

# Summary of responses: Consultation on the draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023

The draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023 consultation was launched on 17 June 2022 and closed on 9 September 2022. The purpose of the consultation was to provide stakeholders with an opportunity to comment on the draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland), and the potential impact on food businesses and district councils.

## Summary of stakeholder responses

The draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023 consultation was launched on 17 June 2022 and closed on 9 September 2022. The purpose of the consultation was to provide stakeholders with an opportunity to comment on the draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland), and the potential impact on food businesses and district councils.

The proposed regulations will:

- Require an operator of a food business establishment, which supplies a consumer with food ordered via an online facility, to ensure that the facility displays an online icon (in the form of the online FHR) representing the valid FHR in respect of that establishment.
- Prescribe the form of a valid Food Hygiene Rating icon.

The FSA is grateful to those stakeholders who responded and sets out in the table below responses in order of the issues considered.

The key proposals on which the consultation sought views were:

- The draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023, and
- The Impact Assessment for the draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023.

A total of 18 responses were received to the consultation. These included nine district councils, one organisation representing Environmental Health professionals, one regional district council group, one trade association, four online aggregator platforms, one supermarket chain and one individual respondent.

Stakeholders welcomed the opportunity to provide comment, and opening remarks were supportive of the proposed regulations and the ambitions of the FSA to mandate online display of food hygiene ratings. Regulators and one trade association expressed anticipation that the proposed regulations will ensure consistency across online businesses and those on the high

street. Regulators expressed some concern around enforcement and sought clarification on legal queries. Online platforms recognised the importance of hygiene ratings in providing transparency for consumers and acknowledged their role in facilitating food businesses in providing this information however, concerns were raised in relation to the proposed location and manner of display of the food hygiene rating icon.

## **Summary of substantive comments**

**Question 1: Do you agree with the proposed commencement date which will be immediately following the legislative process (est. April 2023)? If you consider an alternative date appropriate, please specify this and provide a rationale.**

**Respondent: Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)**

### **Comment**

EHNI are aware that District Councils are addressing the backlog of inspections that resulted from the pandemic and would point out the focus for the last quarter of the 22/23 year will be on working to the FSA recovery milestone of 31st March 2023. Promotion of the FHRS online display regulations is not a priority in the current FSA recovery plan and it is likely that DC's will not have on the ground resources to support a PR campaign at that time.

EHNI are also aware that should the appropriate legislative processes not be in place then it is likely that the suggested commencement date above may have to be extended. EHNI would point out that the impact assessment refers to additional funding given to all DCs for the 22/23 year for use towards the costs of implementing these regulations. Consideration needs to be given to the possibility that not all work in this regard will be undertaken in the 22/23 financial year. EHNI would welcome further updates regarding changes to the proposed commencement date and expectations on DC's during the lead up period.

### **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly, therefore there will be a delay in the proposed commencement date. It is not possible for FSA to specify a revised date at this time. FSA will seek to ensure the revised operational date for the regulations will be fixed at six months following the completion of the Assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

**Respondent: Ards and North Down Borough Council**

### **Comment**

As is the case with all District Councils, ANDBC are addressing the backlog of inspections that resulted from the pandemic and would point out the focus for the last quarter of the 22/23 year will be on working to the FSA recovery milestone of 31st March 2023. Promotion of the FHRS online display regulations is not a priority in the current FSA recovery plan and it may be likely that ANDBC will not have the resources to support a PR campaign at that time.

ANDBC are also aware that should the appropriate legislative processes not be in place then it is likely that the suggested commencement date above may have to be extended. ANDBC would

point out that the impact assessment refers to additional funding given to all DCs for the 22/23 year for use towards the costs of implementing these regulations. Consideration needs to be given to the possibility that not all work in this regard will be undertaken in the 22/23 financial year. ANDBC would welcome further updates regarding changes to the proposed commencement date and expectations on DC's during the lead up period.

## **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly, therefore there will be a delay in the proposed commencement date. It is not possible for FSA to specify a revised date at this time. FSA will seek to ensure the revised operational date for these regulations will be fixed at six months following the completion of the Assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Armagh City, Banbridge and Craigavon Borough Council**

### **Comment**

Armagh City, Banbridge and Craigavon Borough Council are currently addressing the backlog of inspections that resulted from the Covid 19 pandemic and would point out the focus for the last quarter of the 22/23 year will be on working to the FSA recovery milestone of 31st March 2023. Promotion of the FHRS online display regulations is not a priority in the current FSA recovery plan and it may be likely that DC's will not have the resources to support a PR campaign at that time.

Armagh City, Banbridge and Craigavon Borough Council are aware that should the appropriate legislative processes not be in place then it is likely that the suggested commencement date above may have to be extended. Armagh City, Banbridge and Craigavon Borough Council would point out that the impact assessment refers to additional funding given to all DCs for the 22/23 year for use towards the costs of implementing these regulations. Consideration needs to be given to the possibility that not all work in this regard will be undertaken in the 22/23 financial year. Armagh City, Banbridge and Craigavon Borough Council would welcome further updates regarding changes to the proposed commencement date and expectations on DC's during the lead up period.

## **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to district councils and food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Belfast City Council**

### **Comment**

Belfast City Council's Food Safety unit are currently working to deliver the objectives of the FSA (post Covid Pandemic) recovery plan and are addressing the backlog of inspections that resulted from the pandemic. We would point out the Council's focus during the last quarter of the 22/23 year will be on delivery of the FSA recovery milestone of 31st March 2023. We would highlight that promotion of the FHRS online display regulations is not identified as a priority in the current FSA recovery plan and it may therefore be unlikely that the Food Safety unit would have the on

the ground Environmental Health Officer resource available to provide dedicated technical/advisory/training support for a FSA PR campaign at that time.

Belfast City Council is also aware that the process for bringing forward new legislation in NI is currently impacted by the current absence of a NI Executive. This means it is likely that the suggested commencement date above may have to be extended.

Belfast City Council would point out that the impact assessment refers to additional funding given to all District Council's for the 22/23 year for use towards the costs of implementing these regulations. Consideration needs to be given to the possibility that not all work in this regard will be undertaken in the 22/23 financial year. Belfast City Council would welcome further updates regarding changes to the proposed commencement date and expectations on the Council during the lead in period.

## **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to district councils and food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Causeway Coast and Glens Borough Council**

### **Comment**

Currently Causeway Coast and Glens Borough Council are addressing the backlog of inspections that resulted from the pandemic and would point out the focus for the last quarter of the 22/23 year will be on working to the FSA recovery milestone of 31st March 2023. Promotion of the FHR online display regulations is not a priority in the current FSA recovery plan, and it may be likely that Causeway Coast and Glens Borough Council will not have the resources to support a PR campaign at that time.

Causeway Coast and Glens Borough Council are also aware that should the appropriate legislative processes not be in place then it is likely that the suggested commencement date above may have to be extended. Council would highlight that the impact assessment refers to additional funding given to all Council's for the 22/23 year for use towards the costs of implementing these regulations. Consideration needs to be given to the possibility that not all work in this regard will be undertaken in the 22/23 financial year. Causeway Coast and Glens Borough Council would welcome further updates regarding any changes to the proposed commencement date and expectations upon Councils during the lead up period.

## **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to district councils and food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Derry City and Strabane District Council**

## **Comment**

DCSDC is aware that District Councils are addressing the backlog of inspections that resulted from the pandemic and would point out the focus for the last quarter of the 22/23 year will be on working to the FSA recovery milestone of 31st March 2023. Promotion of the FHRS online display regulations is not a priority in the current FSA recovery plan and it may be likely that DC's will not have the resources to support a PR campaign at that time.

DCSDC is also aware that should the appropriate legislative processes not be in place then it is likely that the suggested commencement date above may have to be extended. DCSDC would point out that the impact assessment refers to additional funding given to all DCs for the 22/23 year for use towards the costs of implementing these regulations. Consideration needs to be given to the possibility that not all work in this regard will be undertaken in the 22/23 financial year. DCSDC would welcome further updates regarding changes to the proposed commencement date and expectations on DC's during the lead up period.

## **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to district councils and food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Fermanagh and Omagh District Council**

### **Comment**

FODC, like other District Councils (DCs), are addressing the backlog of inspections that resulted from the pandemic and would point out that the focus for the last quarter of the 22/23 year will be on working to the Food Standards Agency (FSA) recovery milestone of 31st March 2023. Promotion of the Food Hygiene Rating Scheme (FHRS) online display regulations is not a priority in the current FSA recovery plan, and it may be likely that the Council will not have the resources to support a PR campaign at that time.

FODC is also aware that should the appropriate legislative processes not be in place then it is likely that the suggested commencement date above may have to be extended. We would point out that the impact assessment refers to additional funding given to all DCs for the 22/23 year for use towards the costs of implementing these regulations. Consideration needs to be given to the possibility that not all work in this regard will be undertaken in the 22/23 financial year. The Council would welcome further updates in relation to changes to the proposed commencement date and expectations on DCs during the lead up period.

### **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to district councils and food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Lisburn & Castlereagh City Council**

## **Comment**

Lisburn & Castlereagh City Council is addressing the backlog of inspections that resulted from the pandemic and would point out the focus for the last quarter of the 22/23 year will be on working to the FSA recovery milestone of 31st March 2023. Promotion of the FHRS online display regulations is not a priority in the current FSA recovery plan and it may be likely that the Council will not have the resources to support a PR campaign at that time.

Lisburn & Castlereagh City Council is also aware that should the appropriate legislative processes not be in place then it is likely that the suggested commencement date above may have to be extended. It should be pointed out that the impact assessment refers to additional funding given to all DCs for the 22/23 year for use towards the costs of implementing these regulations. Consideration needs to be given to the possibility that not all work in this regard will be undertaken in the 22/23 financial year. LCCC would welcome further updates regarding changes to the proposed commencement date and expectations on DC's during the lead up period.

## **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to district councils and food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Mid Ulster District Council**

### **Comment**

Mid Ulster District Council is aware that District Councils are addressing the backlog of inspections that resulted from the pandemic and would point out the focus for the last quarter of the 2022/2023 year will be on working to the FSA recovery milestone of 31st March 2023. Promotion of the FHRS online display regulations is not a priority in the current FSA recovery plan and it may be likely that DCs will not have the resources to support a PR campaign at that time.

Mid Ulster District Council is also mindful that should the appropriate legislative processes not be in place then it is likely that the suggested commencement date above may have to be extended. Mid Ulster District Council would point out that the impact assessment refers to additional funding given to all DCs for the 2022/2023 year for use towards the costs of implementing these regulations. Consideration needs to be given to the possibility that not all work in this regard will be undertaken in the 2022/2023 financial year. Mid Ulster District Council would welcome further updates regarding changes to the proposed commencement date and expectations on DCs during the lead up period.

### **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to district councils and food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Newry Mourne and Down District council**

### **Comment**

Newry Mourne and Down District Council are aware that District Councils are addressing the backlog of inspections that resulted from the pandemic and would point out the focus for the last quarter of the 22/23 year will be on working to the FSA recovery milestone of 31st March 2023. Promotion of the FHRS online display regulations is not a priority in the current FSA recovery plan and it may be likely that DC's will not have the resources to support a PR campaign at that time.

Newry Mourne and Down District Council are also aware that should the appropriate legislative processes not be in place then it is likely that the suggested commencement date above may have to be extended. Newry Mourne and Down District Council would point out that the impact assessment refers to additional funding given to all District Council's for the 22/23 year for use towards the costs of implementing these regulations. Consideration needs to be given to the possibility that not all work in this regard will be undertaken in the 22/23 financial year. Newry Mourne and Down District Council would welcome further updates regarding changes to the proposed commencement date and expectations on DC's during the lead up period.

### **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to district councils and food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Chartered Institute of Environmental Health (CIEH)**

### **Comment**

CIEH would like to see the requirement for online display of food hygiene ratings by food businesses to be introduced at the earliest opportunity to ensure consumers are able to make informed decisions about where they purchase food online. We are aware that following the pandemic, district councils are focusing their resources on recovery, addressing backlogs of inspections that were scheduled to take place in 2020 and 2021 but, because of restrictions and other priorities associated with the pandemic, were held in abeyance. District councils may therefore not have adequate resources to promote the requirements of these new regulations or prepare to implement them in 2022/23 as recovery will be the priority. We note from the impact assessment that funding is available to district councils in 2022/23 to implement the new regulations. If the commencement date is later than April 2023 then it will be important for funding to be available to district councils in 2023/24.

### **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to district councils and food businesses, FSA will seek ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Individual respondent**

## **Comment**

Yes

## **Response**

Noted

## **Respondent: MyFood Delivery**

## **Comment**

I think the date is reasonable as long as Businesses are given at least 3 months' notice prior to the date to give them time to implement the legislation

## **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process.

## **Respondent: Asda**

## **Comment**

The key consideration is providing an adequate implementation period to enable retailers to introduce the proposed requirements online successfully and in good faith. In previous consultations there was active discussion about providing a 12-month implementation period from the date the legislative process completes. We would ask for that 12-month implementation period to be granted to give us time to make the necessary amendments. Assurances that Local Authorities will adopt a graduated response is not sufficient.

## **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. Despite the delay to the original coming into operation date, to provide further reassurance to food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process.

## **Respondent: UK Hospitality**

## **Comment**

Businesses will require time to develop their online systems to include the Food Hygiene Ratings. Many businesses are carrying out large IT projects to develop their online business and will include Food Hygiene Ratings as part of the wider project, which will take time to complete. We recommend that one year is allowed for the completion of projects.

## **Response**



FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to food businesses, FSA will seek to ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process.

**Question 2: Do you have any comments regarding the definition of an “online facility” which will bring certain businesses within scope of this requirement? If you think this definition has included or excluded certain business in the scheme that should or should not be, please provide details and a rationale of why they should be included or excluded.**

**Respondent: Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)**

**Comment**

EHNI do not have any comments regarding the definition of an “online facility”.

**Response**

Noted

**Respondent: Ards and North Down Borough Council**

**Comment**

ANDBC do not have any comments regarding the definition of an “online facility”.

**Response**

Noted

**Respondent: Armagh City, Banbridge and Craigavon Borough Council**

**Comment**

Armagh City, Banbridge and Craigavon Borough Council do not have any comments regarding the definition of an “online facility”.

**Response**

Noted

**Respondent: Belfast City Council**

**Comment**

Belfast City Council do not have any comments regarding the definition of an “online facility”.

## **Response**

Noted

### **Respondent: Causeway Coast and Glens Borough Council**

#### **Comment**

Causeway Coast and Glens Borough Council do not have any comments regarding the definition of an “online facility”.

## **Response**

Noted

### **Respondent: Derry City & Strabane District Council**

#### **Comment**

DCSDC do not have any comments regarding the definition of an “online facility”.

## **Response**

Noted

### **Respondent: Fermanagh and Omagh District Council**

#### **Comment**

FODC do not have any comments regarding the definition of an “online facility”.

## **Response**

Noted

### **Respondent: Lisburn & Castlereagh City Council**

#### **Comment**

LCCC do not have any comments regarding the definition of an “online facility”.

## **Response**

Noted

### **Respondent: Mid Ulster District Council**

#### **Comment**

Mid Ulster District Council does not have any comments regarding the definition of an “online facility”.

## **Response**

Noted

## **Respondent: Newry Mourne and Down District Council**

### **Comment**

Newry Mourne and Down District Council do not have any comments regarding the definition of an “online facility”.

## **Response**

Noted

## **Respondent: Chartered Institute of Environmental Health (CIEH)**

### **Comment**

We do not have any comments regarding the definition of an “online facility.”

## **Response**

Noted

## **Respondent: Individual respondent**

### **Comment**

Happy with definition of an online facility. Concerned that aggregators would be excluded from requirements.

## **Response**

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.

## **Respondent: MyFood Delivery?**

### **Comment**

I think it covers most but not all businesses effect I think it should be expanded to include Social media Management firms

## **Response**

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

## **Respondent: UK Hospitality?**

### **Comment**

UK Hospitality supports the definition of an online facility if it brings food businesses, such as sellers using online marketplaces, into scope. UKH members invest heavily in food safety and feel aggrieved to be competing against food businesses who may not. We welcome regulations that help to level the playing field.?

### **Response**

Noted

**Question 3: Do you agree with the proposed specified relevant period of 7 days (beginning on the day the rating is published on [www.food.gov.uk/ratings](http://www.food.gov.uk/ratings)) for online display? If not, please state why and provide a rationale for an alternative period.**

## **Respondent: Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)**

### **Comment**

EHNI are in agreement with the proposed specified relevant period of 7 days for online display as all businesses will have been through the appropriate notification and appeal period prior to publishing.

### **Response**

Noted

## **Respondent: Ards and North Down Borough Council**

### **Comment**

ANDBC are in agreement with the proposed specified relevant period of 7 days for online display as all businesses will have been through the appropriate notification and appeal period prior to publishing.

### **Response**

Noted

## **Respondent: Armagh City, Banbridge and Craigavon Borough Council**

### **Comment**

Armagh City, Banbridge and Craigavon Borough Council are in agreement with the proposed specified relevant period of 7 days for online display as all businesses will have been through the appropriate notification and appeal period prior to publishing.

### **Response**

Noted

**Respondent: Belfast City Council**

**Comment**

Belfast City Council are in agreement with the proposed specified relevant period of 7 days for online display as all businesses will have been through the appropriate notification and appeal period prior to publishing.

**Response**

Noted

**Respondent: Causeway Coast and Glens Borough Council**

**Comment**

Causeway Coast and Glens Borough Council are in agreement with the proposed specified relevant period of 7 days for online display as all businesses will have been through the appropriate notification and appeal period prior to publishing.

**Response**

Noted

**Respondent: Derry City & Strabane District Council**

**Comment**

DCSDC are in agreement with the proposed specified relevant period of 7 days for online display as all businesses will have been through the appropriate notification and appeal period prior to publishing.

**Response**

Noted

**Respondent: Fermanagh and Omagh District Council**

**Comment**

The Council is in agreement with the proposed specified relevant period of 7 days for online display as all businesses will have been through the appropriate notification and appeal period prior to publishing.

**Response**

Noted

**Respondent: Lisburn & Castlereagh City Council**

**Comment**

LCCC are in agreement with the proposed specified relevant period of 7 days for online display as all businesses will have been through the appropriate notification and appeal period prior to publishing.

## **Response**

Noted

## **Respondent: Mid Ulster District Council**

### **Comment**

Mid Ulster District Council is in agreement with the proposed specified relevant period of 7 days for online display as all businesses will have been through the appropriate notification and appeal period prior to publishing.

## **Response**

Noted

## **Respondent: Newry Mourne and Down**

### **Comment**

Newry Mourne and Down District Council are in agreement with the proposed specified relevant period of 7 days for online display as all businesses will have been through the appropriate notification and appeal period prior to publishing.

## **Response**

Noted

## **Respondent: Chartered Institute of Environmental Health (CIEH)**

### **Comment**

We agree with the proposed specified relevant period of 7 days (beginning on the day the rating is published on [www.food.gov.uk/ratings](http://www.food.gov.uk/ratings)) for online display as all businesses will have been through the appropriate notification and appeal period.

## **Response**

Noted

## **Respondent: Individual respondent**

### **Comment**

Yes

## **Response**

Noted

## **Respondent: MyFood Delivery**

### **Comment**

In the first instance of them being published I would think 30 days more appropriate and perhaps 7 days every other time. The business may need time to learn and understand where the ratings? should be published.

### **Response**

FSA acknowledges the issue raised and will seek to amend the specified relevant period to allow for 42 days from the day of the inspection and to allow for 70 days from the date of the inspection in cases where an appeal is made.

## **Respondent: Asda**

### **Comment**

Previous discussions referred to a 28 day turn-around time and the more time is provided the better to ensure accuracy. However, if the FHR icon is a hyperlink to the relevant section on the FSA website where consumers can view ratings, then we would intend that the icon on our website is a permanent hyperlink feature and the FSA website can update as and when Food Hygiene Rating inspections and updates are logged by FSA – this is our preferred approach.

### **Response**

FSA acknowledges the issue raised in relation to the 7-day timescale and will seek to amend the specified relevant period to allow for 42 days from the day of the inspection and to allow for 70 days from the date of the inspection in cases where an appeal is made.

For minimum disruption FSA recommends that chain supermarkets embed the JavaScript code (provided on [ratings.food.gov.uk](https://ratings.food.gov.uk)) for each relevant supermarket on their websites. This is because the code is developed to update automatically if the rating changes. It is therefore a one-off implementation.

## **Respondent: UK Hospitality**

### **Comment**

On the assumption that this is in addition to the appeal period, then we agree with the specific period for online display.

### **Response**

Noted

## **Respondent: Just Eat**

### **Comment**

Just Eat currently has an API link with the FSA rating website which pulls Food Hygiene Rating (FHR) scores directly into our platform. We do however sometimes receive 'invalid' information basis due to bugs within the system. These are usually at Local Authority level and sometimes

can take a considerable time to resolve. In such instances the food hygiene rating may still be appearing on the FSA rating website but cannot be pulled through correctly on the API link. In such instances the 7-day timescale may not be achievable or realistic and cannot be resolved by Just Eat or the food business.

In addition, the date detailed on the rating website is the date of the last inspection. How will the date of upload/publish be made available in order to be able to track the 7-day timescale?

## **Response**

FSA is engaging with Just eat to resolve the issue raised in relation to 'invalid information'.

FSA acknowledges the issue raised in relation to the 7-day timescale and will seek to amend the specified relevant period to allow for 42 days from the day of the inspection and to allow for 70 days from the date of the inspection in cases where an appeal is made.

To aid compliance FSA recommends that food businesses embed the JavaScript code provided to them (on their rating page at ratings.food.gov.uk) where possible. This is because the code is developed to update automatically if the rating changes. It is therefore a one-off implementation for the business.

**Question 4: Do you have any comments regarding the definition of the “relevant point” which defines the location of where the food hygiene rating icon must be displayed?**

**Respondent: Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)**

## **Comment**

EHNI have no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.?

## **Response**

Noted

**Respondent: Ards and North Down Borough Council?**

## **Comment**

ANDBC have no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.?

## **Response**

Noted

**Respondent: Armagh City, Banbridge and Craigavon Borough Council?**

## **Comment**



Armagh City, Banbridge and Craigavon Borough Council have no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.??

### **Response**

Noted

### **Respondent: Belfast City Council?**

### **Comment**

Belfast City Council have no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.??

### **Response**

Noted

### **Respondent: Causeway Coast and Glens Borough Council?**

### **Comment**

Causeway Coast and Glens Borough Council have no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.?

### **Response**

Noted

### **Respondent: Derry City & Strabane District Council?**

### **Comment**

DCSDC have no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.??

### **Response**

Noted

### **Respondent: Fermanagh and Omagh District Council?**

### **Comment**

FODC has no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.?

### **Response**

Noted

### **Respondent: Lisburn & Castlereagh City Council?**

## **Comment**

LCCC have no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.?

## **Response**

Noted

## **Respondent: Mid Ulster District Council?**

## **Comment**

Mid Ulster District Council has no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.??

## **Response**

Noted

## **Respondent: Newry Mourne and Down District Council?**

## **Comment**

Newry Mourne and Down District Council have no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.??

## **Response**

Noted

## **Respondent: Chartered Institute of Environmental Health (CIEH)?**

## **Comment**

We have no comments in relation to the definition of the “relevant point” as it is clearly explained in the interpretation section of the draft regulations.?

## **Response**

Noted

## **Respondent: Individual respondent?**

## **Comment**

No

## **Response**

Noted

## **Respondent: MyFood Delivery?**

## Comment

It is not clear if this means at the top of the page or part of the ordering process?

## Response

The regulations were drafted to be flexible enough to apply to the various online facilities used by food businesses therefore, the proposed regulations do not prescribe precise locations for display of food hygiene ratings. Businesses are free to display their rating in a location of their choice as long as it meets the proposed 'readily seen and easily read' requirement prior to the point of selection or order (whichever comes first in the user's journey).?

## Respondent: Asda?

## Comment

Fundamentally we believe that the information should be held in the footer of our website. Our consumer insight constantly shows that the priority for our customers on our website is price, availability, delivery options and how intuitive the website is. FHRs is an important topic, but so are many other issues and we believe that the criteria for "readily seen and easily read" can be met in the footer of our site where a lot of important information is hosted. It is not 'out of sight' in our footer. It should also be noted that we operate a UK wide website and NI specific requirements is an added complication.?

## Response

[Independent research](#) on consumer needs in relation to online display of food hygiene ratings has identified that consumers will use the FHRs in their decision-making process, however this information needs to be readily accessible as early in the customer journey as possible. The focus-group based research highlighted that consumers felt suspicious when ratings were placed out of immediate sight such as in the footer of online platforms. Furthermore, [FSA research](#) carried out in 2021 found that 95% of respondents who had heard of FHRs 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.??

With respect to the placement of the food hygiene rating, the proposed regulations do not exclude or prescribe any location on an online platform however, as a general guide, if the user can select food or place an order without the food hygiene rating being in their field of vision then the placement of that food hygiene rating would not be 'readily seen'. The [Food Hygiene Rating Scheme online display guidance](#) (sets out how to display your food hygiene rating online and on social media in England, Wales and Northern Ireland) has been updated to include this advice.

## Respondent: Deliveroo?

## Comment

We think that the regulation could be improved in the following two ways:?

(a) amending the principle that a food hygiene rating must be "readily-seen and easily read" to one that is "readily-accessible and easily read"; and?

(b) clarifying that the food hygiene rating is available or accessible for viewing before food is seen/ordered in legislation, irrespective of the steps taken in the user journey (refer to the third bullet point under the heading 'Website display' of the current guidance) for online hygiene

ratings.?

This is for four reasons:?

i) Online platforms should have the same flexibility as physical sites for ensuring that the icon is readily available and easily read without stringent prescriptions of where it must go. Physical restaurant sites have discretion over where in their entrance a rating should be displayed. Consumers of online services are aware that legally required information may often be re-grouped in a different part of a website (retailers will often have a 'Legal' or 'important information' section). Provided that this information is available to the consumer at any stage, we do not consider that it is appropriate to prescribe location of the food hygiene rating information for an online ordering experience. As above, we already take a number of steps to ensure the food hygiene standards of our partners and food delivered via Deliveroo is communicated to consumers. However, overly prescriptive regulation limits our ability to provide the best consumer experience possible and to judge how best to facilitate safe consumer choices. It will also likely limit operators' ability to offer new ordering experiences with technological change (for example if ordering were to move to the virtual world or within the metaverse). In these circumstances, operators would require more flexibility in how such information is made accessible and the current? draft legislation is unlikely to be fit for purpose for such new technologies as it assumes that the user journey will always follow a linear approach.?

ii) There is a trade-off in mandating food hygiene ratings to be shown before food is ordered/selected: it might make calorie, allergen, and map information less prominent than it currently is on our app. We are currently responding to new UK legislation/consultations that would mandate calorie and allergen displays. Too much specificity over how each of allergen information, calorie amounts, and hygiene rating? must all be displayed will limit our ability to provide consumers with a clear and informative browsing experience. Regulators should take account of the cumulative impact of these measures to ensure they are complementary and not overly disruptive or confusing for consumers.?

iii) Customers can already filter and sort by hygiene rating before they select restaurants so they exclusively see 3, 4, or 5 rated restaurants. Customers easily know they are ordering from a restaurant which meets their desired hygiene rating criteria when using this filter and it is easier to filter by hygiene rating that it is in a physical environment. This additional prescriptive regulation is therefore unnecessary as consumers can make informed choices while using filters.?

iv) The FSA should consider the business and sales impact of its current guidance on how online ratings should be displayed. At present the suggestions of how to display ratings on Facebook or Twitter cover photos mean that hygiene ratings take up around a quarter of a restaurant's cover photo. Online sites are a valuable way to portray a brand and attract customers: it is unreasonable to expect restaurants to devote some of the most valuable online advertising space to a hygiene display (especially when compared to a sticker taking up little space in a readily seen physical location). Regulation should take account of this and aim to minimise any potential sales impacts.?

We would prefer an approach that allows operators and restaurants to determine effective places to show hygiene ratings online rather than mandating specific parts of websites or apps.?

We would be happy to discuss this response or any of Deliveroo's food hygiene initiatives further.?

## **Response**

The proposed regulations were drafted with the aim of achieving continuity of display and consistency of approach across physical food business establishment and those who operate via

an online ordering facility.??

Regulation 5 of the Food Hygiene Rating Regulations (Northern Ireland) 2016 prescribes that the Food Hygiene Rating Sticker must be displayed—?

(a) at or near each entrance to a food business establishment; and?

(b) where it can be readily seen and easily read by customers before they enter the establishment when it is open for business.?

As physical food establishments display their rating 'at or near each entrance', FSA considers that the online equivalent of this is prior to selecting or ordering food (this view was informed by the [independent research](#)).? The proposed location and manner of display ensures that the food hygiene rating is in the field of vision of the consumer before they place food items in their basket or order food, and they don't have to seek it out.?

[Independent research](#) found that information needs to be immediately accessible to allow consumers to make "at a glance" or 'snap' decisions. The research also showed that participants largely viewed the concept of "clicking off" to another page as a "barrier.?"

Amending the principle to 'readily accessible and easily read' for food businesses selling food online would not just result in disparity between a physical establishments and online food ordering facilities but would also present a barrier to consumers making informed decisions about where to order food online.?

With regard to new technologies, as it is not possible to discern the nature and extent to which online food ordering will develop into the future, the regulations will only apply to online food ordering facilities which fall within the current scope of the draft regulations.???

We acknowledge the importance of calorie and allergen information and their role in allowing consumers to make more informed choices. To minimise the space required for a Food Hygiene Rating, the FSA have developed a range of FHR icons. FSA welcomes feedback on the current images available and how they can be adapted to work better for you.?

While FSA acknowledges and welcomes adaptations of platforms to allow consumers to filter their choices according to their preferred rating, the [aforementioned research](#) has shown that due to the immediacy of online food ordering, participants preferred the rating to be displayed to allow 'snap decisions' to be made. Furthermore, [FSA research](#) carried out in 2021 found that 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.?

With regard to the [FSA's online display guidance](#), the suggestions illustrated are for guidance purposes only (the guidance will be amended to make this clearer to users). Businesses are free to display their rating in a location of their choice as long as it meets the proposed 'readily seen and easily read' prior to the point of selection, or order (whichever comes first in the user's journey). ?

The regulations do not mandate display for specific locations or parts of websites or apps, rather businesses are free to display their rating in a location of their choice as long as it meets the proposed 'readily seen and easily read' prior to the point of selection or order (whichever comes first in the user's journey).?

**Respondent: Uber Eats?**

**Comment**

As currently constructed, the Regulations introduce a requirement for the app to display a visual FHR icon “prior to” the point at which food is selected. This would require either:??

1. a redesign of the app in Northern Ireland only; or??
2. a UK-wide redesign of the app, each of which would place an undue burden on the app in its role as an intermediary for the duty of restaurants to display visible FHRs.?

A redesign of the app in Northern Ireland only would act as a barrier to the even operation of the app across the UK. Similarly, the cost implications of a UK-wide redesign of the app to meet higher regulatory requirements in only one region of the UK, may remove incentives for operating in the local market.??

In this case, we advocate that regulations mandating the online display of FHR should support the current system of display within the app, where this is provided at point of choice in written form. The role of the Uber Eats app in facilitating FHRs Uber Eats currently facilitates the display of FHR for all restaurant partners on the app at the point at which food is selected. This is in written form at the bottom of the menu page. This written FHR display currently on the menu page meets most of the criteria in the proposed? regulations:?

? A clear representation of the restaurant’s FHR.?

? Has a link to the restaurant’s rating in full on the FSA website.?

? Is displayed at a position at the point of choice that is “easily seen and easily read”.?

Further, the FHR icon is currently available to view on the restaurant’s information page. This is accessible on the app to the customer if they click through on the restaurant’s information page, an option which is easily visible at the top of the menu page.?

The Uber Eats app therefore currently facilitates the provision of FHR for all restaurants using the app, and we would urge the FSA to review its proposals to allow such displays to meet its requirements. The legal requirement for restaurant partners to display their FHR online should reduce disruption to the delivery platforms, which support restaurant partners in fulfilling legal obligations. This should, as far as possible, be supported under the current format of a written display of the FHR on the menu page, and the FHR icon on the restaurant’s information page.

## **Response**

It is a longstanding ambition of the FSA to introduce Food Hygiene Rating online display across all three countries (England, Wales and Northern Ireland). The guiding principles around display, as outlined in the FSA’s online display guidance (for businesses in Northern Ireland, Wales and England), are that the rating should; appear prominently so that it is readily seen, be adequately sized so that it is easily read and appear prior to the point where food is selected or ordered. Therefore, any redesign undertaken to meet the proposed regulations would be in line with the existing FSA online display guidance.?

In relation to undue burden on the app, an estimate of costs was outlined in the impact assessment (accompanying the consultation) and a request made for updated estimates in the event that these were inaccurate however FSA did not receive any suggestion to revise the estimated costs. FSA would welcome any further feedback in relation to costs outlined in the impact assessment.?

Regarding display of the FHR in written form, the proposed Food Hygiene Rating (Online Display) Regulations (Northern Ireland) were drafted with the aim of ensuring consistency and fairness of approach with regard to location and manner of display across physical and online businesses.

Physical food business establishments are required to display their rating in the form of a food hygiene rating sticker at or near each entrance. To facilitate consumer recognition and ensure consumers associate the rating with the FSA's Food Hygiene Rating Scheme, FSA has prescribed the key characteristics of the food hygiene rating icon within the proposed regulations. ??

This approach has also been informed by [independent](#) consumer research which consistently showed that due to competing priorities while ordering food online, participants overwhelmingly preferred the Food Hygiene Rating itself to be displayed. In this regard the research highlighted the importance that consumers placed on clarity and visibility, and presenting FHRS information in an accessible, easy to use format.?

The above-mentioned research also showed that participants largely viewed the concept of "clicking off" to another page as a "barrier" to their potential usage of FHRS information citing that information needs to be immediately accessible to allow decisions "at a glance" and 'snap' decisions.??

## **Respondent: Just Eat?**

### **Comment**

Currently Just Eat displays the FHR of restaurants in a separate information section pop-up which details the address, opening times of the restaurant also.? This is available on the restaurant landing page and hence is available to the customer at the point of selection and prior to completion of the order.???

Display of the FHR icon 'prior to selection' would involve having the rating icon displayed on the first landing page, which lists all the restaurants near you as per your postcode, would entail substantial IT development and in turn cost.? In addition, the amount of screen space available at this point is limited especially in the case where a customer is using the app to order which again will impact substantially.? The definition of 'relevant point' requires review and amendment.???

The solution would have to be applied to all restaurants on the platform and not just those located in NI as it is not possible to provide two different tech solutions based on food business location.? This could severely impact our other restaurant partners located within England, Scotland and Wales where online display is not a legal requirement.? Indeed, the number of restaurants currently on our platform in NI equates to less than 2% of our total within the UK.???

### **Response**

The proposed regulations specify that the FHR icon must be displayed prior to selection of food itself rather than selection of a restaurant.??

It is a longstanding ambition of the FSA to introduce Food Hygiene Rating online display across all three countries (England, Wales and Northern Ireland). The guiding principles around display, as outlined in the FSA's online display guidance (which applies to businesses in NI, Wales and England) is that the rating should; appear prominently so that it is readily seen, be adequately sized so that it is easily read and appear prior to the point where food is selected or ordered. Therefore, any redesign undertaken to meet the proposed regulations would be in line with the existing FSA online display guidance.?

In relation to the suggested substantial IT development costs, an estimate of costs was outlined in the impact assessment (accompanying the consultation) and a request made for updated estimates in the event that these were inaccurate however FSA did not receive any suggestion to revise the estimated costs. FSA would welcome any further feedback in relation to costs outlined

in the impact assessment.?

**Respondent: UK Hospitality**

**Comment**

We find this definition confusing. The relevant point is prior to the point at which the food is chosen or ordered. The wording of the definition suggests that there is only one specific defined point. Given the wide range of different online facilities, there may be several different stages within the customer journey prior to the point at which the food is chosen or ordered, and several different potential relevant points.??

The Food Hygiene Rating Scheme online display guidance is helpful in adding some clarity. If the definition in the regulation is viewed alongside the FSA guidance it is more understandable in that the guidance states “anywhere prior to electing or placing an order.”???

**Response**

We note your comments regarding clarification of the relevant point. The Food Hygiene Rating Scheme online display guidance will be amended to include the word ‘anywhere’. ?

**Question 5: Do you have any comments regarding the definition of a “social media service?”**

**Respondent: Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)?**

**Comment**

EHNI do not have any comments regarding the definition of a “social media service”.?

**Response**

Noted

**Respondent: Ards and North Down Borough Council?**

**Comment**

ANDBC do not have any comments regarding the definition of a “social media service”.?

**Response**

Noted

**Respondent: Armagh City, Banbridge and Craigavon Borough Council?**

**Comment**

Armagh City, Banbridge and Craigavon Borough Council do not have any comments regarding the definition of a “social media service”.?



## **Response**

Noted

### **Respondent: Belfast City Council?**

#### **Comment**

Belfast City Council do not have any comments regarding the definition of a “social media service”.?

## **Response**

Noted

### **Respondent: Causeway Coast and Glens Borough Council?**

#### **Comment**

Causeway Coast and Glens Borough Council do not have any comments regarding the definition of a “social media service”.?

## **Response**

Noted

### **Respondent: Derry City & Strabane District Council?**

#### **Comment**

DCSDC do not have any comments regarding the definition of a “social media service”.?

## **Response**

Noted

### **Respondent: Fermanagh and Omagh District Council?**

#### **Comment**

The Council does not have any comments regarding the definition of a “social media service”.?

## **Response**

Noted

### **Respondent: Lisburn & Castlereagh City Council?**

#### **Comment**

LCCC do not have any comments regarding the definition of a “social media service”.?

## **Response**

Noted

**Respondent: Mid Ulster District Council?**

## **Comment**

Mid Ulster District Council does not have any comments regarding the definition of a “social media service”.

## **Response**

Noted

**Respondent: Newry Mourne and Down?**

## **Comment**

Newry Mourne and Down District Council do not have any comments regarding the definition of a “social media service”.?

## **Response**

Noted

**Respondent: Chartered Institute of Environmental Health (CIEH)?**

## **Comment**

We do not have any comments regarding the definition of a “social media service”.

## **Response**

Noted

**Respondent: Individual respondent?**

## **Comment**

No

## **Response**

Noted

**Question 6:**

**a) Does the wording in regulation 3 (2)(a) make it clear who the regulations apply to?**

**b) Do you have any comments regarding regulation 3 (2)(a)?**

**Respondent: Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)?**

**Comment**

EHNI interprets the wording in regulation 3 (2)(a) to apply to those food business operators who use their own online facility from which food can be purchased and to online facilities that are used by one or more food business operators to sell their foods.?

EHNI have no further comments regarding regulation 3(2)(a)?

**Response**

Noted

**Respondent: Ards and North Down Borough Council?**

**Comment**

ANDBC interprets the wording in regulation 3 (2)(a) to apply to those food business operators who use their own online facility from which food can be purchased and to online facilities that are used by one or more food business operators to sell their foods.?

ANDBC have no further comments regarding regulation 3(2)(a)?

**Response**

Noted

**Respondent: Armagh City, Banbridge and Craigavon Borough Council?**

**Comment**

Armagh City, Banbridge and Craigavon Borough Council interprets the wording in regulation 3 (2)(a) to apply to those food business operators who use their own online facility from which food can be purchased and to online facilities that are used by one or more food business operators to sell their foods.??

Armagh City, Banbridge and Craigavon Borough Council have no further comments regarding regulation 3(2)(a)?

**Response**

Noted

**Respondent: Belfast City Council?**

**Comment**

Belfast City Council interprets the wording in regulation 3 (2)(a) to apply to those food business operators who use their own online facility from which food can be purchased and to online

facilities that are used by one or more food business operators to sell their foods.?? Belfast City Council have no further comments regarding regulation 3(2)(a)?

## **Response**

Noted

## **Respondent: Causeway Coast and Glens Borough Council?**

### **Comment**

Causeway Coast and Glens Borough Council interprets the wording in regulation 3 (2)(a) to apply to those food business operators (FBOs) who use their own online facility from which food can be purchased and to online facilities that are used by one or more food business operators to sell their foods.?? Causeway Coast and Glens Borough Council have no further comments regarding regulation 3(2)(a)?

## **Response**

Noted

## **Respondent: Derry City & Strabane District Council?**

### **Comment**

DCSDC interprets the wording in regulation 3 (2)(a) to apply to those food business operators who use their own online facility from which food can be purchased and to online facilities that are used by one or more food business operators to sell their foods.?? DCSDC have no further comments regarding regulation 3(2)(a)?

## **Response**

Noted

## **Respondent: Fermanagh and Omagh District Council?**

### **Comment**

The Council interprets the wording in regulation 3 (2)(a) to apply to those food business operators (FBOs) who use their own online facility from which food can be purchased and to online facilities that are used by one or more FBO's to sell their foods.? The Council has no further comments regarding regulation 3(2)(a)

## **Response**

Noted

## **Respondent: Lisburn & Castlereagh City Council?**

### **Comment**

LCCC interprets the wording in regulation 3 (2)(a) to apply to those food business operators who use their own online facility from which food can be purchased and to online facilities that are

used by one or more food business operators to sell their foods.?? LCCC have no further comments regarding regulation 3(2) (a)?

## **Response**

Noted

## **Respondent: Mid Ulster District Council?**

### **Comment**

Mid Ulster District Council interprets the wording in regulation 3 (2)(a) to apply to those food business operators who use their own online facility from which food can be purchased and to online facilities that are used by one or more food business operators to sell their foods.?? Mid Ulster District Council has no further comments regarding regulation 3(2)(a)?

## **Response**

Noted

## **Respondent: Newry Mourne and Down District Council?**

### **Comment**

Newry Mourne and Down District Council interprets the wording in regulation 3 (2)(a) to apply to those food business operators who use their own online facility from which food can be purchased and to online facilities that are used by one or more food business operators to sell their foods.?? Newry Mourne and Down District Council have no further comments regarding regulation 3(2)(a)?

## **Response**

Noted

## **Respondent: Chartered Institute of Environmental Health (CIEH)?**

### **Comment**

Yes, it is clear i.e. those food business operators who use their own online facility from which food can be purchased and online facilities used by one or more food business operators to sell their foods.?? We have no further comments regarding regulation 3(2)(a)??

## **Response**

Noted

## **Respondent: Individual respondent?**

### **Comment**

1. Yes?
2. No?

## **Response**

Noted

### **Respondent: MyFood Delivery?**

#### **Comment**

1. Yes?
2. No?

## **Response**

Noted

### **Respondent: UK Hospitality?**

#### **Comment**

The wording appears complex and difficult to follow. After several readings and discussion with our members, we believe we understand what types of online facilities are within scope. If this wording is retained, further guidance will be required.?

## **Response**

FSA acknowledges the issue raised and will ensure that further advice on the types of online facilities is made available through guidance.?

### **Question 7:**

**a) Does the wording in regulation 3 (2)(b) make it clear who the regulations apply to?**

**b) Do you have any comments regarding regulation 3 (2)(b)?**

### **Respondent: Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)?**

#### **Comment**

EHNI is aware of the Food Standards Agency's work with online aggregators and welcome the opportunity for District Council's to participate in such workstreams. The willingness of online aggregators to display prescribed and valid food hygiene ratings is an important factor in the implementation of the online display regulations. EHNI would seek clarification on whether a failure to display a prescribed and valid FHR on an aggregator site constitutes an offence that can be enforced by a Fixed Penalty Notice (FPN), in that failure to display an icon at the relevant point is an offence by the FBO. As there does not appear to be any legal requirement in the draft regulations for aggregators to display ratings, EHNI are concerned that there may be some reluctance from aggregators to do so. FBO's could be committing offences through no fault of their own.??

Clarification is being sought on the offence of failure to display a prescribed valid online food hygiene rating. The wording of the fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 refers to the offence as failure to display an 'online link' contrary to section 10 (1) of the Food Hygiene Rating Act (NI) 2016. The draft online display regulations reference an 'icon'. It is the understanding of EHNI that a link is only to be used by food business operators that have a chain of establishments as detailed in section 3(3) of the draft regulations.??

In Schedule 2 Part A of the Food Hygiene Rating Act should the FPN reference section 7(3) in the alleged offence for online display, in a manner similar to the reference of 7(1) in the alleged offence of failure to display a sticker??

EHNI would welcome further engagement by the FSA with social media platform providers in order to address ongoing difficulties District Councils are experiencing with food traders using such platforms. It is envisaged that there may be an increase in complaints from consumers with regard to the display of a FHR by businesses selling via social media. Businesses may not provide all the necessary information on these platforms to enable District Council's to identify where the business is operating from, leaving them unable to register the business or take appropriate enforcement actions.?

## **Response**

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

FSA agrees with the issues raised in relation to the Fixed Penalty Notice (FPN). The FPN in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 will be amended accordingly.?

?As part of FSA online workstreams the FSA is planning some engagement with local authorities and district councils to understand the current challenges they face with online food selling. Findings from this engagement will inform any next steps progressed by the FSA via further workstreams.?

## **Respondent: Ards and North Down Borough Council ?**

### **Comment**

ANDBC is aware of the Food Standards Agency's work with online aggregators and welcome the opportunity for District Council's to participate in such workstreams. The willingness of online aggregators to display prescribed and valid food hygiene ratings is an important factor in the implementation of the online display regulations. ANDBC would seek clarification on whether a failure to display a prescribed and valid FHR on an aggregator site constitutes an offence that can be enforced by a Fixed Penalty Notice (FPN), in that failure to display an icon at the relevant point is an offence by the FBO. As there does not appear to be any legal requirement in the draft regulations for aggregators to display ratings, ANDBC are concerned that there may be some reluctance from aggregators to do so. FBO's could be committing offences through no fault of their own.??

Clarification is being sought on the offence of failure to display a prescribed valid online food hygiene rating. The wording of the fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 refers to the offence as failure to display an 'online link' contrary to section 10 (1) of the Food Hygiene Rating Act (NI) 2016. The draft online display regulations reference an 'icon'. It is the understanding of ANDBC that a link is only to be used by food business operators that have a chain of establishments as detailed in section 3(3) of the draft regulations.??

In Schedule 2 Part A of the Food Hygiene Rating Act should the FPN reference section 7(3) in the alleged offence for online display, in a manner similar to the reference of 7(1) in the alleged offence of failure to display a sticker???

ANDBC would welcome further engagement by the FSA with social media platform providers in order to address ongoing difficulties District Councils are experiencing with food traders using such platforms. It is envisaged that there may be an increase in complaints from consumers with regard to the display of a FHR by businesses selling via social media. Businesses may not provide all the necessary information on these platforms to enable District Council's to identify where the business is operating from, leaving them unable to register the business or take appropriate enforcement actions.?

## **Response**

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

FSA agrees with the issues raised in relation to the Fixed Penalty Notice (FPN). The FPN in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 will be amended accordingly.?

?As part of FSA online workstreams the FSA is planning some engagement with local authorities and district councils to understand the current challenges they face with online food selling. Findings from this engagement will inform any next steps progressed by the FSA via further workstreams.?

## **Respondent: Armagh City, Banbridge and Craigavon Borough Council?**

### **Comment**

Armagh City, Banbridge and Craigavon Borough Council is aware of the Food Standards Agency's work with online aggregators and welcome the opportunity for District Council's to participate in such workstreams. The willingness of online aggregators to display prescribed and valid food hygiene ratings is an important factor in the implementation of the online display regulations. Armagh City, Banbridge and Craigavon Borough Council would seek clarification on whether a failure to display a prescribed and valid FHR on an aggregator site constitutes an offence that can be enforced by a Fixed Penalty Notice (FPN), in that failure to display an icon at the relevant point is an offence by the FBO. As there does not appear to be any legal requirement in the draft regulations for aggregators to display ratings, Armagh City, Banbridge and Craigavon Borough Council are concerned that there may be some reluctance from aggregators to do so. FBO's could be committing offences through no fault of their own.??

Clarification is being sought on the offence of failure to display a prescribed valid online food hygiene rating. The wording of the fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 refers to the offence as failure to display an 'online link' contrary to section 10 (1) of the Food Hygiene Rating Act (NI) 2016. The draft online display regulations reference an 'icon'. It is the understanding of Armagh City, Banbridge and Craigavon Borough Council that a link is only to be used by food business operators that have a chain of establishments as detailed in section 3(3) of the draft regulations.??

In Schedule 2 Part A of the Food Hygiene Rating Act should the FPN reference section 7(3) in the alleged offence for online display, in a manner similar to the reference of 7(1) in the alleged offence of failure to display a sticker??



Armagh City, Banbridge and Craigavon Borough Council would welcome further engagement, by the FSA, with social media platform providers in order to address ongoing difficulties District Councils are experiencing with food traders using such platforms. It is envisaged that there may be an increase in complaints from consumers with regard to the display of a FHR by businesses selling via social media. Businesses may not provide all the necessary information on these platforms to enable District Council's to identify where the business is operating from, leaving them unable to register the business or take appropriate enforcement actions.??

## **Response**

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

FSA agrees with the issues raised in relation to the Fixed Penalty Notice (FPN). The FPN in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 will be amended accordingly.?

?As part of FSA online workstreams the FSA is planning some engagement with local authorities and district councils to understand the current challenges they face with online food selling. Findings from this engagement will inform any next steps progressed by the FSA via further workstreams.?

## **Respondent: Belfast City Council?**

### **Comment**

Belfast City Council is aware of the Food Standards Agency's recent work with online aggregators and welcomes the opportunity for the Food Safety Officers to participate in such workstreams. The willingness of online aggregators to display prescribed and valid food hygiene ratings is an important factor in the implementation of the online display regulations. Belfast City Council would seek clarification on whether a failure to display a prescribed and valid FHR on an aggregator site constitutes an offence that can be enforced by a Fixed Penalty Notice (FPN), in that failure to display an icon at the relevant point is an offence by the FBO. As there does not appear to be any legal requirement in the draft regulations for aggregators to display ratings, Belfast City Council are concerned that there may be some reluctance from aggregators to do so. FBO's could be committing offences through no fault of their own.??

Clarification is being sought on the offence of failure to display a prescribed valid online food hygiene rating. The wording of the fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 refers to the offence as failure to display an 'online link' contrary to section 10 (1) of the Food Hygiene Rating Act (NI) 2016. The draft online display regulations reference an 'icon'. It is the understanding of Belfast City Council that a link is only to be used by food business operators that have a chain of establishments as detailed in section 3(3) of the draft regulations. ??

In Schedule 2 Part A of the Food Hygiene Rating Act should the FPN reference section 7(3) in the alleged offence for online display, in a manner similar to the reference of 7(1) in the alleged offence of failure to display a sticker??

Belfast City Council would welcome further engagement by the FSA with social media platform providers in order to address ongoing difficulties the Council are experiencing with food traders using such platforms. It is envisaged that there may be an increase in complaints from consumers with regard to the display of a FHR by businesses selling via social media. Businesses may not provide all the necessary information on these platforms to enable the Council to identify where

the business is operating from, leaving them unable to register the business or take appropriate enforcement actions.??

## **Response**

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

FSA agrees with the issues raised in relation to the Fixed Penalty Notice (FPN). The FPN in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 will be amended accordingly.?

?As part of FSA online workstreams the FSA is planning some engagement with local authorities and district councils to understand the current challenges they face with online food selling. Findings from this engagement will inform any next steps progressed by the FSA via further workstreams.?

## **Respondent: Causeway Coast and Glens Borough Council?**

### **Comment**

Causeway Coast and Glens Borough Council is aware of the Food Standards Agency's work with online aggregators and welcomes the opportunity for District Council's to participate in such workstreams. The willingness of online aggregators to display prescribed and valid food hygiene ratings is an important factor in the implementation of the online display regulations. Causeway Coast and Glens Borough Council would seek clarification on whether a failure to display a prescribed and valid FHR on an aggregator site constitutes an offence that can be enforced by a Fixed Penalty Notice (FPN), in that failure to display an icon at the relevant point is an offence by the food business operator. As there does not appear to be any legal requirement in the draft regulations for aggregators to display ratings, Causeway Coast and Glens Borough Council are concerned that there may be some reluctance from aggregators to do so. Food business operators could be committing offences through no fault of their own.??

Clarification is sought on the offence of failure to display a prescribed valid online food hygiene rating. The wording of the fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 refers to the offence as failure to display an 'online link' contrary to section 10 (1) of the Food Hygiene Rating Act (NI) 2016. The draft online display regulations reference an 'icon'. It is the understanding of Causeway Coast and Glens Borough Council that a link is only to be used by food business operators that have a chain of establishments as detailed in section 3(3) of the draft regulations.??

In Schedule 2 Part A the Food Hygiene Rating Regulations (Northern Ireland) 2016 the FPN reference section 7(3) in the alleged offence for online display should be in a manner similar to the reference of 7(1) for failure to display a sticker.??

Causeway Coast and Glens Borough Council would welcome further engagement by the FSA with social media platform providers in order to address ongoing difficulties District Councils are experiencing with food traders using such platforms. It is envisaged that there may be an increase in complaints from consumers with regard to the display of FHRs by businesses selling via social media. Businesses may not provide all the necessary information on these platforms to enable District Council's to identify where the business is operating from, leaving them unable to register the business or take appropriate enforcement action.?

## Response

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

FSA agrees with the issues raised in relation to the Fixed Penalty Notice (FPN). The FPN in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 will be amended accordingly.?

?As part of FSA online workstreams the FSA is planning some engagement with local authorities and district councils to understand the current challenges they face with online food selling. Findings from this engagement will inform any next steps progressed by the FSA via further workstreams.?

## Respondent: Derry City & Strabane District Council?

### Comment

DCSDC is aware of the Food Standards Agency's work with online aggregators and welcome the opportunity for District Council's to participate in such workstreams. The willingness of online aggregators to display prescribed and valid food hygiene ratings is an important factor in the implementation of the online display regulations. DCSDC would seek clarification on whether a failure to display a prescribed and valid FHR on an aggregator site constitutes an offence that can be enforced by a Fixed Penalty Notice (FPN), in that failure to display an icon at the relevant point is an offence by the FBO. As there does not appear to be any legal requirement in the draft regulations for aggregators to display ratings, DCSDC are concerned that there may be some reluctance from aggregators to do so. FBO's could be committing offences through no fault of their own.??

Clarification is being sought on the offence of failure to display a prescribed valid online food hygiene rating. The wording of the fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 refers to the offence as failure to display an 'online link' contrary to section 10 (1) of the Food Hygiene Rating Act (NI) 2016. The draft online display regulations reference an 'icon'. It is the understanding of DCSDC that a link is only to be used by food business operators that have a chain of establishments as detailed in section 3(3) of the draft regulations.??

In Schedule 2 Part A of the Food Hygiene Rating Act should the FPN reference section 7(3) in the alleged offence for online display, in a manner similar to the reference of 7(1) in the alleged offence of failure to display a sticker??

DCSDC would welcome further engagement by the FSA with social media platform providers in order to address ongoing difficulties District Councils are experiencing with food traders using such platforms. It is envisaged that there may be an increase in complaints from consumers with regard to the display of a FHR by businesses selling via social media. Businesses may not provide all the necessary information on these platforms to enable District Council's to identify where the business is operating from, leaving them unable to register the business or take appropriate enforcement actions.??

## Response

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

FSA agrees with this assessment. The fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 will be amended accordingly.?

As part of FSA online workstreams the FSA is planning some engagement with local authorities and district councils to understand the current challenges they face with online food selling. Findings from this engagement will inform any next steps progressed by the FSA via further workstreams.?

## **Respondent: Fermanagh and Omagh District Council?**

### **Comment**

FODC is aware of the FSA work with online aggregators and welcomes the opportunity for DCs to participate in such workstreams. The willingness of online aggregators to display prescribed and valid food hygiene ratings is an important factor in the implementation of the online display regulations. The Council would seek clarification on whether a failure to display a prescribed and valid FHR on an aggregator site constitutes an offence that can be enforced by a Fixed Penalty Notice (FPN), in that failure to display an icon at the relevant point is an offence by the FBO. As there does not appear to be any legal requirement in the draft regulations for aggregators to display ratings, we are concerned that there may be some reluctance from aggregators to do so. FBOs could be committing offences through no fault of their own.??

Clarification is being sought on the offence of failure to display a prescribed valid online FHR (Food Hygiene Rating). The wording of the fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 refers to the offence as failure to display an 'online link' contrary to section 10 (1) of the Food Hygiene Rating Act (NI) 2016. The draft online display regulations reference an 'icon'. The Council understands that a link is only to be used by FBOs that have a chain of establishments as detailed in section 3(3) of the draft regulations.??

In Schedule 2 Part A of the Food Hygiene Rating Act, should the FPN reference section 7(3) in the alleged offence for online display, be in a manner similar to the reference of 7(1) in the alleged offence of failure to display a sticker???

FODC would welcome further engagement by the FSA with social media platform providers in order to address ongoing difficulties DCs are experiencing with food traders using such platforms. It is envisaged that there may be an increase in complaints from consumers with regard to the display of a FHR by businesses selling via social media. Businesses may not provide all the necessary information on these platforms to enable DCs to identify where the business is operating from, leaving them unable to register the business or take appropriate enforcement actions.?

### **Response**

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

FSA agrees with the issues raised in relation to the Fixed Penalty Notice (FPN). The FPN in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 will be amended accordingly.?

?As part of FSA online workstreams the FSA is planning some engagement with local authorities and district councils to understand the current challenges they face with online food selling. Findings from this engagement will inform any next steps progressed by the FSA via further workstreams.?

## **Respondent: Lisburn & Castlereagh City Council?**

### **Comment**

LCCC is aware of the Food Standards Agency's work with online aggregators and welcome the opportunity for District Council's to participate in such workstreams. The willingness of online aggregators to display prescribed and valid food hygiene ratings is an important factor in the implementation of the online display regulations. LCCC would seek clarification on whether a failure to display a prescribed and valid FHR on an aggregator site constitutes an offence that can be enforced by a Fixed Penalty Notice (FPN), in that failure to display an icon at the relevant point is an offence by the FBO. As there does not appear to be any legal requirement in the draft regulations for aggregators to display ratings, LCCC are concerned that there may be some reluctance from aggregators to do so. FBO's could be committing offences through no fault of their own??

Clarification is being sought on the offence of failure to display a prescribed valid online food hygiene rating. The wording of the fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 refers to the offence as failure to display an 'online link' contrary to section 10 (1) of the Food Hygiene Rating Act (NI) 2016. The draft online??

display regulations reference an 'icon'. It is the understanding of LCCC that a link is only to be used by food business operators that have a chain of establishments as detailed in section 3(3) of the draft regulations.??

In Schedule 2 Part A of the Food Hygiene Rating Act should the FPN reference section 7(3) in the alleged offence for online display, in a manner similar to the reference of 7(1) in the alleged offence of failure to display a sticker???

LCCC would welcome further engagement by the FSA with social media platform providers in order to address ongoing difficulties the Council is experiencing with food traders using such platforms. It is envisaged that there may be an increase in complaints from consumers with regard to the display of a FHR by businesses selling via social media. Businesses may not provide all the necessary information on these platforms to enable the Council to identify where the business is operating from, leaving them unable to register the business or take appropriate enforcement actions.

### **Response**

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

FSA agrees with this assessment. The fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 will be amended accordingly.?

?As part of FSA online workstreams the FSA is planning some engagement with local authorities and district councils to understand the current challenges they face with online food selling. Findings from this engagement will inform any next steps progressed by the FSA via further workstreams.?

## **Respondent: Mid Ulster District Council?**

### **Comment**

Mid Ulster District Council is aware of the Food Standards Agency's work with online aggregators and welcome the opportunity for District Councils to participate in such workstreams. The willingness of online aggregators to display prescribed and valid food hygiene ratings is an important factor in the implementation of the online display regulations. Mid Ulster District Council would seek clarification on whether a failure to display a prescribed and valid FHR on an aggregator site constitutes an offence that can be enforced by a Fixed Penalty Notice (FPN), in that failure to display an icon at the relevant point is an offence by the FBO. As there does not appear to be any legal requirement in the draft regulations for aggregators to display ratings, Mid Ulster District Council is concerned that there may be some reluctance from aggregators to do so. FBOs could be committing offences through no fault of their own.??

Clarification is being sought on the offence of failure to display a prescribed valid online food hygiene rating. The wording of the fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 refers to the offence as failure to display an 'online link' contrary to section 10 (1) of the Food Hygiene Rating Act (NI) 2016. The draft online display regulations reference an 'icon'. It is the understanding of Mid Ulster District Council that a link is only to be used by food business operators that have a chain of establishments as detailed in section 3(3) of the draft regulations.??

In Schedule 2 Part A of the Food Hygiene Rating Act, clarification is also sought on whether the FPN should make reference to section 7(3) in the alleged offence for online display, in a manner similar to the reference of 7(1) in the alleged offence of failure to display a sticker??

Mid Ulster District Council would welcome further engagement by the FSA with social media platforms providers in order to address ongoing issues District Councils are experiencing with food traders using such platforms. It is envisaged that there may be an increase in complaints from consumers with regard to the display of a FHR by businesses selling via social media. Businesses may not provide all the necessary information on these platforms to enable District Councils to identify where the business is operating from, leaving them unable to register the business or take appropriate enforcement actions.?

## **Response**

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

FSA agrees with the issues raised in relation to the Fixed Penalty Notice (FPN). The FPN in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 will be amended accordingly.?

?As part of FSA online workstreams the FSA is planning some engagement with local authorities and district councils to understand the current challenges they face with online food selling. Findings from this engagement will inform any next steps progressed by the FSA via further workstreams.?

## **Respondent: Newry Mourne and Down District Council?**

### **Comment**

Newry Mourne and Down District Council are aware of the Food Standards Agency's work with online aggregators and welcome the opportunity for District Council's to participate in such workstreams. The willingness of online aggregators to display prescribed and valid food hygiene ratings is an important factor in the implementation of the online display regulations. Newry Mourne and Down District Council would seek clarification on whether a failure to display a

prescribed and valid FHR on an aggregator site constitutes an offence that can be enforced by a Fixed Penalty Notice (FPN), in that failure to display an icon at the relevant point is an offence by the FBO. As there does not appear to be any legal requirement in the draft regulations for aggregators to display ratings, Newry Mourne and Down District Council are concerned that there may be some reluctance from aggregators to do so. FBO's could be committing offences through no fault of their own.??

Clarification is being sought on the offence of failure to display a prescribed valid online food hygiene rating. The wording of the fixed penalty notice in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 refers to the offence as failure to display an 'online link' contrary to section 10 (1) of the Food Hygiene Rating Act (NI) 2016. The draft online display regulations reference an 'icon'. It is the understanding of Newry Mourne and Down District Council that a link is only to be used by food business operators that have a chain of establishments as detailed in section 3(3) of the draft regulations.??

In Schedule 2 Part A of the Food Hygiene Rating Act should the FPN reference section 7(3) in the alleged offence for online display, in a manner similar to the reference of 7(1) in the alleged offence of failure to display a sticker??

Newry Mourne and Down District Council would welcome further engagement by the FSA with social media platform providers in order to address ongoing difficulties District Councils are experiencing with food traders using such platforms. It is envisaged that there may be an increase in complaints from consumers with regard to the display of a FHR by businesses selling via social media. Businesses may not provide all the necessary information on these platforms to enable District Council's to identify where the business is operating from, leaving them unable to register the business or take appropriate enforcement actions.??

## **Response**

FSA can confirm that the proposed regulations impose a duty to display on the operator of the food business establishment only. Food business operators must ensure that the online platforms they use to sell food online display their food hygiene rating in accordance with the proposed regulations.?

FSA agrees with the issues raised in relation to the Fixed Penalty Notice (FPN). The FPN in Schedule 2 of the Food Hygiene Rating Regulations (NI) 2016 will be amended accordingly.?

?As part of FSA online workstreams the FSA is planning some engagement with local authorities and district councils to understand the current challenges they face with online food selling. Findings from this engagement will inform any next steps progressed by the FSA via further workstreams.?

## **Respondent: Chartered Institute of Environmental Health (CIEH)?**

### **Comment**

This information is provided in Regulation 3 (2) (a) (i) and (ii). Regulation 3 (2) (b) refers to how online facilities within scope of the regulations will display the name of the business, an indication of the food the business supplies and the business's valid food hygiene rating online icon.?

We are aware of the FSAs work with online aggregators and their willingness to display prescribed and valid food hygiene ratings is an important factor in the implementation of? the online display regulations. It is not clear whether failure to display a prescribed and valid food hygiene rating on an aggregator site constitutes an offence by the aggregator that can be enforced by a Fixed Penalty Notice (FPN). Failure to display an icon at the relevant point is an

offence by the food business operator. Does this mean that the food business operator commits an offence if rating information is not available or incorrect on an aggregator site? We are also aware of problems district councils are experiencing with food sold on social media platforms. Businesses do not always provide adequate information to enable district councils to identify where they are operating from. This means district councils are unable to verify whether they are registered. Further, because they cannot identify them, they are unable to take enforcement action. FSA engagement with social media platform providers will be essential to ensure they are aware of these problems. The introduction of these regulations is likely to result in an increase in complaints from consumers who purchase food on social media. This will likely add to the workload of already stretched district councils.?

## **Response**

FSA can confirm that the proposed regulations cannot move through the legislative process without a functioning Northern Ireland Assembly and therefore there will be a delay in the proposed commencement date and a revised date cannot be specified at this time. To provide reassurance to district councils and food businesses, FSA will endeavour ensure that an operational date will be fixed at 6 months following the completion of the assembly legislative process. FSA will ensure district councils are updated at relevant points in the legislative process.

## **Respondent: Individual respondent?**

### **Comment**

1. Yes?
2. No

## **Response**

Noted

## **Respondent: MyFood Delivery?**

### **Comment**

1. Yes?
2. No?

## **Response**

Noted

## **Question 8: Do you have any comments regarding regulation 3 (3)?**

## **Respondent: Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)?**

### **Comment**



EHNI would bring to the attention of the FSA that as per Regulation 3, a facility that operates in respect of an operator's chain who is permitted to provide a hyperlink to the required information should be encouraged to do so in a way that does not provide an overwhelming amount of information to the consumer on establishments that it would not be possible for them to order from.? For example, a UK wide chain listing the FHR of all its establishments including those in mainland GB.?

### **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

### **Respondent: Ards and North Down Borough Council?**

#### **Comment**

ANDBC would bring to the attention of the FSA that as per Regulation 3, a facility that operates in respect of an operator's chain who is permitted to provide a hyperlink to the required information should be encouraged to do so in a way that does not provide an overwhelming amount of information to the consumer on establishments that it would not be possible for them to order from. For example, a UK wide chain listing the FHR of all its establishments including those in mainland GB.?

### **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

### **Respondent: Armagh City, Banbridge and Craigavon Borough Council?**

#### **Comment**

Armagh City, Banbridge and Craigavon Borough Council would bring to the attention of the FSA that as per Regulation 3, a facility that operates in respect of an operator's chain who is permitted to provide a hyperlink to the required information should be encouraged to do so in a way that does not provide an overwhelming amount of information to the consumer on establishments that it would not be possible for them to order from.? For example, a UK wide chain listing the FHR of all its establishments including those in mainland GB.???

### **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

### **Respondent: Belfast City Council?**

#### **Comment**

Belfast City Council would bring to the attention of the FSA that as per Regulation 3, a facility that operates in respect of an operator's chain who is permitted to provide a hyperlink to the required

information should be encouraged to do so in a way that does not provide an overwhelming amount of information to the consumer on establishments that it would not be possible for them to order from.? For example a UK wide chain listing the FHR of all its establishments including those in England, Scotland and Wales.???

## **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

## **Respondent: Causeway Coast and Glens Borough Council?**

### **Comment**

Causeway Coast and Glens Borough Council would bring to the attention of the FSA that as per Regulation 3, a facility that operates in respect of an operator's chain who is permitted to provide a hyperlink to the required information should be encouraged to do so in a way that does not provide an overwhelming amount of information to the consumer on establishments that it would not be possible for them to order from.? For example, a UK wide chain listing the FHR of all its establishments including those in mainland GB.???

### **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

## **Respondent: Derry City & Strabane District Council?**

### **Comment**

DCSDC would bring to the attention of the FSA that as per Regulation 3, a facility that operates in respect of an operator's chain who is permitted to provide a hyperlink to the required information should be encouraged to do so in a way that does not provide an overwhelming amount of information to the consumer on establishments that it would not be possible for them to order from.? For example, a UK wide chain listing the FHR of all its establishments including those in mainland GB.???

### **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

## **Respondent: Fermanagh and Omagh District Council?**

### **Comment**

The Council would bring to the attention of the FSA that as per Regulation 3, a facility that operates in respect of an operator's chain who is permitted to provide a hyperlink to the required information should be encouraged to do so in a way that does not provide an overwhelming amount of information to the consumer on establishments that it would not be possible for them to

order from. For example, a UK wide chain listing the FHR of all its establishments including those in mainland GB.?

## **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

## **Respondent: Lisburn & Castlereagh City Council?**

### **Comment**

LCCC would bring to the attention of the FSA that as per Regulation 3, a facility that operates in respect of an operator's chain who is permitted to provide a hyperlink to the required information should be encouraged to do so in a way that does not provide an overwhelming amount of information to the consumer on establishments that it would not be possible for them to order from. For example a UK wide chain listing the FHR of all its establishments including those in mainland GB.?

## **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

## **Respondent: Mid Ulster District Council?**

### **Comment**

As per Regulation 3, a facility that operates in respect of an operator's chain who is permitted to provide a hyperlink to the required information should be encouraged to do so in a way that does not provide an overwhelming amount of information to the consumer on establishments that it would not be possible for them to order from.? For example, a UK wide chain listing the FHR of all its establishments including those in mainland GB.???

## **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

## **Respondent: Newry Mourne and Down District Council?**

### **Comment**

Newry Mourne and Down District Council would bring to the attention of the FSA that as per Regulation 3, a facility that operates in respect of an operator's chain who is permitted to provide a hyperlink to the required information should be encouraged to do so in a way that does not provide an overwhelming amount of information to the consumer on establishments that it would not be possible for them to order from.? For example, a UK wide chain listing the FHR of all its establishments including those in mainland GB.?

## **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

## **Respondent: Chartered Institute of Environmental Health (CIEH)**

### **Comment**

Chains are permitted to provide a hyperlink to food hygiene rating information. They should be encouraged to do so in a way that does not provide consumers with an overwhelming amount of information which is not relevant to them. For example, a UK wide chain listing the ratings of all its establishments including those in mainland GB which consumers then have to search to find the relevant rating.?

## **Response**

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. We agree with your assessment and will seek to ensure that this concern will be addressed.?

## **Respondent: Individual respondent?**

### **Comment**

No

## **Response**

Noted

## **Respondent: MyFood Delivery?**

### **Comment**

In general I think it is a good Idea but will be difficult to monitor and enforce. The food establishments with the high rating will embrace it and publicise their rating some already do. The ones with the low rating will be less likely to want to draw attention to it for obvious reasons.?

## **Response**

FSA will be engaging with district councils to ensure preparations are made for the effective implementation of the proposed regulations prior to their coming into operation. Guidance and training will include consideration of the issues raised.?

## **Respondent: ASDA?**

### **Comment**

We are very grateful that this provision has been included, acknowledging that supermarkets are multi-site operators and delivery to a post code may be from different store location at different times for various reasons. The optimal solution here is that the hyperlink is to a list of the

businesses establishments and their associated FHR hosted by the FSA, as they own the process and the real time information.?

## **Response**

FSA recommends that food businesses, such as multi-site supermarket operators, embed the JavaScript code provided on ratings.food.gov.uk for each relevant establishment (i.e., the establishments which may fulfil the order). The code has been developed to update automatically if the rating changes and is therefore a one-off implementation.?

The proposed regulations impose the duty to display the food hygiene rating on the food business establishment only.?

## **Respondent: Just Eat?**

### **Comment**

This gives the large chain food businesses a distinct advantage over smaller independent food businesses in that their food hygiene ratings may not be readily available to the customer. The likelihood of a customer clicking on a hyperlink is low and even when they do so they may then be provided with the FHRs for all the businesses within this chain. This does not enable them to make an informed choice about where they are buying their food; the customer knows the name of the chain from which they are ordering but is still unaware whether their order is potentially coming from a food business with a 5\* rating or a 1\* rating.?

Currently all FHRs are visible to customers on Just Eat by clicking on an icon which results in a pop-up. The customer remains on the same page and is not redirected. Currently within the scope of the regulations this may not be compliant even though it is much more accessible and transparent for the customer than the above scenario involving a hyperlink.????

At Just Eat orders can only be fulfilled by the business which the customer has chosen. Information in relation to the business name, address and FHR is currently already available to the customer to ensure transparency and permit them to make an informed choice about who they are ordering their food from.

## **Response**

The regulations were drafted to be flexible enough to apply to the various online facilities used by food businesses. As it is not always feasible for certain businesses to know exactly what establishments food will be supplied from at the point where food is ordered online this was addressed in regulation 3(3). The proposed regulations require facilities operating in respect of a chain of establishments to display a 'readily seen and easily read' hyperlink. Therefore, the hyperlink must be in the immediate field of vision of the consumer, akin to the requirement for display for the rating icon for smaller independent food businesses. ?

FSA acknowledges the issues raised here in respect to the consumer being directed to a list of establishments which are not relevant to their order. FSA will seek to ensure this concern will be addressed.??

## **Question 9:**

**a) Do you foresee issues with any of the proposed prescribed key branding parameters in Regulation 4? In particular, do you have any issues with the specification of the colour Green Pantone 376?**

**b) Do you foresee any issues with the rating being within the rating scale (0 to 5), to provide some context to consumers, as shown in the FHR images in Figure 2 and Figure 4?**

**c) Do you have any other comments on Regulation 4?**

**Respondent: Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)?**

**Comment**

EHNI do not have any comments to question 9 or foresee any issues with the questions asked in parts a) and b).?

**Response**

Noted

**Respondent: Ards and North Down Borough Council**

**Comment**

ANDBC do not have any comments to question 9 or foresee any issues with the questions asked in parts a) and b).?

**Response**

Noted

**Respondent: Armagh City, Banbridge and Craigavon Borough Council?**

**Comment**

Armagh City, Banbridge and Craigavon Borough Council do not have any comments to question 9 or foresee any issues with the questions asked in parts a) and b).?

**Response**

Noted

**Respondent: Belfast City Council?**

**Comment**

Belfast City Council do not have any comments to question 9 or foresee any issues with the questions asked in parts a) and b).?

**Response**

Noted

**Respondent: Causeway Coast and Glens Borough Council?**

**Comment**

Causeway Coast and Glens Borough Council do not have any comments to question 9 or foresee any issues with the questions asked in parts a) and b).?

**Response**

Noted

**Respondent: Derry City & Strabane District Council?**

**Comment**

DCSDC do not have any comments to question 9 or foresee any issues with the questions asked in parts a) and b).?

**Response**

Noted

**Respondent: Fermanagh and Omagh District Council?**

**Comment**

FODC does not have any comments to question 9 or foresee any issues with the questions asked in parts a) and b).?

**Response**

Noted

**Respondent: Lisburn & Castlereagh City Council?**

**Comment**

LCCC do not have any comments to question 9 or foresee any issues with the questions asked in parts a) and b).?

**Response**

Noted

**Respondent: Mid Ulster District Council**

**Comment**

Mid Ulster District Council does not have any comments on question 9, nor do we foresee any issues with the questions asked in parts a) and b).?

## **Response**

Noted

### **Respondent: Newry Mourne and Down District Council?**

#### **Comment**

Newry Mourne and Down District Council do not have any comments to question 9 or foresee any issues with the questions asked in parts a) and b).?

## **Response**

Noted

### **Respondent: Chartered Institute of Environmental Health (CIEH)?**

#### **Comment**

We do not have any comments in relation to question 9.?

## **Response**

Noted

### **Respondent: Individual respondent?**

#### **Comment**

a) The only thing I see is maybe a clash with the social media/app/website colour scheme already in use. I believe Deliveroo has a very similar colour scheme in use and my fear would be that the use of this may clash and get lost in the wider design. Although this colour scheme has been in use for years as part of the FHR scheme.?

b) No?

c) No?

## **Response**

FSA has developed a range of FHR icons/images which are available to [download](#). The regulations do not mandate display for specific locations or parts of websites or apps so businesses are free to display their rating in a location of their choice to avoid the issues raised as long as it meets the proposed 'readily seen and easily read' prior to the point of selection or order (whichever comes first in the user's journey).

### **Respondent: UK Hospitality?**

#### **Comment**

Our members are concerned that valuable space, often on small screens, used for marketing and promotion is being used for regulatory purposes. It may have an adverse impact on the look and feel of key screens.?



## Response

FSA acknowledges the issue raised. To minimise the space required for a Food Hygiene Rating, FSA has developed a range of freely available [FHR icons/images](#). FSA encourages stakeholders to provide feedback on the icons/images available and how they can be adapted to work better for them (images can be accessed via the [Food Hygiene Rating Scheme online display guidance](#) published on the FSA website).

### Respondent: Just Eat?

#### Comment

'Awaiting Inspection' and 'Exempt' are not included within the scope of regulation 4.? Just Eat currently displays these on the platform as again it provides consumer confidence that the food business is registered with their local authority.? Food businesses can also remain at 'Awaiting Inspection' for a considerable amount of time hence the importance of highlighting this to the customer.????

'Readily seen and easily read' is open to interpretation.? This again could be impacted severely?.

#### Response

While the proposed regulations only apply to food businesses with a valid food hygiene rating, FSA welcomes the use of the 'Awaiting Inspection' and 'Exempt' icons where appropriate. FSA has developed a range of freely available FHR icons/images including 'non-scored' which are available to [download](#)?

With respect to the location and manner of display of the food hygiene rating, as a general guide, if the user can select food or place an order without the food hygiene rating being in their field of vision then the placement of that food hygiene rating would not be 'readily seen'. The [Food Hygiene Rating Scheme online display guidance](#) has been updated to include this advice?.

## Additional final comments provided by respondents

### Respondent: Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)?

#### Comment

EHNI would welcome guidance and/or training in evidence gathering for FHR offences committed online, particularly to ensure compliance with RIPA. Currently RIPA investigations require the agreement and sign off by a magistrate.??

EHNI would bring to the attention of the FSA that not all District Councils can carry out online monitoring checks due to internal security restrictions on their IT systems. The use of personal technology would not be acceptable for enforcement purposes. EHNI acknowledge that the additional funding can be used to facilitate exploration into overcoming these barriers however there are still concerns that District Council's will have difficulty enforcing this legislation?.

EHNI would welcome further guidance on the use of fixed penalty notices to ensure consistency of enforcement among District Councils. Currently District Councils may operate different time scales for the enforcement of FPN's based on internal procedures.??

EHNI are largely in agreement with the assessment of the potential impact and costs of implementation on food businesses and District Councils. EHNI acknowledge the additional funding given to District Councils for the 22/23 financial year is to accommodate the estimated costs. EHNI agree that the scoping estimate of 26% of businesses in NI that use an online ordering facility is low and would suggest a much greater percentage of food businesses will be required to display an online FHR. EHNI note this is acknowledged by the FSA in the impact assessment in that the most up to date data is pre-pandemic and may not reflect the changes to consumer behaviour which resulted from the pandemic.??

EHNI also agree that in order to minimise impacts on District Councils in the monitoring and enforcement of the online display regulations, they should adopt a risk based and proportionate approach and target resources to focus on businesses that are non-broadly compliant.?

## **Response**

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

In order to address concerns regarding the Regulation of Investigatory Powers Act (RIPA) and the proposed regulations, more information on the nature of the concerns has been requested via Northern Ireland Food Managers Group (NIFMG). ?

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams. ?

## **Respondent: Ards and North Down Borough Council?**

### **Comment**

ANDBC would welcome guidance and/or training in evidence gathering for FHR offences committed online, particularly to ensure compliance with RIPA. Currently RIPA investigations require the agreement and sign off by a magistrate.??

ANDBC would bring to the attention of the FSA that not all District Councils can carry out online monitoring checks due to internal security restrictions on their IT systems. The use of personal technology would not be acceptable for enforcement purposes. ANDBC acknowledge that the additional funding can be used to facilitate exploration into overcoming these barriers however there are still concerns that District Council's will have difficulty enforcing this legislation.??

ANDBC would welcome further guidance on the use of fixed penalty notices to ensure consistency of enforcement among District Councils. Currently District Councils may operate different time scales for the enforcement of FPN's based on internal procedures.??

ANDBC are largely in agreement with the assessment of the potential impact and costs of implementation on food businesses and District Councils. ANDBC acknowledge the additional funding given to District Councils for the 22/23 financial year is to accommodate the estimated costs. ANDBC agree that the scoping estimate of 26% of businesses in NI that use an online ordering facility is low and would suggest a much greater percentage of food businesses will be required to display an online FHR. ANDBC note this is acknowledged by the FSA in the impact assessment in that the most up to date data is pre-pandemic and may not reflect the changes to consumer behaviour which resulted from the pandemic.??

ANDBC also agree that in order to minimise impacts on District Councils in the monitoring and enforcement of the online display regulations, they should adopt a risk based and proportionate

approach and target resources to focus on businesses that are non-broadly compliant.?

## **Response**

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

In order to address concerns regarding the Regulation of Investigatory Powers Act (RIPA) and the proposed regulations, more information on the nature of the concerns has been requested via Northern Ireland Food Managers Group (NIFMG). ?

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams. ?

## **Respondent: Armagh City, Banbridge and Craigavon Borough Council?**

### **Comment**

Armagh City, Banbridge and Craigavon Borough Council would welcome guidance and/or training in evidence gathering for FHR offences committed online, particularly to ensure compliance with RIPA. Currently RIPA investigations require the agreement and sign off by a magistrate.??

Armagh City, Banbridge and Craigavon Borough Council would bring to the attention of the FSA that not all District Councils can carry out online monitoring checks due to internal security restrictions on their IT systems. The use of personal technology would not be acceptable for enforcement purposes. Armagh City, Banbridge and Craigavon Borough Council acknowledge that the additional funding can be used to facilitate exploration into overcoming these barriers however there are still concerns that District Council's will have difficulty enforcing this legislation. ?

Armagh City, Banbridge and Craigavon Borough Council would welcome further guidance on the use of fixed penalty notices to ensure consistency of enforcement among District Councils. Currently District Councils may operate different time scales for the enforcement of FPN's based on internal procedures.??

Armagh City, Banbridge and Craigavon Borough Council are largely in agreement with the assessment of the potential impact and costs of implementation on food businesses and District Councils. Armagh City, Banbridge and Craigavon Borough Council acknowledge the additional funding given in the 22/23 financial year is to accommodate the estimated costs. Armagh City, Banbridge and Craigavon Borough Council agree that the scoping estimate of 26% of businesses in NI that use an online ordering facility is low and would suggest a much greater percentage of food businesses will be required to display an online FHR.? Armagh City, Banbridge and Craigavon Borough Council note this is acknowledged by the FSA in the impact assessment in that the most up to date data is pre-pandemic and may not reflect the changes to consumer behaviour which resulted from the pandemic.

## **Response**

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

In order to address concerns regarding the Regulation of Investigatory Powers Act (RIPA) and the proposed regulations, more information on the nature of the concerns has been requested via Northern Ireland Food Managers Group (NIFMG). ?

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams. ?

## **Respondent: Belfast City Council?**

### **Comment**

Belfast City Council would welcome guidance and/or training for their Food Safety Officers in evidence gathering for FHR offences committed online, particularly to ensure compliance with RIPA. Currently RIPA investigations require the agreement and sign off by a magistrate.??

Belfast City Council would welcome further guidance on the use of fixed penalty notices to ensure consistency of enforcement among District Councils. Currently Belfast City Council follow a Council wide procedure for FPN enforcement and this differs from other District Councils who operate different time scales for the enforcement of FHRS FPN's.??

Belfast City Council are largely in agreement with the assessment of the potential impact and costs of implementation on food businesses and District Councils. Belfast City Council acknowledge the additional funding given to District Councils for the 22/23 financial year is to accommodate the estimated costs. Belfast City Council agree that the scoping estimate of 26% of businesses in NI that use an online ordering facility is low and would suggest a much greater percentage of food businesses will be required to display an online FHR.? Belfast City Council note this is acknowledged by the FSA in the impact assessment in that the most up to date data is pre-pandemic and may not reflect the changes to consumer behaviour which resulted from the pandemic.??

Belfast City Council also agree with the FSA suggestion that in order to minimise the impacts on the Council in the monitoring and enforcement of the online display regulations, the Council should adopt a risk based and proportionate approach and target resources to focus on businesses that are non-broadly compliant.??

### **Response**

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

In order to address concerns regarding the Regulation of Investigatory Powers Act (RIPA) and the proposed regulations, more information on the nature of the concerns has been requested via Northern Ireland Food Managers Group (NIFMG). ?

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams. ?

## **Respondent: Causeway Coast and Glens Borough Council?**

### **Comment**

Causeway Coast and Glens Borough Council would welcome guidance and/or training in evidence gathering for FHR offences committed online, particularly to ensure compliance with the Regulation of Investigatory Powers Act 2000 (RIPA). Currently RIPA investigations require the agreement and sign off by a magistrate.??

Causeway Coast and Glens Borough Council would bring to the attention of the FSA that not all District Councils can carry out online monitoring checks due to internal security restrictions on their IT systems. The use of personal technology would not be acceptable for enforcement purposes. Causeway Coast and Glens Borough Council acknowledges that the additional funding can be used to facilitate exploration into overcoming these barriers however there are still concerns that District Council's will have difficulty enforcing this legislation.?

Causeway Coast and Glens Borough Council would welcome further guidance on the use of fixed penalty notices to ensure consistency of enforcement among District Councils. Currently District Councils may operate different time scales for the enforcement of FPN's based on internal procedures.??

Causeway Coast and Glens Borough Council are largely in agreement with the assessment of the potential impact and costs of implementation on food businesses and District Councils. Causeway Coast and Glens Borough Council acknowledge the additional funding given to District Councils for the 22/23 financial year is to accommodate the estimated costs. Causeway Coast and Glens Borough Council agree that the scoping estimate of 26% of businesses in Northern Ireland that use an online ordering facility is low and would suggest a much greater percentage of food businesses will be required to display an online FHR.? Causeway Coast and Glens Borough Council note this is acknowledged by the FSA in the impact assessment in that the most up to date data is pre-pandemic and may not reflect the changes to consumer behaviour which resulted from the pandemic.??

Causeway Coast and Glens Borough Council also agree that in order to minimise impacts on District Councils in the monitoring and enforcement of the online display regulations, they should adopt a risk based and proportionate approach and target resources to focus on businesses that are non-broadly compliant.??

## **Response**

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

In order to address concerns regarding the Regulation of Investigatory Powers Act (RIPA) and the proposed regulations, more information on the nature of the concerns has been requested via Northern Ireland Food Managers Group (NIFMG). ?

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams.

## **Respondent: Derry City & Strabane District Council?**

### **Comment**

DCSDC would welcome guidance and/or training in evidence gathering for FHR offences committed online, particularly to ensure compliance with RIPA. Currently RIPA investigations require the agreement and sign off by a magistrate.??

DCSDC would bring to the attention of the FSA that not all District Councils can carry out online monitoring checks due to internal security restrictions on their IT systems. The use of personal technology would not be acceptable for enforcement purposes. DCSDC acknowledge that the additional funding can be used to facilitate exploration into overcoming these barriers however there are still concerns that District Council's will have difficulty enforcing this legislation.?

DCSDC would welcome further guidance on the use of fixed penalty notices to ensure consistency of enforcement among District Councils. Currently District Councils may operate different time scales for the enforcement of FPN's based on internal procedures.??

DCSDC are largely in agreement with the assessment of the potential impact and costs of implementation on food businesses and District Councils. DCSDC acknowledge the additional funding given to District Councils for the 22/23 financial year is to accommodate the estimated costs. DCSDC agree that the scoping estimate of 26% of businesses in NI that use an online ordering facility is low and would suggest a much greater percentage of food businesses will be required to display an online FHR.? DCSDC note this is acknowledged by the FSA in the impact assessment in that the most up to date data is pre-pandemic and may not reflect the changes to consumer behaviour which resulted from the pandemic.??

DCSDC also agree that in order to minimise impacts on District Councils in the monitoring and enforcement of the online display regulations, they should adopt a risk based and proportionate approach and target resources to focus on businesses that are non-broadly compliant.??

## **Response**

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

In order to address concerns regarding the Regulation of Investigatory Powers Act (RIPA) and the proposed regulations, more information on the nature of the concerns has been requested via Northern Ireland Food Managers Group (NIFMG). ?

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams.

## **Respondent: Fermanagh and Omagh District Council**

### **Comment**

The Council would welcome guidance and/or training in evidence gathering for FHR offences committed online, particularly to ensure compliance with The Regulation of Investigatory Powers Act 2000 (RIPA). Currently RIPA investigations require the agreement and sign off by a magistrate.??

FODC would bring to the attention of the FSA that not all DCs can carry out online monitoring checks due to internal security restrictions on their IT systems. The use of personal technology would not be acceptable for enforcement purposes. We acknowledge that the additional funding can be used to facilitate exploration into overcoming these barriers however, there are still concerns that DCs will have difficulty enforcing this legislation.??

The Council would welcome further guidance on the use of FPN to ensure consistency of enforcement among DCs. Currently DCs may operate different time scales for the enforcement of FPN based on internal procedures.??

FODC is largely in agreement with the assessment of the potential impact and costs of implementation on food businesses and DCs. We acknowledge the additional funding given to DCs for the 22/23 financial year is to accommodate the estimated costs. We agree that the scoping estimate of 26% of businesses in NI that use an online ordering facility is low and would suggest a much greater percentage of food businesses will be required to display an online FHR. The Council notes this is acknowledged by the FSA in the impact assessment in that the most up

to date data is pre-pandemic and may not reflect the changes to consumer behaviour which resulted from the pandemic.??

FODC also agree that in order to minimise impacts on DCs in the monitoring and enforcement of the online display regulations, they should adopt a risk based and proportionate approach and target resources to focus on businesses that are non-broadly compliant?

## **Response**

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

In order to address concerns regarding the Regulation of Investigatory Powers Act (RIPA) and the proposed regulations, more information on the nature of the concerns has been requested via Northern Ireland Food Managers Group (NIFMG). ?

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams. ?

## **Respondent: Lisburn & Castlereagh City Council**

### **Comment**

LCCC would welcome guidance and/or training in evidence gathering for FHR offences committed online, particularly to ensure compliance with RIPA. Currently RIPA investigations require the agreement and sign off by a magistrate.??

LCCC would welcome further guidance on the use of fixed penalty notices to ensure consistency of enforcement among District Councils. Currently District Councils may operate different time scales for the enforcement of FPN's based on internal procedures.??

LCCC is largely in agreement with the assessment of the potential impact and costs of implementation on food businesses and District Councils. LCCC acknowledge the additional funding given to the Council for the 22/23 financial year is to accommodate the estimated costs. LCCC agree that the scoping estimate of 26% of businesses in NI that use an online ordering facility is low and would suggest a much greater per centage of food businesses will??

be required to display an online FHR. LCCC note this is acknowledged by the FSA in the impact assessment in that the most up to date data is pre-pandemic and may not reflect the changes to consumer behaviour which resulted from the pandemic.??

LCCC also agree that in order to minimise impacts on District Councils in the monitoring and enforcement of the online display regulations, they should adopt a risk based and proportionate approach and target resources to focus on businesses that are non-broadly compliant.?

## **Response**

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

In order to address concerns regarding the Regulation of Investigatory Powers Act (RIPA) and the proposed regulations, more information on the nature of the concerns has been requested via Northern Ireland Food Managers Group (NIFMG). ?

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams.

## **Respondent: Mid Ulster District Council?**

### **Comment**

Mid Ulster District Council would welcome guidance and/or training in evidence gathering for FHR offences committed online, particularly to ensure compliance with RIPA (Regulation of Investigatory Powers legislation). Currently RIPA investigations require the agreement and sign off by a magistrate.??

Mid Ulster District Council would bring to the attention of the FSA that not all District Councils can carry out online monitoring checks due to internal security restrictions on their IT systems. The use of personal technology would not be acceptable for enforcement purposes. Mid Ulster District Council acknowledges that the additional funding can be used to facilitate exploration into overcoming these barriers however there are still concerns that District Councils will have difficulty enforcing this legislation.?

Mid Ulster District Council would welcome further guidance on the use of Fixed Penalty Notices to ensure consistency of enforcement among District Councils. Currently District Councils may operate different time scales for the enforcement of FPNs based on internal procedures. Mid Ulster District Council would also welcome guidance and/or training in evidence gathering for offences committed online, particularly to ensure compliance with RIPA??

Mid Ulster District Council is largely in agreement with the assessment of the potential impact and costs of implementation on food businesses and District Councils. Mid Ulster District Council acknowledges the additional funding given to District Councils for the 2022/2023 financial year is to accommodate the estimated costs. Mid Ulster District Council agrees that the scoping estimate of 26% of businesses in Northern Ireland that use an online ordering facility is low and would suggest a much greater percentage of food businesses will be required to display an online FHR. ? Mid Ulster District Council notes that this is acknowledged by the FSA in the impact assessment in that the most up to date data is pre-pandemic and may not reflect the changes to consumer behaviour which resulted from the pandemic.??

Mid Ulster District Council also agrees that in order to minimise impacts on District Councils in the monitoring and enforcement of the online display regulations, they should adopt a risk based and proportionate approach and target resources to focus on businesses that are non-broadly compliant.?

### **Response**

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

In order to address concerns regarding the Regulation of Investigatory Powers Act (RIPA) and the proposed regulations, more information on the nature of the concerns has been requested via Northern Ireland Food Managers Group (NIFMG). ?

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams.

## **Respondent: Newry Mourne and Down District Council?**



## **Comment**

Newry Mourne and Down District Council would welcome guidance and/or training in evidence gathering for FHR offences committed online, particularly to ensure compliance with RIPA. Currently RIPA investigations require the agreement and sign off by a magistrate.??

Newry Mourne and Down District Council would bring to the attention of the FSA that not all District Councils can carry out online monitoring checks due to internal security restrictions on their IT systems. The use of personal technology would not be acceptable for enforcement purposes. Newry Mourne and Down District Council acknowledges that the additional funding can be used to facilitate exploration into overcoming these barriers however there are still concerns that District Council's will have difficulty enforcing this legislation.?

Newry Mourne and Down District Council would welcome further guidance on the use of fixed penalty notices to ensure consistency of enforcement among District Councils. Currently District Councils may operate different time scales for the enforcement of FPN's based on internal procedures.??

Newry Mourne and Down District Council are largely in agreement with the assessment of the potential impact and costs of implementation on food businesses and District Councils. Newry Mourne and Down District Council acknowledge the additional funding given to District Councils for the 22/23 financial year is to accommodate the estimated costs. Newry Mourne and Down District Council agree that the scoping estimate of 26% of businesses in NI that use an online ordering facility is low and would suggest a much greater percentage of food businesses will be required to display an online FHR.? Newry Mourne and Down District Council note this is acknowledged by the FSA in the impact assessment in that the most up to date data is pre-pandemic and may not reflect the changes to consumer behaviour which resulted from the pandemic.??

Newry Mourne and Down District Council also agree that in order to minimise impacts on District Councils in the monitoring and enforcement of the online display regulations, they should adopt a risk based and proportionate approach and target resources to focus on businesses that are non-broadly compliant.??

## **Response**

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

In order to address concerns regarding the Regulation of Investigatory Powers Act (RIPA) and the proposed regulations, more information on the nature of the concerns has been requested via Northern Ireland Food Managers Group (NIFMG). ?

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams. ?

## **Respondent: Chartered Institute of Environmental Health (CIEH)?**

### **Comment**

We are aware that officers in some district councils may not be unable to monitor compliance with online display requirements due to security restrictions on their workplace IT systems. It may therefore be appropriate for the FSA to engage with local authority Chief Executives to explain the requirements and request that IT restrictions are removed for authorised officers to enable them

to monitor business compliance with the regulations. It would not be appropriate to rely on officers using their personal IT equipment to monitor compliance, particularly as formal enforcement action may ensue. It is likely that the percentage of businesses who have an online ordering facility may have been underestimated in the impact assessment and may not reflect changes that have occurred in the consumer landscape post pandemic. This has been acknowledged by the FSA. We agree that district councils should adopt a risk based and proportionate approach to monitoring and enforcement of online display requirements and focus on those businesses that are not broadly compliant with food hygiene legislation. To ensure a consistent approach to enforcement across Northern Ireland, it is recommended that the FSA provides training to local authority officers on the implementation of the regulations, particularly on the use of fixed penalty notices, evidence gathering and RIPA. Further we recommend that district councils in Northern Ireland work collaboratively to ensure their procedures are aligned. CIEH is able to assist with training and would welcome the opportunity to discuss this with the FSA.?

## **Response**

FSA acknowledges district council concerns regarding internal security restrictions on IT systems and have commenced discussions with district councils around this issue. FSA will continue to work in this area via the FSA's online workstreams.

FSA will provide training and guidance on the proposed legislation in the lead up to the coming into operation date.??

## **Respondent: Uber Eats**

### **Comment**

We recognise that the food takeaway and delivery market has changed dramatically with the growth of technologies such as ours. The arrival of online platforms has supported restaurant revenue growth, particularly for small and medium sized businesses, at a time when high streets are under considerable pressure. The UK has been a leading innovator in this competitive sector that did not exist when food regulations were drafted in the late 1990s. As you look at how the FSA regulates for the future, we understand the need to consider the evolving role of online platforms.?

We are able to leverage our position as an intermediary to share food safety information with businesses and consumers in the supply chain. For example, we make information available to delivery partners to promote food safety through our online learning hub and have shared UK Hospitality guidance on allergens with food businesses using our app. We will continue to work with the FSA and industry bodies to share best practices with users of the Uber Eats app to raise awareness across the food sector.?

As online platforms continue to innovate, it may become increasingly challenging to apply laws drafted for traditional businesses, and a greater number of online platforms may fall outside of existing regulation altogether. We are concerned that this would not be in consumers' interests and it risks creating ambiguity and complexity that would be challenging for businesses, the FSA, local authorities and consumers to manage.?

A distinct approach, addressing the particular risk profiles and features of online platforms, that applies universally and allows flexibility for the future, is therefore needed.?

## **Response**

FSA will continue to engage and work with online platforms through the FSA's online workstreams to address the issues raised.?

## **Respondent: UK Hospitality**

### **Comment**

Our members would like to see a specific statement that online screens used purely for marketing and promotion with no ability to order should be out of scope.???

### **Response**

FSA can confirm that the regulations only apply where a food business establishment supplies food ordered via an online facility, as per regulation 3.?

## **List of respondents**

1. Northern Ireland Food Managers Group (NIFMG) on behalf of Environmental Health Northern Ireland (EHNI)
2. Ards and North Down Borough Council
3. Armagh Banbridge and Craigavon Borough Council
4. Causeway Coast and Glens Borough Council
5. Belfast City Council
6. Derry and Strabane District Council
7. Fermanagh and Omagh District Council
8. Lisburn and Castlereagh City Council
9. Mid-Ulster Council
10. Newry Mourne and Down District Council
11. Chartered Institute of Environmental Health (CIEH)
12. Individual respondent
13. MyFood Delivery
14. Uber Eats
15. Deliveroo
16. Just Eat
17. UK Hospitality
18. ASDA