are mobile food units included within the scope and, if so, which food authority should be responsible for rating them?**

A5. Mobile food units (both retail and catering units) fall within the definition of scope and should, therefore, be rated unless any of the specific circumstances set out at Q&A 17 to 19 apply.

As a general rule, it is the responsibility of the ‘registering authority’ to determine the food hygiene ratings of mobile food units and publish them at [food.gov.uk/ratings](http://food.gov.uk/ratings), to deal with appeals against ratings, to deal with requests to publish a ‘right to reply’ and to deal with requests for re-inspections/re-visits.

In cases where the mobile unit operates only within the area in which it is registered this is straightforward.

In other cases, the key point is that 'inspecting authorities' must liaise with the 'registering authority' in order to avoid duplication of interventions and ratings. The 'inspecting authority' should send the 'registering authority' a copy of any documentation such as the inspection report at the same time as this is sent to the FBO. If the FBO is provided with documentation at the time of intervention, a copy should be forwarded to the 'registering authority' as soon as possible afterwards.

The 'registering authority' must take account of information supplied to it by 'inspecting authorities' in determining the rating and in deciding when this should be revised, and also in dealing with appeals against ratings, dealing with requests to publish a 'right to reply' and dealing with requests for re-inspections/re-visits.

The 'registering authority' may transfer its responsibility for rating the mobile unit and the associated activities to an 'inspecting authority' with that authority's agreement. This may occur, for example, where a mobile trader is registered with the 'registering authority' but never trades within that authority's area but trades exclusively or predominantly in another authority's area. In these cases, the authority that has accepted responsibility as the 'responsible authority' will publish the rating and 'right to reply' submissions on [food.gov.uk/ratings](http://food.gov.uk/ratings) and take account of information supplied by other 'inspecting authorities' (if applicable) in determining the rating, dealing with appeals and requests for re-inspections/re-visits. Confirmation of any such agreement should be made in writing and the 'registering authority' should record on file that an agreement is in place. If the 'registering authority' receives any requests for information on the mobile food unit from other 'inspecting authorities', it can refer these to the 'responsible authority'.

This reflects the advice given on the registration of mobile food establishments at Section 3.2.7.4 of the *Food Law Code of Practice* and Section 3.2.5.2 of the [Food Law Practice Guidance](#).

For mobile units that have been registered in Scotland and have been assessed as part of the Food Hygiene Information Scheme (FHIS), but are trading elsewhere in the UK, the 'inspecting authority' should contact the local authority in Scotland that issued the FHIS sticker or certificate if significant issues are identified so that the authority in Scotland may take this information into account.

Local Food Liaison Groups may provide a suitable forum for discussion and agreement of arrangements.

[Template letters and other materials](#) are available on the FSA website to help local authorities apply this guidance.

**Q6. Are market stalls and occasional markets included within the scope and should they be rated?**

A6. Market stalls and occasional markets fall within the definition of scope and should, therefore, be rated where this is feasible and practical unless any of the specific circumstances set out at Q&A 17 to 19 apply.<sup>9</sup>

Given the range in nature of these market stalls/markets, arrangements for undertaking interventions and rating are best determined at the local level but the key point is that the 'inspecting' authority must liaise with the 'registering' authority to avoid duplication of interventions and rating. Again, local Food Liaison Groups may provide a suitable forum for discussion and agreement of arrangements.

**Q7. Are public houses and bars included within the scope of the FHRS and should they be rated?**

A7. Yes, public houses fall within the definition of scope and should, therefore, be rated. This includes those that only serve drinks - 'wet pubs'.

Similarly, bars and clubs with bars that only serve drinks fall within the definition of scope and should be rated.

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<sup>9</sup> It is acknowledged that because there is usually only short advance notice of occasional markets taking place, and that such events are usually of short duration, it is not always feasible to inspect, rate and issue an FHRS sticker.

**Q8. Are bed and breakfast establishments, guest houses and hotels within the scope of the FHRS and should they be rated?**

A8. Unless any of the specific circumstances set out at Q&A 17 to 19 apply, these are included within the scope of the FHRS and should be given a rating. This applies even if the establishment is only open for a few months a year. In such cases, the rating should appear on the FSA website all year round as holiday plans are made pre-season.

As is the case for other 'low-risk' establishments that should receive a food hygiene rating, local authorities may have used historical data at launch to give ratings or may be taking a staged and gradual approach to bringing them into the scheme in which case, they can be rated at their next appropriate intervention.

**Q9. Do village halls, community centres and similar establishments fall within the scope of the FHRS and should they be rated?**

A9. Arrangements at these establishments vary significantly so it is difficult to be prescriptive and each set of circumstances should be considered on its merits and professional judgement exercised. In doing so, the following can be taken into account:

- Is it a registered food business?<sup>10</sup>
- Does it supply food direct to the consumer?
- Is the hall or centre a 'low risk' establishment not generally recognised by the consumer as a food business?

The scheme is not intended to change which entities should be registered as a food business and, therefore, require an intervention.

Where the hall or centre's owners do not provide food, only facilities, the business would be excluded from the scheme as it is not supplying food direct to the consumer.

If only 'low risk' foods, e.g. teas/coffees and biscuits, are being provided as a peripheral part of a business's activities, it would not be rated. If regular full meals are being provided, e.g. a luncheon club, it would be given a rating.

In some circumstances, there may be more than one registered food business using the same hall and being rated as part of the scheme (they should be distinguished by the name of the food business).

**Q10. Do Armed Forces, Police and Crown establishments fall within the scope of the FHRS and should they be rated?**

A10. Armed Forces, Police and Crown establishments are, like other food business establishments, subject to the requirements of food hygiene legislation and inspected in accordance with the *Food Law Code of Practice*. They also fall within the defined scope of the FHRS.

The inherent security sensitivities, however, should be taken into account in deciding whether or not to rate the establishment.

As regards the Armed Forces, the issue can be discussed with the Head of Establishment or Unit Commander.

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<sup>10</sup> FSA guidance on how food law applies to food provision in village halls and to other community activities should be considered when determining whether registration is appropriate or not – see: <http://food.gov.uk/business-industry/caterers/food-hygiene/charity-community-groups/>

Where a decision is made not to rate, but the FBO requests it, a food hygiene rating and a corresponding sticker may still be issued.

Information on these establishments should be uploaded to the local authority portal of the IT platform. No information should be published at [food.gov.uk/ratings](http://food.gov.uk/ratings) unless specifically requested by the FBO.

**Q11. Should ships and vessels be rated?**

A11. If a vessel is registered as a food business and is intervention rated (using the food hygiene intervention rating scheme set out in the *Food Law Code of Practice*) then it would be appropriate for it to be given a hygiene rating, e.g. ferries which go back and forth from the same points (including river ferries, ferries going between UK ports and cross-channel ferries), river boats and floating restaurants.

The decision to rate each of these vessels may depend on how often they are in an area (like mobile traders).

For ferries, where more than one UK port is involved, it is important that the relevant authorities agree on which should rate the vessel so that each has only one rating.

Not all vessels, however, are intervention rated, e.g. cruise liners that have ship's sanitation certificates, and are subject to a different inspection strategy to the intervention rating scheme. In such cases, local authorities are not required to change their existing practices and start using the food hygiene intervention rating scheme but case by case consideration can be given to these vessels. The important thing will be to justify why a particular vessel is not included if the FBO requests this.

**Q12. Should trains be rated?**

A12. The Food Law Practice Guidance (England) highlights that individual trains and coaches are not subject to separate registration but rather that the main establishment should be registered.

The local authority with responsibility for the main establishment should, at the time of intervention, also include assessment of a representative number of trains or coaches where the food service units across the stock are of similar design and operate to common food safety management procedures. The intervention rating, and hence the food hygiene rating, should reflect the standards within the main establishment and the representative trains and coaches.

**Q13. Are businesses with internet sales covered?**

A13. If supplying food direct to the consumer, it does not matter whether consumers actually visit the premises. Consequently, these companies fall within the scope of the FHRs and should be rated (where the local authority can properly apply the intervention rating scheme) unless any of the specific circumstances set out at Q&A 17 to 19 apply.

**Q14. When should new establishments be rated?**

A14. New establishments should be informed they can have an 'awaiting inspection' sticker when they register, and should be rated under the FHRs at the first inspection, partial inspection or audit unless any of the specific circumstances set out at Q&A 17 to 19 apply. The aim is to ensure fairness to businesses and aid consumer understanding.

In cases of a change in FBO, the establishment should be registered and treated as new, and a new food hygiene rating should be given at the first inspection, partial inspection or audit. It is important that the food hygiene rating for the previous FBO

is removed from [food.gov.uk/ratings](http://food.gov.uk/ratings), and it is clear that the 'new' establishment is 'awaiting inspection'.

In cases where there is solely a change to the name of the establishment but the FBO is the same, a new sticker should be issued in the new name but a new food hygiene rating should not be given.

In cases where the FBO moves to new premises, the new establishment should be registered by the appropriate local authority and a new food hygiene rating given at the first inspection, partial inspection or audit.

It is recommended that local authorities take account of this in their 'closures' procedure.

**Q15. Where establishments falling within the scope comprise different units, should each unit be rated separately?**

A15. Each registered food business establishment should receive a rating. Thus, where the individual units are registered as a single food business establishment – for example, a supermarket with an in-house bakery or butchers or in-house coffee shop or restaurant, or co-located petrol station with a mini-supermarket function - a single food hygiene rating should be given. Local authorities should wherever possible intervention rate the establishment as a single entity at an inspection, partial inspection or audit and providing that sufficient information is obtained by the officer to make a judgement on compliance rather than deal with different units separately. The authority may then focus on different areas/aspects when they carry out other interventions.

Where the units are registered as separate food business establishments – for example, a supermarket with a coffee shop or restaurant under the control of a different FBO, or a co-located petrol station with a mini-supermarket function covered by a different registration - separate food hygiene ratings should be given.

**Q16. What action should be taken regarding the rating of a food business where legal action is being considered?**

A16. If the establishment has been closed (either through formal action or voluntarily) because of an imminent risk to public health, it should not have a food hygiene rating whilst it remains closed, i.e. is not trading, and no information about the business should be published. If and when the establishment re-opens, it should have a rating - generally, the rating should be based on the most recent inspection, partial inspection or audit undertaken.

If the establishment is still trading and still supplying food to the public, it should have a food hygiene rating which should be published at [food.gov.uk/ratings](http://food.gov.uk/ratings). Where the existing rating no longer reflects current hygiene standards, local authorities must reconsider the intervention rating and hence the food hygiene rating.

Specific advice on ratings for establishments linked to food poisoning outbreaks is given at [Section 5](#), Q&A 6.

**Q17. What are the specific circumstances that mean some establishments within the scope should not be rated?**

A17. In line with decisions made by the FSA's Board when the framework for the scheme was agreed, where the following specific circumstances apply, no rating should be given:

- 'low-risk' establishments which are not generally recognised by consumers as being food businesses (see Q&A 18); and
- certain establishments operating from private addresses (see Q&A 19).

This point will be kept under review and the guidance revised if appropriate.

**Q18. What types of businesses constitute 'low-risk' establishments which are not generally recognised by consumers as being food businesses?**

A18. Some types of business operations are required to register as food business establishments but their primary business or activity is not food-related and they are not recognised as food businesses by consumers, as the food activity is only a small element of the businesses in comparison with its main activity. Each set of circumstances should be considered on a case by case basis and on its merits taking into account the type of foods sold and the type of controls required to ensure food safety. Examples include:

- visitor centres and similar establishments selling tins of biscuits or other wrapped goods amongst a range of other goods;
- leisure centres with only food vending machines selling only drinks or low-risk foods;
- newsagents only selling pre-packed confectionery (and petrol stations with a retail element akin to such newsagents rather than a small supermarket);
- chemist shops selling only pre-packed confectionery and/or health foods; and
- off licences selling only drinks and wrapped goods.

**Q19. What is meant by 'certain establishments operating from private addresses'?**

A19. This covers mainly child-minders, but also includes other establishments where caring services are being provided in the home environment as part of a family unit (as opposed to residential care as referred to in Q&A 2).<sup>11</sup> These establishments should not be rated (guidance on the status that should be assigned for the purposes of IT is provided in [Section 10](#)).

This does not include home caterers. They should be given a food hygiene rating as consumers would very much expect them to be part of the FHRS. As regards publishing these ratings at [food.gov.uk/ratings](http://food.gov.uk/ratings), careful handling is required and only partial address details should be published unless the FBO gives express permission for full address details to be published.

**Q20. How should local authorities deal with requests for a food hygiene rating from FBOs where their establishment is not rated because the specified circumstances set out at Q&A 17 to 19 apply?**

A20. Businesses that request a rating should be advised that they are outside of the FHRS and will not be rated.

This ensures consistency with the statutory FHRS scheme operating in Wales and it means that all businesses in these categories are on a level playing field in the three countries operating the scheme.

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<sup>11</sup> [Guidance for local authorities on the application of food hygiene regulations in relation to domiciliary care, assisted living and care homes, and on registration and inspection requirements](#)

This represents a change in policy that was introduced at Revision 3 of the Brand Standard, so where a business 'opted in' before July 2014, the rating given may be retained as long as it is valid. This means until a new inspection, partial inspection or audit is undertaken or, in Northern Ireland, until the statutory scheme is in place.

**Q21. Should all establishments be listed at [food.gov.uk/ratings](http://food.gov.uk/ratings), and what details should be published?**

A21. No. The following types of establishments should not be listed:

- those that fall outside the scope of the scheme;
- Armed Forces, Police and Crown establishments (unless express permission has been given); and
- child-minders that still have a valid rating (see Q&A 20) and other establishments where caring services are being provided in the home environment.

All other establishments that fall within the scope of the FHRS should be listed but if they operate from a private address, only partial address information should be published (see [Section 10](#), Q&A 4) unless the FBO has given express permission for the full address to be published.

The 'Frequently Asked Questions' Section at [food.gov.uk/ratings](http://food.gov.uk/ratings) describes the types of businesses that are included in the scope of the FHRS and also highlights the reasons why some will not get a rating and why some will not be listed on the site.

## Decision tree for determining which types of establishments should receive a food hygiene rating

See also Section 10 on use of the Food Hygiene Rating Scheme IT platform

