

## Executive summary

The Scores on the Doors User Group believe the paper 08/12/04 is misleading, contains a number of fatal flaws, and as an evidence-based organisation, it should be rejected. Some key reasons are:

- A. **Legal Risk.** We believe the advice in Annex 4 (and published on the FSA website without reference to legal opinion) is incorrect. A number of independent legal opinions to this effect are available and in addition the Information Commissioner has already ruled SOTD is covered by EIR not FoI or the Local Government Act. The statements in regard to Northern Ireland therefore are considered to be incorrect and we consider it unfortunate that this information was released into the public domain.
- B. **Practical implementation.** The Board will remember the extent of Local Authority objections to the 3 star or pass/fail consultation following the March board meeting. With 85% of authorities and over half of food businesses in England already using 5 stars, many authorities have already categorically stated they will not move to a 4-tier scheme. Furthermore, since March a single unified 5 star scheme has been developed and endorsed by over 120 local authorities. Ignoring this consensus will cause more delay and make a National scheme unachievable.
- C. **Mis-Information.** The report is selective about which evidence is presented before the board. Lacors, CIEH and Which all support 5 stars. The Greenstreet Berman report does not conclude in favour of 4 tiers. Surveys have shown strong support from businesses for their local 5 star schemes.
- D. **Objectives.** The objective of the FSA is to endorse a national scheme not the creation and promotion of a national website. The current 5 star implementations have already delivered both informed consumer choice and also considerable and sustained improvements in compliance. Any proposed activity such as promotions beyond the legal policy objectives could be seen as FSA gold plating. This may raise significant legal issues!
- E. **Cost.** This risky use of public funds to replace and compete with highly successful implementations would almost certainly attract the attention of the National Audit Office. The estimated cost to create a National Web Database is already high. There is no statement of requirements for this development; no justification for this figure; and no evidence that it would work better than currently. Given the history of failed and overspent Government IT projects, the board should recommend a National scheme, enhance its own web site with simple links to existing sites and leave risky technical and implementation issues to established commercial experts.

## 1. Purpose of the briefing note

To propose the quickest, most inclusive, least risk, lowest cost route to a national Scores on the Doors scheme.

## 2. Background

The National Scores on the Doors user group representing 89 participating authorities submit this paper to assist the board members in separating the facts from the myths, inaccuracies and mis-information of the evaluation and recent consultation exercise. Between our members, we have over 200 years experience of running SOTD schemes, having delivered sustained improvements in efficiency, compliance and consumer choice.

## 3. Introduction

Many local authorities, consumer organisations such as 'Which' and other agencies have been calling for a national Score on the Doors Scheme for some years. It is unfortunate that the FSA have been late in picking up this debate and that there have been delays from an ill fated pilot evaluation and now flawed consultation. However, though regrettable, this is not all bad news, because a large number of authorities have now effectively trialled schemes with a wealth of resulting experience and lessons learned. Furthermore natural evolution by best practice and independent evaluation on an authority-by-authority basis has lead to a strong consolidation around a single unified 5 star scheme. In particular, the issues raised by retailers regarding the consistency of schemes now seem to have been addressed. A common sense approach would suggest that the FSA should now recognise this effort and expertise, and endorse the proven results of their work.

It is our belief that the route to a National scheme can be broken down into three distinct tasks:

- The choice of a scheme
- Addressing issues within the Code of Practice
- Adopting a practical implementation approach

## 4. Choice of scheme

The most practical route is to adopt 5 stars. Since the March Board Meeting the support for 5 stars has consolidated with the scheme now endorsed by Which, LACORS, CIEH and our own public surveys. The number of 5 star schemes has continued to rise. The National Scores on the Doors User group acknowledges the Which letter sent to the board and agrees with its recommendations.

## 5. Myth vs. Fact (including Code of Practice issues)

**Myth:** SOTD schemes are about Code of Practice issues

**Fact:** Scores on the Doors concerns the publication of the outputs of the food inspection process and not the workings of the code of practice. Many of the consultation issues such as consistency of scoring, right of reply, appeals etc. relate to the inspection process and not directly to SOTD. Furthermore these issues exist whether operating within a SOTD environment or not. What SOTD does do however, is make pre-existing problems with the inspection process far more visible and transparent.

**Myth:** Business dislikes a 5 star scheme

**Fact:** Contrary to some information sources; there is widespread business support for a 5 Star scheme. As part of their implementation process, many authorities have conducted independent,

## Myths vs. Facts - Scores on the Doors Briefing Note to FSA Board members

exhaustive evaluations and business consultations, scrutinised by members and senior management, showing a clear preference for 5 stars. In addition the LA consultations have included Macro and micro businesses, which the consultation did not.

**Fact:** Contrary to the quantity of large retailers who responded to the consultation, a recent comprehensive survey by the SOTD user group of over 1000 businesses already in 5 star schemes has shown strong support and endorsement. Unfortunately much of the FSA-related evaluation and consultation has been based on the quantity of responses rather than with a qualitative judgement. Many involved have been poorly informed and have limited scores on the doors expertise or experience.

**Fact:** 6 tiers (5stars) in times of economic recession enable business to take small steps to improve and be given recognition for this. This is already evidenced and documented by a number of user group members. The introduction of a 4tier scheme will have a negative effect on businesses that are 4 or 5 star to maintain standards and will undo a lot of their excellent work.

**Myth:** *The publishing of Food Hygiene Inspection results relies on the Local Government Act 2000 and the Freedom of Information Act 2000 in England, Scotland and Wales*

**Fact:** Contrary to the recently published “legal opinion” on the FSA website, it is the Aarhus convention on Access to Environmental Information (to pro-actively disseminate environmental information) that applies. Under section 39 of the Freedom of Information Act, environmental information is exempt from disclosure (in favour of EIR). Thus it is the EIR that are the regulations being used and not the FOI. In addition the Information Commissioner has already confirmed this and ruled that Food Inspections are subject to Environmental Information Regulations. Other Acts are subservient to EIR.

**Myth:** *Scores on the Doors is ‘Gold Plating’*

**Fact:** Scores on the Doors is simply the publishing of the results of food hygiene inspections in summary form pursuant to obligations under EIR. It requires no extra inspections of premises and in fact has reduced the burden on business through fewer required inspections. This is due to improving standards, which have now been evidenced in surveys of businesses running 5 star schemes.

**Myth:** *It is easy to develop a National Web Platform and provide it on a cost-neutral basis*

**Fact:** The failure and overspend of large central-based government initiatives is legendary. Spending of public money on risky projects when proven low cost solutions exist from the private sector is likely to attract the attention of the National Audit Office.

**Fact:** This is not about a *platform*, but a *service* delivered at a local, regional and national level. The ability to support local award schemes, including healthy eating initiatives, restaurant guides and other better regulation deliverables is key to widespread adoption. Local data ownership is paramount and 3<sup>rd</sup> party (FSA) data errors could invoke litigation.

**Myth:** *A Single National Website is a requirement*

**Fact:** The vast majority of public interest in this information is local or regional with only a minimal demand at a national level, i.e. the public want to know where to eat out and what the conditions were like there when it was inspected. A single national scheme is important for consistency but a national database provides little additional benefit. Furthermore the current the arrangements do not leave the FSA open to legal responsibility for incorrect data and other issues.

**Myth:** *Migration to a National scheme will be easy.*

**Fact:** In England 145 authorities have yet to launch. Some are unlikely to adopt any scheme, particularly whilst the FSA consultation is so flawed in its overall approach. Also many are committed to existing (mainly 5 stars) schemes through regional food groups. Cost will only be one of many local factors involved in a decision to migrate to a national scheme. For many authorities

the current low service costs are only a small percentage of their inspection budgets and decisions will involve many more important factors such as local initiatives, migration costs, member & business commitment, resource constraints and service plans. The transition costs will be significant.

## **6. Implementation considerations**

The key requirements for a national scheme implementation are the low cost to the FSA; low cost to Local Authorities; no further delays; no legal issues; and minimal risk

**Options** (see decision table in appendix A for details)

We believe the options for implementation of a National Scheme platform are:

1. Build upon the two successful service solutions currently in use by the majority of local authorities, and a simple integration with the FSA website.
2. The FSA develop a totally new solution
3. Adopt a national scheme and allow LA's to choose their own platforms

## **7. Recommendations**

The most inclusive, least risk, lowest cost, most popular, most evidence based, fastest implementation and favoured approach by the majority of Local Authorities is five stars. The FSA should concentrate its' resources on publicity and to resolve the other code of practice issues.

***Adopt the successful 5\* scheme already in use by 85% Local Authorities publishing today.***

The 5 star schemes are continuing to deliver. All but some big retailers are in favour of 5 stars. Most of the retailers' apprehensions are based on issues not directly related to Scores on the Doors, or on myths rather than facts. The vast majority of businesses in 5 star schemes are supportive.

***Adopt option 1 to facilitate the best chance of getting a national scheme adopted***

There is an unknown cost to the FSA and local authorities of an ill-defined 'cost neutral' development. The other requirements can be satisfied by building on the two major service platforms already in existence (London scheme and [www.scoresonthedoors.org.uk](http://www.scoresonthedoors.org.uk)). For the FSA this will deliver over half of the premises in England into a national scheme within a matter of weeks, with an already proven smooth and low-cost path for new authorities and those having to migrate. A simple and existing real time interface will allow the FSA web site to also publish the information at almost no cost to the FSA.

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Appendix A – Implementation options decision table

Key:  is preferable.

<i>Option 1</i>	<i>Option 2</i>	<i>Option 3</i>
<b>Deliverables</b>		
<ul style="list-style-type: none"> <li>• 120+ LA's immediately live</li> <li>• Complete and proven service package</li> <li>• Local, Regional and National services</li> <li>• FSA integration facilities already available</li> <li>• Multiple information points e.g. Mobile phones, restaurant guides etc.</li> <li>• Better regulation compliant</li> <li>• Online analysis for retailers</li> </ul>	<ul style="list-style-type: none"> <li>• National only web site</li> </ul>	<ul style="list-style-type: none"> <li>• No National web site</li> </ul>
<b>Timescales</b>		
<ul style="list-style-type: none"> <li>• Available now - authorities can start immediately</li> <li>• Semi-automatic migration tools already available for those on other schemes</li> <li>• New authorities can start immediately using existing implementation package</li> </ul>	<ul style="list-style-type: none"> <li>• 2 – 3 years minimum (Requirements, Definition, Procurement, Development, Pilot, Implementation)</li> </ul>	<ul style="list-style-type: none"> <li>• Not applicable</li> </ul>
<b>Cost</b>		
<ul style="list-style-type: none"> <li>• Almost no FSA development cost</li> <li>• Low LA cost</li> </ul>	<ul style="list-style-type: none"> <li>• 'Cost neutral' to LAs</li> <li>• High development cost</li> <li>• Unknown costs for LA migrations &amp; implementations</li> <li>• Unknown costs for future development &amp; support</li> </ul>	<ul style="list-style-type: none"> <li>• None to FSA</li> <li>• Low LA cost</li> </ul>
<b>Risk</b>		
<ul style="list-style-type: none"> <li>• Low (proven and in operation)</li> <li>• Local ownership means low data quality risk.</li> </ul>	<ul style="list-style-type: none"> <li>• High (uncontrolled costs, undefined requirements)</li> <li>• Diverts FSA resources from code of practice issues</li> <li>• FSA becomes a software developer, IT support organisation and publisher.</li> <li>• Little practical experience of SOTD</li> <li>• No guarantee of universal adoption</li> </ul>	<ul style="list-style-type: none"> <li>• Low, but resulting in free for all.</li> <li>• However this may result in a National scheme via adoption of and migration to existing unified scheme.</li> </ul>
<b>Legal status</b>		
<ul style="list-style-type: none"> <li>• Proven with no legal challenge in 3 years</li> </ul>	<ul style="list-style-type: none"> <li>• Legal challenges of publishing a non-local authority database are unclear.</li> <li>• Is it Ultra Vires?</li> </ul>	<ul style="list-style-type: none"> <li>• LA own risk</li> </ul>