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Dear Philip,

**Re: Consultation – UK-wide ‘Scores on the Doors’ scheme on hygiene standards in food businesses.**

I am writing in response to the above consultation on behalf of the London Scores on the Doors (SotD) Implementation Group, London Food Coordinating Group (LFCG) and Association of London Environmental Health Managers (ALEHM).

ALEHM is a charitable organisation, whose members are the senior Environmental Health Managers of the 33 London Boroughs. LFCG is the specialist group established by ALEHM to develop London wide policy and promote consistency in food safety enforcement. The Implementation Group is a specialist group established specifically to operate the existing London SotD scheme on behalf of LFCG and ALEHM. This response is therefore on behalf of London Environmental Health and Food Safety Managers as a whole and does not necessarily represent the views of the individual London authorities, or their officers, who may respond separately.

**Background to the London SotD scheme**

In January 2006, LFCG received unanimous agreement from the London authorities to develop one consistent SotD scheme for London in the light of the different schemes being implemented around the country.

A steering group was established and a scheme proposal formulated. This proposal was put to the FSA, seeking financial support. As a result, the FSA agreed to support the scheme as one of its national pilot schemes, funding IT, marketing and branding, training and evaluation. Unfortunately due to the shortening of the pilot period, the operation of the scheme in London has not been evaluated by the FSA. We are disappointed by this as we believe that the scheme has been very successful but

that this cannot have been fully taken into account by the FSA in formulating the consultation proposals.

Since the consultation was announced, the London group have implemented their own work to evaluate the scheme. Reference to the findings of this research is made in the following response to the consultation.

The steering group has put consistency at the heart of the scheme and is the only scheme to have done so. A raft of documents and procedures has been produced to support a consistency framework.

This scheme resulted in a large number of authorities outside London requesting of the FSA to join the pilot and this was restricted to approximately 10 who currently use the scheme. All have found the scheme to be very successful in both informing consumers and in acting as an incentive to businesses to improve hygiene standards.

In London the scheme website launched on 8 October 2007 and there are currently 27 authorities 'live' on the site. Only 3 London authorities have yet to commit to join the scheme. The scheme in London covers up to 80,000 businesses.

The original decision by the FSA Board not to include 5 star schemes in the consultation was received with great concern and so the opportunity to comment on 5 star schemes in this consultation response is welcomed. Included with this response is a copy of a letter sent to the Board Members in April 2008 (**Appendix A**), and also a letter to the FSA following a consultation workshop in February 2008 (**Appendix B**) which contains views we would wish to be taken into account in response to the consultation. Also included are the responses from authorities to a questionnaire issued by the Implementation Group following the Board decision in March 2008 (**Appendix C**)

In recognition of the confusion that may arise nationally through the use of different scoring mechanisms in existing 5 star schemes, broad agreement has recently been reached with the Transparency Data user group to align the 5 star scoring schemes. **Appendix D** indicates how this may be formulated, although further work is planned on finalising the detail. However, we believe that this provides a more consistent and reliable approach to banding.

There are currently approaching 200 authorities in the UK using 5 star schemes and it should be highlighted that, if a 5 star approach were chosen by the FSA, then a national scheme could be in existence immediately.

Local authorities in the London scheme are currently surveying businesses as part of the evaluation process to gauge their support for the scheme. **Table 1** shows the answers posed to the questions:

1. *Do you think it is right to rate businesses from zero to five, or would you prefer another method?*
2. *If no, what would you prefer? (Zero to three stars, Pass/improvement required/fail, Other scheme (e.g. smiley faces, gold/silver/bronze))*

3. *Have you or are you intending to display your star rating sticker and certificate?*

4. *Do you think all businesses should have to display their rating?*

It can be seen there is a high level of support from the businesses, with overall **91.7%** in favour of 5 stars. **84.8%** said they were or intended to display their rating and **80.6%** also said all businesses should be required to do so. This is in contrast to the results of a street survey showing only 16.4% were displaying, with the highest levels of display being by the 3, 4 and 5 star premises (Table 8). So it is clear that whilst businesses support the scheme they will not display unless their competitors do and until it becomes compulsory.

In **Table 2** of those 8.3% of businesses stating they did not agree with a 5 star scheme, 19.72% preferred 3 stars, 33.8% the 'Scottish' scheme and 46.48% some other scheme.

**Table 3** shows the break down of the survey by the type of business where it can be seen the high level of support for the London scheme approach is consistent across different business types, with over 90% of multi-national and franchise businesses in favour.

**Table 4** shows a high level of support for the scheme across premises achieving all the different star ratings, although support for compulsory display of certificates or stickers understandably reduces in premises with below 3 stars.

The London scheme has been running a public consultation on it's website and **Table 5** shows, **77%** in favour of 5 stars and **82%** think that businesses should have to display their rating.

**Appendix E** shows extracts from a consumer survey carried out by LB Wandsworth, which shows **77%** favour the 5 star scheme used in London.

## **Consultation Questions**

### ***How easy is it to understand each of the schemes? Which is the easiest?***

We do not believe any of the schemes are difficult to understand, including the 5 star schemes. However we would question the value of the information provided to consumers in the 2 schemes subject to the consultation. We do not believe the 'Scottish scheme' is meaningful as consumers do not know what is required to 'pass'. A premises that has only just achieved this 'pass' level and so may be borderline in terms of maintaining safety is grouped in with those businesses that have made the effort to be fully compliant and consumers will not understand this – they will think all those that 'pass' will be achieving the same level. The lack of distinction between different levels of compliance is also true for the broader banded 3 star scheme.

The 5 star scheme however enables consumers to judge the different levels of compliance with the law against each other and so clarifies and aids consumer choice.

The 5 star approach is in common use elsewhere, and so easily recognized. For example: Euro NCAP vehicle tests, Which magazine, hotel ratings, television magazines, the internet, financial fund ratings, insurance, and many others.

So, 5 stars is probably the most frequently used rating system and it would follow that it would be the easiest for the public to understand.

The clear brand and logo used in the London scheme enables it to be easily differentiated from other 5 star schemes, such as for hotels, and it is clearly described as “Food Hygiene Rated”.

The fact it appears in retail shop windows as well as restaurants will help reduce any confusion that it may be about restaurant food quality.

The public will learn the difference between this and other signs and recognise it against any other scheme, be it Michelin, AA etc as the scheme becomes more established.

It is assumed that publicity and education about the scheme when launched will explain the chosen scheme and help the public to understand.

***How useful are the descriptors in telling you what the hygiene standards in a food business are? Do you prefer one or other of the schemes? If so, why?***

The choice of descriptor is seen to be of great importance for the success of any scheme and must truthfully reflect the risk to public safety and provide for public (and business) confidence in any scheme.

The 1 star descriptor in the 3 star proposal – basic – includes premises scoring 45. This would mislead the public into believing that the business was in basic compliance, which is misleading. It would be better described as poor – as in the 5 star scheme.

A score of 20 is described as good in the 5 star scheme whilst it is only satisfactory in the 3 star scheme. This may be unfair to the FBO as it does not recognise the true standard achieved.

A business achieving full compliance will still only be described as ‘good’ or ‘pass’ in the proposals. It is believed these should be set apart from anything less than full compliance with a descriptor of ‘excellent’.

A greater number of descriptors is necessary than those given in the 3 star scheme. It is likely that the limited descriptors would cause public confusion. Even with a 5 star scheme, the choice of descriptor will require careful consideration to ensure that it provides the most accurate and meaningful indication.

***For the 'three-star, plus fail' option, do the scores adequately reflect the text descriptions 'Good', 'Satisfactory', 'Basic', 'Fail'? What symbols should be used to denote the scores?***

A score of 0-5 points represents full compliance and should be described more favourably than just ‘good’.

Currently in the 5 star scheme, the 2 star level (achieved for 30 points) is described as ‘broadly compliant’. This was prompted by the involvement of the FSA in the

development of the scheme at the time this term was first being introduced in the draft Code of Practice. However, the London scheme now recognises this descriptor to be inappropriate, since 30 points does not reflect a business that is sufficiently compliant for the description 'broadly compliant' and intends to re-describe the level as 'below average' or some other similar wording. Similarly, nor is it sufficient for a description of 'satisfactory' in the proposed 3 star scheme for a business achieving 30 points.

A score of 45 could hardly be described as basic compliance. In the current London scheme, this score is better described as Poor. The London scheme has 2 fail grades (the 3 star proposal also has basically 2 fail grades) and we are concerned that the public may be confused into thinking that the basic grade means basically compliant. The lowest level of compliance that we feel could be described a basic is the current broadly compliant limit of 10, 10, 10 points.

The symbols used to denote the scores should be stars for the reasons described in the response to the first question.

***For the 'pass/improvement required' scheme, is it sufficiently clear when a 'pass' would be achieved?***

It would be fairly clear to an enforcement officer, but may be more difficult to explain to the general public than a 3 or 5 star scheme. The public are likely to assume that all premises receiving a pass are equally compliant i.e. equally good. It does not differentiate between those premises that are of a high standard of hygiene and are likely to remain so, and those premises that are borderline pass where any fall in standards may become critical to food safety.

***Are both the schemes fair to businesses?***

All schemes (including 5 star) will be fair to businesses if properly designed and administered. Adequate guidance on scoring and consistency training/monitoring are essential elements of fairness, along with an adequate appeal mechanism. Consistency must be adequate across the UK so as not to disadvantage businesses in any area.

The Confidence in Management scoring guidance in the Code of Practice will need improvement to assure fairness to small businesses. Guidance is required to make clear the management systems expected of small businesses at the 10, 5 and 0 points levels.

The evaluation stated that with a 5 star scheme consumers were reluctant to purchase food from a business with less than 3 stars. In a sample of London authorities, less than 30% of businesses fall into this category. It is felt that 2 star businesses need to improve as this is a barely tolerable score which should not really inspire much consumer confidence.

With a 3 star scheme, consumers may not have the confidence to purchase from a 2 star premises. They will undoubtedly prefer to purchase from a "good" business and so they would only be likely to purchase from the top band.

The 5 star scheme has 3 tiers of Good/Very good/Excellent. This is most likely to motivate businesses to continually improve. Most 4 star businesses aspire to achieving 5 stars at the next inspection. 5 star businesses often state that the rating has inspired and motivated the staff to retain the top rating. Good compliance should be recognised and better performance should be better recognised to be fair to businesses who make that investment.

Consumers will likely to be equally confident to purchase food from a business described as “very good” or “excellent” but the tiers are required for improved compliance.

The London 5 star scheme has been accused of ‘gold plating’ to the prejudice of businesses. However, no more than full legal compliance is required to achieve 5 stars and our scheme is different from some other 5 star schemes that require best practice to achieve 5 stars. Our accompanying scoring guidance makes it quite clear that scores are awarded for compliance, and not best practice. One of the London scheme partners -Belfast, demonstrate this as they operate the Eatsafe Award, which recognises good practice, but not as part of the SotD scheme.

***Are both schemes capable of being consistently applied? Which would be the simpler and more practical to operate?***

With adequate procedures and guidance in place, all schemes including 5 stars are capable of being consistently applied. As consistency is as important regardless of the scheme, there is no difference in the practicality of operation.

If the code of practice is the scoring guide and is consistently applied, then the risk rating score should be consistent. This then dictates the star rating – whatever the banding or number of stars or other levels in the scheme.

The London scheme has provided guidance on scoring which put some meat on the bones of the Code of Practice, but further improvements are possible. The promised guidance together with consistency training will be the most crucial element of the scheme and must leave no room for ambiguity.

Since the launch of the London scheme and in the run-up to the launch, consistency training has been provided for 328 inspectors and managers involved in hygiene inspection work, including temporary staff and contractors (FSA funded) and adequate monitoring of risk scoring was applied – including inter-authority monitoring. Consistency audits are undertaken as part of the London Consistency Framework.

Consistency levels are better than they have ever been in the past and the confidence in risk scoring is high. This can only be enhanced with the additional training & guidance provided for the national scheme. Consistency is reported to have improved significantly in most Authorities operating 5 star schemes – as evident from various meetings attended.

Regardless of the scheme chosen or indeed even if no national scheme was to be implemented, consistency remains the biggest criticism of enforcement officers and

must be addressed. Consistency is not just an issue for scoring but should cover re-rating policies, appeals and other elements of application.

***Is either one of the schemes better at providing an incentive to businesses to meet the legal requirements? If so, what makes your choice better?***

A pass/fail scheme provides no incentive for FBOs to improve beyond basic compliance. It is therefore something of a blunt instrument which is unlikely to secure the ongoing and incremental improvement we seek.

A 3 star scheme does provide incentive but still lacks the recognition of continuous improvement.

In the evaluation, food business operators indicated a preference for more rather than fewer grades. It would be much more difficult in general for many businesses to improve from 2 to 3 stars in the proposed scheme than with a 5 star system. A 3 star scheme provides no incentive for a business to score less than 15 (which equates to 4 stars in the London scheme). Many of the FBOs following inspection want to know how to improve their star rating. The more tiers (within reason), the more motivation can be given. The largest number of enquiries about the scheme are from food businesses wanting to know how to improve their score.

Current 5 star scheme participants have statistical evidence to show the levels of improvement since the introduction of SOTD. Please see enclosed **Table 6**. Since launch, the overall percentage of 5, 4 and 3 star premises combined, has increased by around 10%, whilst for 2, 1 and zero stars it has decreased by the same amount.

Whilst compliance improvement may not be totally due to the publication scheme, we are confident that the 5 star scheme has played a major part. Up-take of SFBB by businesses has increased significantly when it was explained to them that to implement a documented FSMS would enable them to improve their star rating even though hazard analysis for food safety has been a legal requirement for a number of years and the requirement for a documented food safety management system, such as SFBB, since 1 January 2006.

Transparency Data can also produce compliance statistics for all businesses using their website – including a range of schemes – for comparison purposes. This is something it is felt that the FSA should have considered as part of the evaluation exercise, and was suggested at the time.

***Do you agree that the initial score may be given only following a full inspection? If not, why not?***

Agreed. Any scoring requires sufficient information to be gathered. This includes any subsequent scoring, not just the initial one.

***Do you think the scheme should be based around compliance with the Regulations on food hygiene only at the time of the inspection or should the likelihood of this level of compliance being maintained in the future also be considered? Please explain your answer.***

The scheme is intended to inform consumer decisions and so must have some ongoing validity beyond the immediate inspection.

In respect of the compliance with hygiene and structural requirements, the score should reflect the time of the inspection only. However in the London scheme, the guidance on scoring has been designed to ensure officers are pragmatic and recognise where a minor failure is not reflective of usual standards. Thus businesses are not marked down as a result of temporary blips.

As the Confidence in Management element of the scoring includes the likelihood of maintenance of compliance, this must be included. If the inspecting officer does not have confidence that the conditions found during inspection will be maintained, any score based only on compliance may be misleading to the public. The Code of Practice also requires the inspecting officer to consider the 'track record' of the premises when risk rating, including willingness to act upon previous advice and compliance history. This should allow the inspecting officer to make accurate assumptions as to the likelihood of maintenance of levels of compliance. So, if a business has made improvements as a result of an unsatisfactory inspection, the confidence score should not be immediately increased because the track record of compliance is not good.

### **Which businesses should be given a hygiene score?**

#### ***Do you agree with the proposed scope?***

The scheme should allow the inclusion of all food businesses which are subject to routine inspection to provide them with the incentive to produce/sell safe food. The London scheme allows some flexibility on which businesses would be included by local authorities, depending on individual alternative enforcement strategies for very low risk, category E premises. It allows the inclusion of all food businesses because we believe that it is extremely difficult to determine the cut off point where a business should or shouldn't be included. Premises which are not supplying food directly will still have customers who would find star ratings useful, when they are assessing suitable suppliers and should be included.

Low risk businesses are also subject to routine inspection and where the business maintains high standards, it should be just as entitled to display its rating as any other business. An inclusion policy is more consistent and helps extend the recognition and understanding of consumers.

***If not, do you think it should be restricted to certain types of businesses only or do you think it should be extended to other types of businesses that do not supply direct to consumers? In either case, please explain your answer and say which types of businesses should be excluded or included.***

Other than businesses which are not subject to routine inspection and re-rating, we have excluded food businesses operating from private home addresses, for reasons of security. However the set up is sufficiently flexible to allow for their inclusion if they so choose. We have found that sending them the sticker and certificate after inspection, for their own personal use has been popular.

***Do you think there should be any exemptions to the proposed scope? If so, can you please tell us what businesses you think should be exempted and why?***

Only as described above

***How should any exemptions be agreed? For example, should this be UK-wide or should they be considered by local authorities and agreed with the business concerned on a case-by-case basis?***

No further comment.

***If an 'exempted business' asks to be included, should this be permitted? Please explain your answer.***

It would be easier to administer if all inspectable businesses were included.

***If the hygiene standards of the 'exempted business' fall below a certain standard, should the exemption be lifted? Please explain your answer.***

We would expect all businesses subject to inspection to be included, so this issue would not arise.

***Should 'exempted businesses' be listed on the web-based SOTD site as 'exempt' or simply missed out? Please explain your answer.***

Listing businesses registered at domestic premises defeats the object of protecting names if an address is given.

For the London scheme, premises which are exempted do not appear on the website, although there is a general explanation in the accompanying text. If IT development systems enable us to provide exemption details in place of the star rating, this would be preferable, along with an appropriate descriptor, explaining the exemption, as it would give the complete picture and allow consumers to ask questions of the business directly if appropriate. However this could involve a lot of support work, particularly if such businesses are not routinely recorded on the food premises database.

***Do you agree that where there are a number of separately registered food businesses within a single establishment, each should have its own score? Please explain your answer.***

Clearly anything less than individual rating is misleading to consumers and is of little value. We support separately allocating different businesses within a single business unit with their own assessment and score, and we would support this proposal as it gives more flexibility and a more accurate picture of standards. However there would need to be some consideration given to the display of stickers to ensure there was no confusion about which part of the premises each sticker and certificate related.

***Do you agree that display of the score at the premises by means of a sticker or a certificate is the most accessible way for consumers to obtain information on scores? If not, why not?***

This method of display is of greatest benefit to the public – especially those who do not have access or the inclination to look at a website. It provides on the spot information which will permit the public to make a more informed choice at the time. In a consumer survey carried out in LB Wandsworth, virtually all respondents felt that sticker display was more important than web site access to information. However, we also strongly support the posting of more detailed information on a central website to better inform consumers.

It is a nonsense if a member of the public can look up the rating of a premises on the internet from the other side of the world, but would not be able to see the rating when walking past the premises, trying to choose somewhere to eat.

***Do you agree that display of the score at the premises by means of a sticker or a certificate should be voluntary? If not, why not?***

No. See above.

Consumers should not have to rely on internet access to get the information they need and should not have to ask why no sticker is displayed.

We support the compulsory display of stickers. Otherwise only the best businesses will display their rating. Consumers and small independent businesses which make up the majority of London's food operators, overwhelmingly want compulsory display. A very low percentage of businesses with 2 stars or less currently display their scores, but they still agree that they should display them. Therefore there may be little opposition to this development, and it is very likely to result in improved compliance levels. Many businesses who have achieved a five star rating are extremely proud of the fact.

The evaluation stated that businesses with 2 stars (or less) were reluctant to display their scores. Publicity surrounding a national scheme will mean that the public will draw their own conclusions where a business is not displaying a score. More 2 star businesses will be likely to display with greater publicity. The proposed introduction of a compulsory display scheme in London may eventually trigger greater display across the country within a national scheme.

The evaluation refers to limited public awareness, however this is variable in different areas of London, dependent on the amount of publicity and press coverage an authority has been able to engage in. We continue to get a reasonable number of requests for information from the website and have since October 2007 had an average of over 187 visits per day, with 56,000 unique visitors and over 800,000 page views (a more accurate measure than the often quoted "hits") even though only a few local authorities operating the scheme have done any marketing since the launch – due to the uncertainty over the national scheme. This shows there is public awareness, which will grow significantly once there is national publicity. Local authorities still continue to receive a reasonable number of freedom of information requests for information from the website.

The evaluation was curtailed before it was possible to evaluate the impact of the London scheme.

**Table 7** shows the results of a survey into what proportion of high street premises issued with a sticker/certificate in 13 different authorities actually displayed them. Only **16.4%** of 1843 businesses issued with a certificate and sticker were displaying.

**Table 8** shows the data for a number of authorities that have analysed the results against the type of sticker issued which clearly shows that there is reluctance for businesses to voluntarily display ratings below 3 stars. However, even in the 3, 4 and 5 star premises, less choose to display than not to display.

It is interesting to note that the substantial majority of the multi-nationals and franchises surveyed were in support of the 5 stars and 88% for compulsory display. This is despite the stated objection of representatives of large businesses that they do not like 5 star schemes or compulsory display. Many see it as a tool to ensure that their managers are upholding hygiene standards. Support for compulsory display understandably reduces for businesses that received a rating below 3 stars.

In the FSA's evaluation, 95% of the public supported the compulsory display of information.

Some businesses will not display (the evaluation suggested 2 stars & below for the 5 star scheme). The same descriptor used for 2 stars – satisfactory - is proposed for the 3 star scheme. Will this encourage display? Many of the 2 star businesses would have been rated as 3 stars under the 5 star scheme (score of 20 or 25) – and would be less likely to display a perceived inferior rating and not favour having to explain to customers why their rating has declined.

Compulsory display would permit the greatest public benefit from information to consumers and improved food hygiene standards.

The 10th London Local Authorities Bill contains a clause requiring compulsory display of food hygiene documents (certificates and stickers). At a recent opposed bill committee in the House of Lords this proposal was upheld following the submission of evidence, including early results of the statistics above. The committee could see that businesses with poor scores will not display unless they are compelled to. The requirement to display a sticker and certificate does not place a 'significant & unnecessary burden on food businesses' as argued by the petitioners against the bill. The actual placing of the documents does not incur any additional cost and little effort. This is hardly a new regulation or extra burden on businesses. It simply requires greater openness about a process that already takes place.

***Do you agree that all scores should be available via the web-based platform that will be developed? If not, why not?***

Yes.

***Do you agree that only the most recent score given should be provided? If not, why not?***

With the current 5 star London scheme only the most recent score is provided. However, there is no reason why the previous score should not be given. This would give the public indication of the business history/compliance record and show whether or not improvements have been made/sustained or whether conditions have deteriorated (as in the Danish model). It is however questioned whether this is

relevant to consumers, who are more likely to choose based upon the most recent rating.

There are however, practical implications of displaying historical scores. The window sticker should not feature previous scores, otherwise it will contain too much information and may be confusing. We could not practically display 2 ratings. The accompanying certificate could contain previous scores, however it is far more complex to configure computer software to produce such certificates and this should be taken into account in considering this option. Further research should be carried out into the value of providing this information against the complexity of producing it.

***Do you agree that the UK-wide SOTD scheme should include a mechanism for re-scoring? If not, could you please explain why?***

We do not accept that the national scheme requires a re-scoring mechanism.

To quote from the Chair of the Food Standards Agency, the UK-wide scheme design must be “clear and easy to understand by consumers and allow them to make informed choices...” effectively telling them about the outcome of our inspections in a format that is easy to understand. We believe that the public could be confused and certainly less well informed if the rating is permitted to reflect any of a number of circumstances, ranging from the unannounced primary inspection to the predictable revisit. Some businesses will have a certain laudable rating because they were proactive and responsible, whereas others with the same rating could be less responsible and reactive only to an initial poor rating. In the lead up to that poor rating intervention consumers were put at unnecessary risk.

We believe, and informal canvassing of public opinion supports this, that the scheme will lose credibility if the rating does not relate to the usual standards maintained by that business. We further maintain that risk ratings based on a range of circumstances beyond full inspection, will be misleading and potentially inconsistent compared to a standardised approach of only rating on a full inspection. Finally the public will often see a contrived re-rating based on a business reacting to a poor inspection outcome and knowing exactly what to do and by when to get a better rating – this is neither transparent nor informative to consumers. How many fly on the wall documentaries on poor food hygiene, or indeed any other consumer topic, are pulled because the subjects have improved by the time the programme is due to be aired? Clearly it is in the public interest to know just what really goes on in the premises they patronise.

The Chair has also stated that the scheme should “provide businesses with an incentive to comply with the requirements of food hygiene legislation”. We cannot believe this was meant to mean after a poor inspection and after having been required to improve by a certain deadline! To re-rate on a revisit is to defeat the fundamental motivational effect of the whole scheme. Traders know that we come un-announced and whatever score they get stays with them until the next inspection. They are therefore exceptionally keen to ensure their standards are high all of the time, just in case an inspector calls. Re-rating after a revisit at the request of the FBO sends out the message that they do not need to meet and maintain the highest

possible hygiene standard as they will have a second chance to improve. This approach just isn't acceptable where public health is concerned.

We believe the scheme will be considerably less successful in delivering real and permanent improvements if businesses know they can clean up in a short space of time for a re-inspection to improve their rating. Most practitioners report experience of standards slipping back after such post intervention improvements. Any business which has succeeded in getting a revisit re-rating will be aware that they can relax standards until their next inspection and go through the re-rating process again. This is not in the public interest. We also believe that there is little value in such a re-rating as, although hygiene and structural compliance can quickly be improved, it is unlikely officers will feel able to reduce scores for confidence in management as this takes account of history of compliance and previous attitude to food safety management.

We are already seeing businesses take their responsibilities much more seriously in the knowledge that the rating they are given will remain with them until their next inspection.

The Board Chair has also stated that the scheme should "include the safeguards necessary to ensure that businesses are treated fairly and equitably". It is accepted that businesses which make substantial improvements will not want to wait until the next programmed inspection to be rescored. We do recognise the effect not re-rating can have on businesses and it is for this reason the London Scheme has provided a right of reply for businesses – so that they can if they wish tell the public what they have done since that last inspection. We can report that it has been much used, with some authorities receiving around 100 right of replies already. We acknowledge industry representative concerns and plan to make changes to make this facility work better, including making sure LA's send reports to the company head office and not just to the outlet.

We believe that, if authorities make it clear to consumers when the inspection was carried out and that improvements may have been made since the inspection that are not necessarily reflected in the rating, then our scheme is fair. We also believe that by ensuring all businesses are aware of the scheme and its "rules" locally, each has equal opportunity to be proactively compliant.

Can a system be equitable if poor performers can improve for a month or two and be rated similarly to consistently good businesses? That system does not really afford the competitive edge that the latter might rightly expect.

***Should there be a time limit following the request from the business within which the re-scoring must take place? If not, why not? If yes, how long should this be?***

If re-rating is introduced in a national scheme, which of course we strongly oppose, we believe this process must primarily reflect best enforcement practice and public health protection. Authorities have limited resources and must be free to schedule their work.

We believe that any time limit for re-rating should be a minimum not a maximum. Re-rating of short term improvements is not warranted in our view and is not in the public interest. Re-inspection (and hence rescoring) should occur no earlier than 6 months after the initial inspection. This would in some way restore the incentive to be proactively of a good standard which is a facet of the current London Scheme. Furthermore this would be fairer on those businesses who invest in achieving good standards without intervention. Re-scoring should be available only for businesses scoring 2 stars or less in a 5 star scheme.

We further believe a business should only be entitled to request one re-inspection in any 12 month period. There will be businesses that are unhappy with re-inspection outcomes and will demand further visits.

***Should re-scoring only be permitted following a re-inspection or a re-visit or may documentary evidence from the business (e.g. invoices for work completed, photographs etc.) be sufficient in certain circumstances? If yes, in what circumstances?***

It is normal good practice to revisit premises where risk has been identified. The purpose is to see if further intervention is required. However, these are not re-inspections and so would not currently warrant a re-rating under the code of practice. We would contend that insufficient information is gathered on a revisit to enable a proper re-rating of risk under the code to be made, particularly where we are concerned about ensuring consistent application of the rating scheme. We believe only a re-inspection can give practitioners the confidence to score a premises accurately and fairly. Anything less, where consumers are using this information to make choices about health matters, would be foolhardy. Consumers are entitled to expect the same thoroughness and assurance that a re-rating is as reliable as the original rating. So, despite the forthcoming changes in the code of practice we believe few authorities will consider changing a risk rating on a re-visit. On a similar note, it is the view of colleagues that most of the other proposed interventions will not enable a sufficiently robust assessment of risk to be carried out to change the rating.

Consumers, and many food businesses, are often not able to distinguish the different types of intervention which enforcement officers utilise. If re-ratings become acceptable on an intervention less than an inspection, surely they would be entitled to expect ratings to change each time we visit a premises. We suspect the public would be very surprised to learn that we visit premises in between inspections but only re-rate when we have been asked to. They would probably be even more surprised to learn that we often made these visits simply because we have been asked rather than because there is public health benefit.

We do not believe documentary or other evidence is an appropriate method of assessing compliance and is a system that would be open to abuse.

***Should the circumstances in which re-inspections, re-visits, documentary evidence are acceptable be defined or should this judgment be left to individual local authorities? Please explain your answer.***

Food enforcement practice nationally should be risk based and should not change significantly simply because a scores on the doors scheme has been introduced. As

now, re-visits should be determined by the inspecting officer in terms of risk and priorities and should not be dictated by businesses nor the demands of a national scheme. Each authority knows its capacities and its businesses and must be left to make local decisions in this respect.

***Do you agree that businesses should not be charged for any re-inspections or re-visits undertaken at their request for the purposes of re-scoring them under the SOTD scheme? If not, why not?***

We would oppose charging for re-rating inspections as this would place a further unpredictable demand on resources, both to make the visits and to collect the money. Businesses would expect value for money and pressure would be exerted on authorities to visit on demand. This may impact on scheduled priority workloads. We also believe payment requirements would be unfair on smaller traders for whom the expense may be unaffordable or, at best, a disproportionate cost relative to their means compared to large businesses.

Payment does not resolve the authority resource issue. The limiting factor, particularly in London, would be the availability of qualified personnel to do the work. It would not be practical to recruit new staff or employ agency staff for an unpredictable demand. Overtime cannot be enforced by employing authorities and many staff have demands and expectations which would not avail them to do overtime. Therefore the work would have to be undertaken by existing resources which are often already overstretched.

From a neutral perspective rather than our own, the only justification for charging would be that the taxpayer, domestic and commercial, should certainly not foot the bill for stretched food enforcement resources to be deployed on matters other than public protection. This extra cost should of course be met by those businesses which incur that cost. If payment was an element of the national scheme authorities should operate the service on a cost basis, with each authority fixing costs annually (thus recognising regional differences). This could be added to the schedule of fees and charges put through Committee at the LA to ensure fairness. Any scheme must be resource neutral for authorities.

***Do you think that a business should be notified of their score and given a period of time to query or challenge this before it is posted on the web-based platform?***

We agree with this policy. All scores in the London scheme are verified by a senior officer before they are posted on the website. The upload is performed weekly with at least 14 days between the date of inspection and the information going 'live'.

It is essential that scores are posted without significant delay in order to maintain completeness and ensure that the information displayed is as current as possible.

At the time of notifying the business of the score, they are also issued with a right of reply form, which if returned within 14 days means that the reply will go 'live' at the same time as the rating is first published.

Consistency guidance and training will help to remove any foreseeable cause for challenge.

Experience has shown that once the score given has been explained to businesses (after discussion with the inspecting officer or food safety manager when necessary) they are unable to produce any additional information or evidence to indicate that the score was incorrect. There have been very few challenges or complaints notified to authorities in the London scheme about scores given. Enquiries are usually about understanding why the score was as it was, rather than complaining about it.

***Do you agree that an appeal mechanism should be available?***

Yes. Without an adequate appeals mechanism we cannot expect the confidence of food businesses.

***Do you agree that appeals should be handled through the relevant local authorities' complaints procedure?***

This system has worked adequately in the London scheme since the launch of the 5 star scheme, with all appeals being dealt with easily by the line manager of the inspecting officer. Only one case has been reported to the Implementation Group as having progressed into a formal complaints stage. There would seem little need to introduce an additional mechanism, when there is such a low level of complaint. Many authorities have expressed concern that any other outside forum would not be recognised by the authority as having any status or jurisdiction over what is a local authority issue.

**Consultation questions (Impact Assessment)**

***Do you agree with the estimates made at paragraph 3.2 of the numbers of authorities that will choose to introduce SOTD schemes if no UK-wide scheme is introduced?***

With the supporting evidence of success of scores on the doors schemes, we feel it is likely that the majority of local authorities will want to access the benefits of a scheme and take up is likely to be very high - probably higher than the estimate. We are aware of several local authorities who plan to proceed but are waiting for the outcome of the FSA review. However, when deciding on which scheme to use, the London Implementation Group assessed all possible options and involved a wide range of stake holders, including business, 'Which?' and the FSA. They concluded that 5 stars would give the most benefit.

The consultation document considers 3 options one of which suggests that if there is no national scheme, then a proliferation of different types of scheme will arise. In reality, if one scheme is not identified as preferred, then new local authorities are most likely to opt for a tried and tested scheme, with the experience and support that is available to guide them through the process. This has already resulted in most English local authorities opting for a 5 star scheme, as they can use all the support available from authorities already operating such schemes. Therefore if no one scheme is identified as the preferred option, 5 star schemes would almost certainly become the national scheme adopted, with a few authorities, forming a minor percentage of the total, remaining with their chosen scheme. While there are

currently several differences in the scoring and specific rules within many of the 5 star schemes operating, it is worth noting that discussions to align the schemes are already underway.

***Do you agree with the estimates made at paragraphs 3.4 and 3.6 of the numbers of local authorities that are likely to implement and operate the UK-wide SOTD scheme? In particular, do you envisage uptake between Options 2 and 3 to be different? If so, how and why?***

We agree with the FSA that there is widespread support for a UK scheme, but not at any cost. London authorities are committed to the FSA objectives of a national scheme, but all our evidence from local authorities, consumers and food business operators, suggests that the most effective scheme is a 5 star scheme. It allows consumers to make informed choices, and gives businesses an incentive to improve legal levels of compliance, which, in turn would be expected to reduce levels of food borne disease. The 5 star scheme is preferred because it offers more information and a better degree of choice, and this scheme has been effective in significantly improving food hygiene standards.

Having operated a 5 star scheme across London for 9 months and seen the benefits, it would be difficult for most London authorities to move to an unproven 3 star or pass/fail scheme without any conclusive evidence to suggest the benefit of such a change.

These Authorities have most certainly researched all available schemes and have chosen the scheme they considered to be best. No evidence to the contrary has been produced. Authorities who have already changed their scheme have generally changed to a 5 star scheme rather than from one.

It would require significant effort and would undoubtedly lead to public and food business confusion to change from 5 stars to 3 stars or pass/fail. The public will wonder why a particular establishment has changed from 4 or 5 stars to 3 stars and will assume that the business has deteriorated. FBOs are proud of their 3/4/5/ star rating and will be concerned if not aggrieved at being what they consider as downgraded.

It is thought that a high number of 5 star Authorities will continue to operate with 5 stars, thus greatly reducing the impact of a national scheme. We therefore believe that the number of authorities expected to migrate to the national scheme may be less than the anticipated number. We do not envisage many, if any, LA's will opt for the Pass/Fail scheme if it were the preferred national option.

***Do you think there could be difference in uptake in England, Scotland, Wales or Northern Ireland? If so, please explain your answer.***

It is very possible that there could be a difference in uptake in the regions. Some regions have developed their own scheme (as in Scotland) and so it is entirely possible that they may choose to apply that scheme. It may also be that an individual local authority prefers to opt for the national scheme, local pressures may mean that they chose to adopt a regional scheme to ensure maximum benefit of

consumers and businesses. If a national scheme is approved that does not offer clear benefits to local authorities, then it is likely that there will be differences, as each region will stay with its preferred scheme.

***We welcome views from stakeholders regarding the above costs/assumptions and on any omissions/further information that stakeholders can identify to help us assess the impact of this option on local authorities and on businesses.***

***In particular, do you agree that SOTD schemes do not impose any further incremental costs on food businesses? If not, please provide details of other costs.***

***Do you agree with the above costs/assumptions? Can you identify any omissions/further information to help us assess the impact of either Option 2 or Option 3 on local authorities and on businesses?***

***Do you foresee any other costs for the Agency? If so, can you please explain these?***

The cost to food businesses should be no different than at present (other than familiarisation costs). They are required to comply with the legislation, and any scheme is compliance only. The only cost will be that attributable to the publication of non-compliance information which can have a significant detrimental effect on income. The cost to business has been minimal to date. Officers explain the scheme, along with the likely score, with the business manager at the end of a routine inspection. This takes about 10 to 15 minutes per business, and as a result we have very few enquiries and complaints. The cost to business of transfer to another scheme is estimated to be much higher, probably 1-2 hours, especially as it is anticipated that any change in scheme will be unwelcome and will result in large numbers of queries and complaints as well as explanatory visits outside the inspection programme. We accept that the costs of either of the FSA favoured schemes are likely to be similar.

Experience has shown that implementation costs with the 5 star scheme varied, depending how much historical data was included in the launch, particularly the cost of quality checks on old data, dealing with enquires and queries and preparing very large mail merges prior to sending out supporting paperwork. At one authority, LB Wandsworth - the full implementation costs were approximately £30,000, but the projected cost of migration is £60,000, because it cannot be introduced gradually, and we anticipate widespread disquiet, particularly from independent businesses.

The ongoing running costs of the scheme in London are estimated to be £18.00 per inspection and are likely to be broadly similar for the 3 schemes.

It is much more efficient to provide national training for a scheme, but training already provided for the London pilot would be obsolete if the national scheme was different.

Experience has also shown that far less than 2% of all food businesses will make formal complaints. The ongoing costs of complaints are negligible.

The cost implications of a revisit/re-score policy are significant for local authorities, and could not be cost-neutral because to be effective in accurately reflecting the longer term food hygiene standards in a business, additional visits beyond the revisit period would be required to assess ongoing compliance.

The benefit to Authorities with the implementation of a pass/fail scheme would be minimal (businesses would not display a fail certificate, although many might display a pass – but the public would be unaware unless they visited the website regularly – a fail would only be published for a short time).

***Do you agree with the information and assumptions used in the benefits sections above?***

***If not, would you please explain your reasons and, where possible, provide evidence to support your explanation.***

### **Cost savings from fewer 'Freedom of Information Act' requests.**

The implementation of Scores on the Doors schemes has not reduced the number of FOIA requests received. Most, if not all persons making requests for information in the last year were from the media who wanted more information than on the web site. The key advantage of the web site is that it provides readily accessible and easy to understand data on food hygiene standards to the general public, who have not in the past used the FOIA to obtain this information. The cost of providing information for individual FOIA requests, most of which are made by the media and appear to be exploratory exercises asking for information on a wide range of businesses, has been costly. The search for information on one business can involve between 1 and 2 hour's work, to access paper and computer files for the appropriate documents, photocopying and removing any confidential information. If the detail of the data displayed on the web site is reduced by introduction of a 3 star or pass/fail scheme, we might expect greater numbers of requests under FOIA to obtain more detailed information about individual food businesses which is a greater cost to the public purse, and directs resources away from front line work.

### **Reduction in numbers of Inspections.**

Neither the 3 star nor pass/fail schemes are likely to result in significantly fewer inspections. Experience over the past year has shown us that numbers of zero and 1 star businesses remain fairly constant with poorer businesses showing little interest in their star rating, and it therefore has not been an incentive to improve the poorest businesses. While we are finally seeing some reduction in numbers of zero and 1 star premises, this is closely related to the additional work directed to these premises over the last 6 months as a result of interventions and the government steer to direct resources to failing premises. Greatest improvement has been seen in the 2 star businesses, broadly compliant, moving to 3, 4 and 5 star premises, and officers report these businesses being very keen to know what is required to better their compliance score. With the 5 star scheme, there is incentive for businesses to work towards 4 and 5 stars which could reduce the inspection frequency from 18 months to 2 years for some premises. As the FSA has introduced broad compliance as a target level of achievement, with a clear steer that local authority resources should

be directed at the premises not achieving broad compliance, a 5 star scheme provides an incentive outside of the inspection and enforcement programme to minimise the resources directed to the 3, 4 and 5 star premises, whilst providing a clear framework in which such businesses can improve and be rewarded.

We would estimate that the combined effects of a 5 star scheme, along with concentrating enforcement resources at the poorest premises will result in across the board improved standards, with an expected reduction in premises requiring full inspection to a compliant partial audit, at least for the first few years of the scheme. We have yet to quantify the time saving of this, as the use of interventions within the local authorities has not yet been assessed, but it is likely to be in the area of 3-4 hours, (fewer written warnings, revisits and reduced inspection times).

### **Savings to the local authority.**

The Greenstreet Berman evaluation supports the view that Scores on the Doors improves hygiene standards. Significant improvements in levels of legal compliance have been noted in the 9 months since launch. The 5 star scheme allows officers to direct resources away from the better premises and concentrate on the zero, 1 and 2 star businesses, using enforcement options which are more effective at achieving improvements. This latter approach is now beginning to show improvements in standards as the number of poor performing businesses are beginning to reduce while the better performing businesses are also continuing to improve with no resource input by the authority, other than the cost of running the Scores on the Doors scheme. We do not believe this improvement will be achieved with either of the FSA preferred options. The marked improvement in compliance rates for 3, 4 and 5 star premises is a significant factor in us wanting to keep the 5 star scheme and without evidence that other schemes are equally effective, most London Boroughs would not wish to change.

Whilst it is difficult to put a figure on Public Health benefits, it is reasonable to assume a reduction in food borne illness.

### ***Do you agree with the assessments that we have made in this section? If not, please explain your answer.***

The costs assumptions made for local authorities are not accurate. The current direct cost of an EHO, including salary, superannuation, national insurance, travel costs etc is between £22 and £25 an hour, excluding overheads. The cost of contractors is currently around £35 an hour. We would accept the estimate that around 10% of officers would need training annually.

The cost of providing a Scores on the Doors service, including officer time during inspection, monitoring and audit checks, mail merge and printing and postage and packing is significant but the public benefit in improved standards and access to information is seen as a worthwhile service to consumers and businesses. The average cost of running the scheme per business, per inspection including on-costs is £18.00. It provides a financially stable environment in which to offer the information and can be readily made an integral part of the local authority work plan, with little disruption. This is in direct contrast to Freedom of Information Act requests

which, because of legal response times, cause disruption to local authority inspection services, as work priorities have to be adapted at short notice.

We are aware of the concerns expressed about 5 star schemes and would make the following general comments:

1. *Consumers are reluctant to buy from a premises scored below 3 stars* - We believe that reluctance is well founded due to the potential risks posed by a premises below 3 stars - we are addressing this by re-naming the currently misleading 'broadly compliant' 2 star band.
2. *There is limited difference in customer purchase between 4 & 5 stars* - Fully compliant businesses should receive recognition over those that are doing well but not achieving and maintaining full compliance with the law, regardless of whether the consumer will differentiate.
3. *Food business operators are not inclined to display 2 stars and below* - This is why we advocate compulsory display and are promoting the 10th London Local Authorities Bill. We believe they are unlikely to display 2 and below in a 3 star scheme either.
4. *Greater potential for confusion of consumers* - 5 star schemes are very well used in society and should lead to less confusion as it is what consumers are used to.
5. *Smaller businesses may be disadvantaged due to the application of the confidence in management score* - This is not correct if the score is based upon compliance - businesses do not need to have 3rd party auditing etc to be able to achieve 5 stars.
6. *More tiers means more chance of inconsistency* - Consistency is important in any scheme and must be addressed - however inconsistency will have just as much impact at the ends of the scoring bands in a 3 star scheme as in a 5 star scheme.
7. *Gold plating* - The 5 star scheme does not represent gold plating - it only represents full compliance - Belfast use our scheme and the gold plating there is the Eatsafe scheme, which is beyond the 5 star level.
8. *Regulatory creep* - The 5 star scheme requires no more than full compliance with the law. The scheme does not create any additional regulatory burden - it simply makes what already goes on more transparent.
9. *Revisits & appeals* - the group believe these are not necessary - however if they had to be implemented, they should be no sooner than 6 months, unannounced, no more than once in 12 months, only for zero to 2 star premises and paid for by the business. Appeal mechanisms are essential and are adequately dealt with by LA's existing complaints procedures.

10. *Improved compliance is not the main aim of a scheme* - Evidence from 9 months of running the 5 star scheme shows that, even though consumer information is the main aim, it does act as a driver for improved standards and enables LA's to concentrate on the worst businesses in line with the governments expectations.

Yours sincerely,

**Rick Mason**

**Chair – London Scores on the Doors Implementation Group**