

APPENDIX 1

HOUSE IN MULTIPLE OCCUPATION LICENSING POLICY



EAST RIDING

OF YORKSHIRE COUNCIL

PROPOSED EAST RIDING OF YORKSHIRE

COUNCIL HOUSING IN MULTIPLE OCCUPATION

LICENSING POLICY

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HOUSES IN MULTIPLE OCCUPATION

LICENSING POLICY

1.0 Introduction

1.1 This policy is written by The East Riding of Yorkshire Council in its role as Housing Authority and consequently any reference to "the Council" or the "Authority" in the document refers to The East Riding of Yorkshire Council as the Housing Authority.

1.2 The Housing Act 2004 (The Act) radically overhauled the way the Council regulated standards in private rented housing. It introduced mandatory licensing of certain houses in multiple occupation (HMO) see 2.1 below for definition. The Act also introduced selective and additional licensing. Additional Licensing of HMOs has been adopted in parts of Goole. The Act came into force in April 2006.

1.3 This statement of licensing policy is written pursuant to the provisions of The Act, and codifies the Council's approach to licensing all houses in multiple occupation (hereafter referred to as HMO's).

1.4 The principle aim of this policy is **to maximise the availability of licensable private rented accommodation and ensure that the health and safety of tenants is protected**. The availability of HMO lettings is important in order to sustain affordable housing. The Council considers the Housing Act 2004 legislation as an opportunity to improve the services provided by landlords and ensure decent homes for residents in the Council's area.

1.5 Monitoring and Review

1.5.1 The impact of this policy on the number, management and condition of HMOs will be monitored. This policy is linked to the Council's Housing Strategy and Public Protection Enforcement Policy.

1.6 Review of the Policy

1.6.1 This policy is a living document, which will be reviewed at least every five years.

1.6.2 In addition to the five yearly reviews the policy will be regularly evaluated and the policy may be changed at any time.

1.6.3 Any minor/administrative amendments to this policy or urgent legislative changes necessary may be authorised by the Director of Environment and Neighbourhood Services in consultation with the relevant Portfolio Holder without a full consultation process being carried out.

1.6.4 Any significant amendment to the Policy will however only be implemented after a formal consultation process is carried out with existing licence holders and other interested parties.

1.6.5 Any significant amendment is defined as one that:

**Is likely to have a significant financial effect on licence holders, or
Is likely to have a significant procedural effect on licence holders, or**

Is likely to have a significant effect on the community.

2.0 Definition of an HMO

2.1 The Act provides a detailed definition of HMOs. There are three main definitions. The standard test, the self-contained flat test and the converted building test. The standard test includes properties that consist of one or more units of living accommodation (not a self-contained flat or flats):

- where the living accommodation is occupied by persons not forming a single household;
- where the premises are occupied by those persons as a main residence;
- where that occupation constitutes the only use of the accommodation;
- where rent (or some other consideration) is paid; and where two or more of the households share basic amenities.

The above bullet points also apply to flats and self-contained flats (the self-contained flat test) and can include bedsits, hostels and shared houses. A member of the same family means people who are married or living together as husband and wife or equivalent relationship, or related to one another.

The converted building test applies if:

- the building is a converted building
- which contains one or more units of living accommodation that do not consist of self-contained flats
- the living accommodation is occupied by persons who do not form a single household
- the premises are occupied by those persons as a main residence
- their occupation constitutes the only use of the accommodation
- and rent (or some other consideration) is paid in respect of at least one of those persons.

2.2 The number of tenancy agreements is not relevant and the Act confirms that shared houses, including those occupied by students, are HMOs (but not halls of residence).

2.3 A converted building consisting of self-contained flats may also be classed as an HMO if the work undertaken in connection with the conversion was not carried out in accordance with the appropriate building standards (and still fails to comply) and if less than two thirds of the flats are occupied by owner-occupiers.

2.4 A self-contained flat that is occupied by people who are not from the same family, pay rent and share a kitchen, bathroom or toilet is an HMO (this is known as a flat in multiple occupation).

2.5 Bed and breakfast hotels will be treated as HMOs if they are housing any people who use the hotel as their main residence for more than 42 days. When this accommodation is used as a main residence, the same standards as for other HMOs should be met. People who use a hotel as a main residence are likely to be homeless and placed there by a local authority.

3.0 HMO Licensing

The aim of HMO licensing legislation is to ensure that high risk properties in the private rental market meet the legal standards and are properly managed.

Mandatory Licensing

3.1 The mandatory requirement for a HMO to be licensed arises when:

- It has five or more people.
- It is occupied by persons living in two or more single households.
- The occupants share amenities such as bathrooms, toilets or cooking facilities.

Certain properties are exempt from the licensing regime:

- Where the property is owned or managed by a housing association, a local authority, an education, police, fire or health authority (a public sector body).
- Where the building is occupied only by an owner or owners, and members of their family.
- Where the building is occupied by only two persons.
- Certain buildings occupied solely by students
- Buildings occupied by religious communities.

Discretionary Additional Licensing

3.2 The authority has used its additional discretionary powers to extend the licensing scheme to other categories of HMO which do not fall within the mandatory criteria.

3.2.1 This has enabled the authority to licence properties in the specified area known as the "Designated Area" and extends the scheme to the categories of buildings, which are not self-contained flats but fulfil the criteria set out in 3.4 below.

3.2.2 Properties within the designated area which meet the following criteria are required to be licensed under this additional licensing scheme. That the property is:

1. occupied by 4 or more people, forming 2 or more households, who are sharing facilities such as toilets, bathrooms and kitchens; and
11. has 2 or more floors, including cellars, basements and loft conversions.

3.3 Licence Process

Both mandatory and discretionary additional licences must be granted if the Local Authority (LA) is satisfied that:

- the HMO is reasonably suitable for occupation by the number of persons permitted under the licence (as set out in Schedule 3 of the Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions) Regulations 2006);
- the licence holder is a fit and proper person;
- the proposed licence holder is the most appropriate person to hold the licence;
- the proposed manager, if not the licence holder, is fit and proper; and

- the proposed management arrangements are satisfactory, including that the person involved in the management of the house is competent and the funding for management is suitable.
- 3.4 In setting out its policy, and administering the licensing regime, the licensing authority intends to promote the following objectives:
- **To ensure that all landlords of licensed HMOs, or their agents, are fit and proper persons.**
 - **To implement minimum standards of management of licensed HMOs.**
 - **To identify high risk licensed HMOs and their landlords and to deal with the health and safety issues involved.**
 - **To ensure that all licensed HMOs comply with the licensing conditions and provide appropriate standards of amenities.**
- 3.5 In exercising its discretion in carrying out its regulatory functions, the licensing authority has regard to this policy document and the objectives set out above.
- 3.6 Despite the existence of this policy, each application or enforcement measure must be considered on its own merits. Where it is necessary for the licensing authority to depart substantially from its policy clear reasons must be given for so doing.
- 3.7 The aim of the licensing process in this context is to regulate the management of HMOs in order to promote the above objectives. It is the licensing authority's wish to acknowledge the valuable role which the private rented sector has to play in meeting demand and offering choice and flexibility in the housing market. Accordingly, the authority wishes to encourage well-run establishments where the landlord or agent displays a sensitivity to the wishes and needs of the tenants.
- 3.8 This policy takes effect from (Date of approval by Full Council) and remains in existence for a period of five years, during which time it will be kept under review and revised as appropriate.

4.0 The Licensing Objectives

- (a) **To ensure that all landlords of licensed HMOs, or their agents, are fit and proper persons.**
- 4.1 Under the terms of the Act, the Authority will, when deciding whether the proposed licence-holder or manager of the property is a fit and proper person, have regard to any evidence that they have committed certain categories of offences. Such offences include those involving fraud, dishonesty, violence, drugs and sexual matters. Also relevant is any unlawful type of discrimination, and contravention of any housing or landlord and tenant provision. Similarly consideration will be given to instances where an applicant has been previously refused an HMO licence or where the applicant has been in control of a property subject to a control order or where there is outstanding work on a property in default of a statutory notice.
- 4.2 Also significant are any of those matters outlined above which are relevant in relation to an associate of the proposed licence-holder, or a manager of the property.

- 4.3 The authority will therefore consider an application for a licence under the Housing Act 2004 only if an appropriate Disclosure and Barring Service check of criminal convictions has been obtained.
- 4.4 The Council will comply with the Data Protection Act and associated Corporate Data Protection Policies and will only disclose information it has obtained through the disclosure process to third parties in circumstances where disclosure is permitted.
- 4.5 The process of obtaining a DBS disclosure takes a varying amount of time provided the application forms are completed fully and accurately.
- 4.6 Guidance in relation to specific offences and orders, along with a summary of the principles of the Rehabilitation of Offenders Act 1974, is given in Appendix A. In general terms, the more recent, serious and relevant to public safety the offence is, the less likely it is that an application will be granted.

(b) To implement minimum standards of management of an HMO.

- 4.7 The authority is committed to driving up the standards of HMO management by applying standards which are proportionate, flexible and relevant. Our approach to achieving standards is by way of risk assessment and risk management.
- 4.8 The Council's aim is to engage with landlords to provide good quality accommodation. Landlords are encouraged to develop their business and management skills. To the same end, landlords are encouraged to form professional landlord organisations and gain qualifications wherever this is possible.
- 4.9 The component elements of satisfactory management arrangements are as follows:
- A system for tenants to report defects and arrangements for responding.
 - A system of periodic inspections to identify repair or maintenance matters.
 - A declaration from the owner (where he is not the manager) that adequate funding will be available to the manager to deal with repairs.
- 4.10 The appropriate Management Regulations, Codes of Practice and management HMO to be kept in a reasonable state of repair, all installations and appliances to be in good working order and the common parts to be kept clean and in a reasonable state of decoration.

(c) To identify high risk HMOs and their landlords and to deal with the health and safety issues involved.

- 4.11 Inspections will be carried out in accordance with section 14 of this policy.

5.0 The Licensing Function

- 5.1 The Licensing Authority recognises that the licensing function is not the only means of securing the delivery of the above objectives, but nonetheless it makes an important contribution to reaching the goal of providing everyone with access to a decent home.

5.2 The licensing function is not a tool for the Authority to control the availability of HMO accommodation. No application for a licence can be rejected because the Authority believes that there are already enough of these types of premises in the area.

6.0 Fit and Proper Person

6.1 The Authority will assess whether the applicant or any manager is a fit and proper person to manage an HMO. As part of this assessment the Authority may consider evidence that the applicant or manager has previously associated (or is still associating) with person/s who have committed an offence as detailed in 6.6 below, but only if the offence is relevant to the question as to whether the applicant or manager is a fit and proper person.

6.2 In assessing whether the applicant is a fit and proper person to hold a licence, the licensing Authority may take account of any cautions, convictions or orders but only in so far as they are relevant to an application for a licence. Upon consideration of a Disclosure Barring Service Certificate, the Authority will assess whether the information contained within it is relevant to the question of whether the applicant is a fit and proper person to hold a licence.

6.3 The decision to accept an applicant or manager as being a fit and proper person may include (but is not limited to) consideration of:

- The severity of any breach.
- The number of breaches.
- The period when the breach occurred and the applicant or manager's conduct since it occurred.
- The relevance of any breach to the management of HMOs and their occupation.
- The evidence that the applicant has accepted the need to conduct his business in accordance with the appropriate standards (including whether there have been satisfactory arrangements made for the repayment of debts associated with statutory responsibilities).
- The training received since any breach occurred.

6.4 In relation to any previous convictions, the Authority will have regard to the following:

- the class of the offences.
- the age of the offences.
- the apparent seriousness, as gauged by the penalty of the offence.
- whether a term of imprisonment was served.

6.5 As a general guide a person is likely to be considered fit and proper if the Authority is satisfied that:

- they have no unspent convictions relating to offences involving fraud, dishonesty, violence or drugs, or sexual offences.
- they have not practiced unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business.
- they have no unspent convictions relating to housing or landlord and tenant law.

- they have not been refused an HMO licence, been convicted of breaching the conditions of a licence or have acted otherwise than in accordance with the approved code of practice under S233 of the Act within the last five years.
- they have not been in control of a property subject to an HMO Control Order an Interim Management Order (IMO) or Final Management Order (FMO) or work in default carried out by a local authority within the preceding five years.
- they have not been subject to legal proceedings by a local authority for breaches of planning, environmental protection legislation or other relevant legislation.
- there is no evidence of any offence referred to above having been committed within the previous five years.

6.6 Where simultaneous applications are made for the same person to be the licence holder of more than one property, only one disclosure will be necessary provided that no more than 12 months has elapsed between applications.

6.7 An unspent conviction or other failure is not necessarily automatic grounds for refusing a licence; other circumstances (e.g. training undertaken by the landlord or subsequent cooperation with the local authority) will be taken into account.

6.8 Equally, the legislation refers to evidence of an offence; it is not therefore necessary for the Council to demonstrate that a conviction has been obtained when refusing to accept someone as a fit and proper person.

6.9 Any "spent" convictions, i.e. those to which the Rehabilitation of Offenders Act 1974 (as amended) applies, will not be taken into account when determining whether an applicant or manager is fit and proper.

6.10 In instances where no conviction or order has been received, but evidence has been provided which demonstrates that an offence as detailed in Section 66(2)(a) of the Housing Act 2004 has been committed, or behaviour as set out in section 66(2) (b) to (d) of the Housing Act 2004 has been engaged in, then the matter will be placed before the Council's Licensing Committee for consideration and determination of the 'fit and proper' status of an applicant. At this hearing applicants will have the opportunity to submit an explanation of their circumstances.

7.0 Conditions

Mandatory Conditions

7.1 The Act sets out a number of mandatory conditions which must be applied to all licences. These are:

- The licence holder must;
 - i. ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged over 10 years is not less than 6.51 square metres;
 - ii. ensure that the floor area of any room in the HMO used as sleeping accommodation by two persons aged over 10 years is not less than 10.22 square metres;
 - iii. ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged under 10 years is not less than 4.64 square metres;
 - iii. ensure that any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation.
- The licence holder to ensure that:

- i. where any room in the HMO is used as sleeping accommodation by persons aged over 10 years only, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence;
 - ii. where any room in the HMO is used as sleeping accommodation by persons aged under 10 it is not used as such by more than the maximum number of persons aged under 10 years specified in the licence;
 - iii. where any room in the HMO is used as sleeping accommodation by persons aged over 10 years and persons aged under 10 years, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence and the maximum number of persons aged under 10 years so specified.
- The licence holder must; where the licence holder has not knowingly breached any of the conditions imposed pursuant to condition 6 & 7 above and the Council have notified the licence holder of the breach, must comply with any notification issued by the Council to rectify that breach within the specified period of time.
 - The licence holder must notify the Council of any room used as sleeping accommodation in the HMO with a floor area of less than 4.64m². Any part of the floor area of a room in relation to which the height of the ceiling is less than 1.5 metres is not to be taken into account in determining the floor area of that room.
 - The licence holder must comply with any scheme which is provided by the Council to the licence holder and which relates to the storage and disposal of household waste at the HMO pending collection.
 - That gas safety certificates are produced annually.
 - That smoke alarms are installed in the house and kept in proper working order. A declaration relating to the condition and position of such alarms must be provided to the Council.
 - That electrical appliances and furniture are kept in a safe condition. A declaration confirming this must be supplied to the Council.
 - That occupiers are supplied with a written statement of the terms on which they occupy the property.

Discretionary Conditions

7.2 In addition, the authority has discretion to impose such other conditions where it is considered appropriate for regulating:

- (a) The management, use and occupation of the house concerned, and
- (b) Its condition and contents.

7.3 Such conditions can include:

- Specifying the maximum number of occupants who may occupy the property. The number will depend upon the location, number and size of rooms available for sleeping and living purposes and the adequacy of kitchen and bathroom facilities.
- That measures or works to bring any individual HMO into compliance with the statutory Management Regulations are conducted within three months, or sooner if a serious breach is identified, of the grant of a licence.
- That measures or works to bring any individual HMO into compliance with the Council's adopted HMO standards are conducted within specified timescales.
- To provide copies of reports of fire detection, alarm system and emergency lighting within 6 months of the licence being granted to the Council and on an annual basis thereafter following renewal.
- The name, address and telephone number for licensee or manager is to be displayed in the common parts of the HMO.
- A copy of the licence to be displayed in the common parts.
- That the property and facilities shall be properly maintained.
- That any anti-social behaviour arising in the HMO is dealt with under the terms of any tenancy agreement.
- That licensees or managers attend suitable training courses where circumstances suggest this is achievable and appropriate.

7.4 The Council may apply other conditions to individual licences with respect to the use, management and occupation of the HMO, where appropriate and may seek evidence of compliance with conditions at any time.

7.5 These conditions will require HMOs to be kept in a reasonable state of repair, all installations and appliances (including those for fire safety) to be in good working order and the common parts to be kept clean and in a reasonable state of decoration.

8.0 Property Standards

8.1 The Act provides that a HMO must be "reasonably suitable for occupation" by the number of persons permitted to reside there before a licence can be granted.

8.2 In approving a licence, a determination will be made as to whether the HMO is suitable for occupation by the number of persons stated in the application form. If the arrangements are unsatisfactory, then a licence can be approved for a lesser number, or conditions imposed requiring that specified works be carried out.

8.3 The standards to be considered include those for bathrooms, showers, toilets, wash hand basins, cooking facilities and living space. National minimum standards for amenities are contained in Schedule 3 of The Licensing and Management of Houses in Multiple

Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 - these are summarised in Appendix B.

- 8.4** To comply with the regulations, each unit of living accommodation must have adequate heating, and all bathrooms must have adequate heating and ventilation. One separate WC with wash hand basin and at least one bathroom (which may contain a toilet) with a fixed bath or shower is required for every five sharing occupiers. Where there are five or more occupiers of an HMO, every unit of living accommodation must have a wash hand basin and splash back.
- 8.5** Kitchen facilities are also required for each unit of accommodation or with adequate facilities for the number of occupiers sharing. This policy requires a set of kitchen facilities for every five sharing occupiers.
- 8.6** The Council will determine the number of people an HMO is licensed for in accordance with the HMO space standards for room sizes. These standards relate to all HMOs, not just licensable properties.
- 8.7** Licence applications must include dimensions of rooms and details of the kitchen and bathroom facilities to enable assessment of the number of occupiers permitted under the licence.

9.0 The Licensing Process

9.1 In carrying out its licensing function, the authority is reliant on the securing of relevant information about the applicant, the property and those who occupy it. With this in mind, the Authority will, through the application form, obtain the applicant's consent to its approaching other statutory bodies and other departments within the Council, as necessary, for information.

9.2 A valid application for an HMO licence will comprise:

- the application form, fully completed, signed and dated.
- inclusion of all required declarations duly completed, signed and dated.
- inclusion of Disclosure Barring Service Certificate(s) in relation to the licence holder and were appointed the manager of the property.
- plan of the property showing room layout (sizes, proportionality, and type), siting of fire detection and alarm equipment and position of fire doors.
- the relevant fee, in full.

All necessary application forms and guidance are available at:

[Licensing for houses in multiple occupation](#)

9.3 All the information presented on the application form will be subject to verification processes as required. This may take the form of site inspection, liaison with other Council Service Units, e.g. Housing Benefits, liaison with other agencies, e.g. Disclosure and Barring Service check, sample verification and (where there are indications of a misleading application) detailed examination of all information given.

- 9.4** The 2004 Act places no obligation on licensing authorities to process applications within a specific period of time. This authority, however, is committed to processing valid applications within 56 days of receipt of the application. Valid applications are those which are properly and fully completed and accompanied by the requisite documentation and the relevant fee.
- 9.5** Where applications meet the criteria to be granted, licences will normally be granted for a maximum of five years and will specify the maximum number of people who may live in the HMO. The occupancy number will depend on the number and size of rooms and the kitchen and bathroom facilities.
- 9.6** The authority maintains discretion to grant a licence for a shorter period, where it considers it appropriate to do so. Such discretion is utilised where the authority identifies shortcomings in the management or fabric of the premises, which justify a licence being granted for a shorter period. In such instances, reasons will be given for such decisions.
- 9.7** Applicants and licence holders have a right of appeal to the First Tier Tribunal where they are dissatisfied with decisions made by the Council in relation to the issue of licences, HMO declarations, notices or orders, including variations, revocations or refusals.
- 9.8** Relevant persons (as defined by Schedule 5 paragraph 13 of the Act) will be made aware at all appropriate points where there is a right of appeal, and will be told of the procedure, including time limits, of lodging an appeal. This will normally take the form of notes appended to notices or orders.
- 9.9** Where the Council is dissatisfied with the outcome of an appeal, it will itself consider an appeal to the Upper Tribunal or the Court of Appeal if appropriate.
- 10.0 Fees**
- 10.1** The Act and other subordinate legislation do not specify a structure of fees for applicants seeking a HMO licence.
- 10.2** In the absence of prescribed fees, therefore, the authority has adopted its own fee structure, based on a cost calculator detailed in appendix C. The fees will be reviewed on an annual basis.
- 11.0 Licensing Committee and Delegation**
- 11.1** Decisions on all licensing matters in relation to HMO will be taken in accordance with an approved Scheme of Delegation. Underlying this scheme are the principles of timely, efficient and cost effective decision-making (see Appendix E).
- 11.2** Simple representations received following notice to refuse or grant a licence will be considered by the relevant officer. In other circumstances the matter will be put before the Council's licensing committee for determination as listed in Appendix E.
- 11.3** All applications, which need determination by the Committee, will be heard in public although decisions will be made in private in the presence of the committee clerk and legal advisor.

11.4 An application may be heard in the absence of the applicant or interested parties where the required notice of the date on which the application is to be heard has been given. The Licensing Committee will give reasons for the decision to proceed in the absence of any party.

11.5 The Committee's decision will be accompanied by clear, cogent reasons for the decision, having due regard to the Act, any guidance and this policy. The Licensing Committee will announce the decision in public.

12.0 Appeals

12.1 An applicant or licence holder may appeal formally to the First Tier Tribunal (Property Chamber) if the Council decides to:

- refuse a licence
- grant a licence with conditions
- revoke a licence
- vary a licence or
- refuse to vary or revoke a licence.

12.2 The First Tier Tribunal (Property Chamber) has quasi-judicial status and is made up of housing lawyers, valuers, surveyors and lay people. An appeal against the decision of the First Tier Tribunal (Property Chamber) is to the Upper Tribunal. There are strict time limits within which to bring an appeal and these must be adhered to.

13.0 Enforcement

13.1 As a general principle, action is taken in accordance with the Public Protection Enforcement Policy, the key principles of which are consistency, transparency and proportionality. A graduated approach, embracing risk assessment and risk management, is considered to be the most appropriate. Such a graduated approach is aimed at encouraging owners, landlords and managers to acquire licences and to improve the standards of their premises and provide "decent homes", rather than to solely punish poor management.

13.2 It is an offence to operate without a licence or to breach licence conditions.

13.3 Where a landlord is convicted for failure to licence an HMO, the Council can apply to the First Tier Tribunal (Property Chamber). The Tribunal has the power to require that up to 12 months' rent is paid to the Council where a tenant is on housing benefits. Tenants can also apply to the Tribunal for repayment of any rents they have paid.

13.4 The Act provides a duty on the council to make an interim management order, in certain circumstances, such as where a property should be licensed as an HMO, but is not licensed and the Council considers there is no reasonable prospect of it becoming licensed, or there are health and safety concerns within the property (as per section 104 of the Housing Act 2004). The Council also has a duty to make an interim management order if a license has been revoked, and the Council considers that upon the revocation coming into force there is not reasonable prospect of the HMO becoming licensed again, or there are health and safety concerns within the property (as per section 104 of the Housing Act 2004). Interim Management Orders enable a Council to take over the management of an HMO, and collect the rent for up to a year. In extreme cases a Final Management Order can be applied to the premises for the full term of the licence.

13.5 The Council has power to vary an HMO licence with agreement of the licence holder, or without such agreement where it finds that there has been a change of circumstances in an HMO since it was licensed. If there is a serious breach or there are repeated breaches of the licence conditions or the licensee or managers are no longer fit and proper persons, the licence can be revoked. The licence can also be revoked if the property is no longer a licensable HMO or if the condition of the property means it would not be licensable were an application to be made at the later time.

13.6 There is a duty upon landlords to come forward to be licensed. However, the Council will encourage landlords to apply for licences using a variety of methods:

We will:

- take reasonable steps to proactively identify licensable HMOs where no applications have been made;
- publicise the need to licence HMOs;
- send letters and reminders to landlords;
- offer a service assisting landlords with the completion of forms and measuring rooms, where resources permit (an additional fee of £200 will be charged);
- send letters warning of prosecution and application for a rent repayment order.

14.0 Inspection Policy

14.1 Officers will visit HMOs when an application is received. Properties will be inspected within five years of the application. Each application will be assessed on receipt and high risk HMOs and properties not previously known to the Council will be visited as priority.

14.2 Private Sector Housing will inspect all licensed HMOs within its district on a risk assessed basis. Inspections will be carried out with regard to licensing requirements. If additional licence conditions are required after an inspection of an HMO, the licence may be varied to include such conditions.

14.3 An inspection of each HMO will also be carried out under the Housing Health and Safety Rating System (HHSRS), which is set out in the Act and replaces the current housing fitness standard. This will include a risk assessment of the effect of housing conditions on the health and safety of occupiers.

14.4 The HHSRS involves the assessment of 29 potential hazards and scoring their severity to decide whether improvements are needed. If more serious "category 1" hazards are found the Council has a duty to require the owner to remedy the defect.

14.5 If less serious "category 2" hazards are found, the Council has discretionary power to require action.

14.6 Where category 1 hazards are found action will be taken; where category 2 hazards are found action may be taken; to encourage compliance in accordance with the Public Protection enforcement policy. No condition will be attached to the licence in respect of category 1 or 2 hazards found on inspection

15.0 Temporary Exemption Notices

- 15.1** The local authority may serve a Temporary Exemption Notice (TEN) where a person who must be licensed under the Housing Act 2004 in respect of an HMO notifies the Authority that he/she proposes to take steps to secure that the property is no longer required to be licensed. The issue of a TEN exempts the property from being licensed for a period of three months.
- 15.2** The authority may issue a second TEN for a further three months, but only in exceptional circumstances.
- 15.3** This authority does not wish these notices to be used routinely and, therefore, will only issue second notices in exceptional and unforeseen circumstances.

16.0 Register of Licences

- 16.1** The authority has a duty to establish and maintain a register of any licences granted.

The particulars for each entry are prescribed and, amongst other details, include:

- the name and address of the licence holder;
- a summary of the conditions of the licence;
- the commencement date and duration of the licence;
- the number of rooms in the licensed HMO providing sleeping accommodation and living accommodation.

- 16.2** Further registers will be kept of temporary exemption notices and management orders.

- 16.3** The registers are available for public inspection at:

<http://www2.eastriding.gov.uk/business/licences-and-registrations/public-registers/other/houses-in-multiple-occupation/>

APPENDIX A

**PRINCIPLES OF THE REHABILITATION OF OFFENDERS ACT 1974
(AS AMENDED)**

1. Under the 1974 Act, criminal convictions and orders can become spent after a certain period of time and once spent, for many purposes, can be disregarded completely.
2. The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.
3. Where a person is sentenced to imprisonment for a period exceeding 48 months, or convicted of a public protection offence, the conviction is never spent.
4. The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.
5. The rehabilitation periods to which reference is most commonly made are set out below.

For a detailed guidance on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to:

<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

APPENDIX B**A SUMMARY OF MANAGEMENT REGULATIONS, CODES OF PRACTICE AND REQUIREMENTS****You are required to SUPPLY the following information:**

- A copy of your Landlord Gas Safety Certificate issued by an authorised competent person (CP-12).
- Proof of Electrical Inspection for the fixed installation undertaken within the last 5 years by an authorised competent person as per Building Regulations.
- A declaration from an authorised competent person that all electrical appliances over 12 months old supplied by the landlord are in safe working order.
- A declaration from an authorised competent person that all smoke detectors have been tested and are in safe working order.
- A declaration from the owner or manager that all upholstered furnishings supplied by the owner display permanent fire resistance labels or evidence that they have been checked to that effect.
- A copy of the written terms of agreement under which each tenant occupies the premises.

You are required to DISPLAY the following information in a communal area:

- A copy of the granted licence.
- The owner/landlords name, address and telephone number.
- The name, address and telephone number of any authorised managing agent of the property.

NB. Landlord and Tenant Act 1987, Section 48. (1) A landlord of premises to which this Part applies shall by notice furnish the tenant and the Council with an address in England and Wales at which notices (including notices in proceedings) may be served on him by the tenant or the Council.

You must COMPLY with the following requirements:

- Schedule 3 of Statutory Instrument 2006 No. 373. The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.
- Schedule 3 prescribes standards for deciding the suitability for occupation of an HMO by a particular maximum number of households or persons. These are as follows:

1.0 Heating

Each unit of living accommodation in an HMO must be equipped with adequate means of space heating.

2.0 Washing Facilities

- (1) Where all or some of the units of living accommodation in an HMO do not contain bathing and toilet facilities for the exclusive use of each individual household:
 - (a) Where there are four or fewer occupiers sharing those facilities there must be at least one bathroom with a fixed bath or shower and a toilet (which may be situated in the bathroom).
 - (b) Where there are five or more occupiers sharing those facilities there must be:

- One separate toilet with wash hand basin with appropriate splash back for every five sharing occupiers; and at least one bathroom (which may contain a toilet) with a fixed bath or shower for every five sharing occupiers.
- (2) Where there are five or more occupiers of an HMO, every unit of living accommodation must contain a wash hand basin with appropriate splash back (except any unit in which a sink has been supplied as mentioned in paragraph 4(1)).
 - (3) All baths, showers and wash hand basins in an HMO must be equipped with taps providing an adequate supply of cold and constant hot water.
 - (4) All bathrooms in an HMO must be suitably and adequately heated and ventilated.
 - (5) All bathrooms and toilets in an HMO must be of an adequate size and layout.
 - (6) All baths, toilets and wash hand basins in an HMO must be fit for the purpose.
 - (7) All bathrooms and toilets in an HMO must be suitably located in or in relation to the living accommodation in the HMO.

3.0 Kitchens

Where all or some of the units of accommodation within the HMO do not contain any facilities for the cooking of food:

- (a) There must be a kitchen, suitably located in relation to the living accommodation, and of such layout and size and equipped with such facilities so as to adequately enable those sharing the facilities to store, prepare and cook food.
- (b) The kitchen must be equipped with the following equipment, which must be fit for purpose and supplied in a sufficient quantity for the number of those sharing the facilities:
 - sinks with draining boards.
 - an adequate supply of cold and constant hot water to each sink supplied.
 - installations or equipment for the cooking of food.
 - electrical sockets.
 - worktops for the preparation of food.
 - cupboards for the storage of food or kitchen and cooking utensils.
 - refrigerators with an adequate freezer compartment (or, where the freezer compartment is not adequate, adequate separate freezers).
 - appropriate refuse disposal facilities.
 - appropriate extractor fans, fire blankets and fire doors.

4.0 Units of Living Accommodation without Shared Basic Amenities

- (1) Where a unit of living accommodation contains kitchen facilities for the exclusive use of the individual household and there are no other kitchen facilities available for that household, that unit must be provided with:
 - (a) adequate appliances and equipment for the cooking of food.

- (b) a sink with an adequate supply of cold and constant hot water.
 - (c) a worktop for the preparation of food.
 - (d) sufficient electrical sockets.
 - (e) a cupboard for the storage of kitchen utensils and crockery.
 - (f) a refrigerator.
- (2) Where there are no adequate shared washing facilities provided for a unit of living accommodation as mentioned in paragraph 2, an enclosed and adequately laid out and ventilated room with a toilet and bath or fixed shower supplying adequate cold and constant hot water must be provided for the exclusive use of the occupiers of that unit either:
- (a) within the living accommodation; or
 - (b) within reasonable proximity to the living accommodation.

5.0 Fire Precautionary Facilities

Appropriate fire precautionary facilities and equipment must be provided of such type, number and location as is considered necessary.

APPENDIXC**COST CALCULATOR LICENSING FEES FOR HMOS**

In the interests of transparency it is necessary to give an indication of how the fee level has been calculated and the review process in place. The cost calculator has been developed to provide a standard basis of calculating the costs of providing a licence for Houses in Multiple Occupation (HMO).

Process Detail

The fee setting process involves a number of considerations and they are as follows:

- a.) Employee Analysis
- b.) Activity Analysis
- c.) Work Schedule Analysis
- d.) Set Up Costs
- e.) Annual Operating Costs
- f.) Support Service Costs
- g.) Five Year Plan.

Employee Analysis

This requires input of data relating to; Salary Scales, NI and Pension %'s, Working Hours, Holidays and Non-Productive Hours by Grade. This provides the base data from which Employee Costs are calculated and used through the calculator.

Activity Analysis

This identifies the various activities that are undertaken in issuing a licence, as well as the particular grade of the Employee that will be used in the task.

Set Up Costs

This identifies the Initial Set-Up costs incurred by the Authority in setting up the HMO Licensing scheme

Annual Operating Costs

This covers the annual costs of providing the service.

Support Service Costs

This is intended to allow a more detailed breakdown of the Support Service costs and can be used to calculate/demonstrate the costs that have been incurred from the various support services such as IT and Finance.

Five Year Plan

This calculator requires consideration in the area of Inflation, for Personnel and Operating Costs.

A number of fee adjustments may then be applied to reflect the ease with which a HMO can be licensed.

Discounts

The following discounts will be given to recognise landlord good practice:

Requirement Discount

A complete, full and valid application at first receipt 10% fee reduction.

APPENDIXD**GLOSSARY OF TERMS****Household**

Persons who are all members of the same family (i.e. they are married or co-habiting, regardless of their gender or whether one of them is the parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the other).

Housing Health and Safety Rating System

A points system of hazard analysis comprising a risk assessment of the effect of housing conditions on the health of occupiers. There are 29 potential hazards which are scored as to their severity.

Management Order

An order which may be made by the First Tier Tribunal to the effect that a licensable but unlicensed property is managed by the local authority. This is applicable where there is no reasonable prospect of the property being licensed and it is necessary to protect the health, safety or welfare of the occupiers, and/or other residents in the vicinity.

Rent Repayment Order

An order which may be made by the Residential Property Tribunal for the landlord or manager to repay rent to either the local authority (where Housing Benefit has been paid) or to an occupier where the premises are unlicensed.

The First Tier Tribunal (Property Chamber)

The judicial body to whom appeals against decisions of the local authority are directed and the body which has the power to make rent repayment and management orders.

Temporary Exemption Notice

A notice issued by the local authority stating that a HMO is not licensable for 3 months. This is appropriate where an owner or manager of a licensable HMO states in writing that he/she is taking steps to make the property non-licensable.

APPENDIXE

SCHEME OF LICENSING DELEGATIONS

Decision	Licensing Committee	Delegation Director of Environment and Neighbourhood Services	Delegation Officer
Grant or refusal of a Licence			Where no written representation received following the Notice under Schedule 5 Part 1 to grant or refuse a licence.
			Where written representation(s) (which have not been withdrawn) are received following Notice served under Schedule 5 Part 1 to grant a licence with no modifications
	Where written representation (which have not been withdrawn) are received following Notice served under Schedule 5 Part 1 to grant a licence with modifications		
	Where written representation (which have not been withdrawn) are received following Notice served under Schedule 5 Part 1 to refuse a licence		
Variation/Revocation of a Licence	Where licence holder not in agreement.		Where agreement with licence holder.
Management Orders		Where no prospect of the HMO being granted a licence or the licence has been revoked.	

APPENDIX 2**PROPOSED STANDARD LICENCE CONDITIONS****HOUSES OF MULTIPLE OCCUPATION
LICENCE CONDITIONS
SECTION 67 & 90 HOUSING ACT 2004**

This paper sets out the proposed revised conditions to be attached Houses of Multiple Occupation (HMO) licences under the Housing Act 2004. We plan to introduce these changes during 2017.

Questions for consideration:

1. Do you agree overall with the Council's proposed revised discretionary conditions to be attached to the House in Multiple Occupation licence? If not, what changes would you like to see?
2. Do you agree with the Council's definition of a 'competent person' under condition 9? If Not, what would be your suggested definition?
3. What is your opinion on the requirement for landlords to undertake training specific to housing matters? If you disagree, how would you suggest that continuing competence on in relation to relevant housing legislation is maintained?
4. Is there anything else you want to tell us about these proposals?

Sending responses:

The closing date for comments is 31 August 2016 all responses should be sent by email to Private.sector.housing@eastriding.gov.uk

The licence will authorise in accordance with Section 61 of the Housing Act 2004 the maximum number of households or persons who may occupy the House in Multiple Occupation.

Part 1 Statutory: Conditions in Schedule 4 Housing Act 2004

1. If gas is supplied to the licensed premises the licence Holder must produce annually to East Riding of Yorkshire Council in its role as Housing Authority (the Council) for their inspection, a gas safety certificate obtained in respect of the house named on the licence within the last 12 months.
2. The Licence Holder must:
 1. Keep electrical appliances and furniture supplied by him in a safe condition
 11. Supply to Council, annually, on a date by demand a specific declaration by him/her as to the safety of such appliances and furniture.
3. The Licence Holder Must:
 1. Ensure that smoke alarms are installed in the house and must keep them in a proper working order.
 11. Supply the Council, on demand, with a declaration by him as to the condition and positioning of such alarms.
4. The Licence Holder must supply to the tenant/occupiers of the house a written statement of the terms on which they occupy it.

Part 2 General Conditions Applicable to all HMO Licences

1. The Licence Holder must inform the Council in writing or via email of any changes in their address and contact details within 14 days of any changes.

Details for communication are as detailed below:

East Riding of Yorkshire Council

Private Sector Housing

HMO Licensing

Council Offices

Church Street

Goole

DN145BG

Tel: 01482 396301

Email: private.sector.housing@eastriding.gov.uk

2. The Licence holder must display a copy of the licence in the common parts or be made available to the occupiers at the outset of their occupation.
3. The licence holder must display, within the common parts of the house, his or her contact details together with those of any manager or agent appointed in connection with the running of the house. This must include their:
 - Name
 - Address
 - Contact Telephone Number (and alternative contact number(s) if the licence holder and/or manager cannot be contacted within a 24 hour period by a tenant or relevant Council Officer).
4. The Licence holder should not knowingly permit the occupancy of the house to exceed the number permitted by the licence and should deal with any over occupation by taking appropriate action to reduce occupation as is reasonable.
5. The licence holder must ensure that any persons involved with the management of the house including themselves to their best knowledge are "fit and proper persons" for the purpose of the Act. Any change in these circumstances, following the granting of the licence shall be notified to the Council:
 1. immediately and confirm in writing or by email if there are to be any transfers in ownership, sale of the licensed property or management of the property.
 11. immediately and confirm in writing or by email if either he/ she or the appointed manager receives a relevant conviction following the grant of the licence
 111. in writing within 14 days of any changes affecting the company/partnership status, i.e. bankruptcy, changes in Directors, Partners or Company Secretaries.
 - 1V. within 14 days before making any material changes to the layout; provision or removal or relocation of sinks, cookers, wash basins, baths showers and water closets, fire precautions or mode of occupation of the house (other than identified as specific works in these conditions or so as to comply with the general conditions of this licence).

Details for communication are as 1 above.

6. The Licence Holder must comply with the Standards for Houses in Multiple Occupation and associated guidance relevant to the property type throughout the period of the licence unless otherwise specified in the licence, and must maintain those standards throughout the period of the licence.
7. The Licence Holder must take all reasonable steps to arrange full access to the whole of the licensed premises for the purposes of a compliance inspection by the Council within 7 days of a written request to do so. Tenants/ occupiers of the licensed premises must be given a minimum of 24 hours' notice of the need for inspection by the Licence Holder or his representative.
8. The Licence Holder must keep on file and have available for the Council upon request originals and produce annually to the Council copies of the following documents on, or within 7 days of, the anniversary date of the grant of the licence:
 1. A current fire detection equipment inspection and servicing certificate to BSS839 Part 6 in respect of the house in multiple occupation (HMO) named on the licence
 11. Current Firefighting equipment (extinguishers, blankets etc.), inspection and servicing certificate where applicable in respect of the named HMO on the licence.
 111. A current electrical installations inspection certificate in respect of the HMO named on the licence confirming that the installation is safe to use. Certificates supplied annually must be available on a date specified by the Council.
 - 1V. A current "Portable Appliance Test" (P.A.T) certificate in respect appliances provided in the HMO named on the licence The Report must be issued by a 'competent person' in accordance with the Institute of Electrical Engineers Code of Practice for In-Service Inspection of Testing of Electrical Equipment. A 'competent person' has the same meaning as that for clause 9.
9. The electrical certificate required under clause 6 must be issued by a '**competent person**' and be valid for a period of not less than 5 years from the date of inspection. The following installations, where applicable, shall be inspected and tested:
 - General electrical system
 - Fire alarm system
 - Smoke/heat detection system
 - Emergency lighting system

A '**competent person**' means an approved electrical contractor who is a member of one of the following organisations, or registered with them as an authorised competent person: - NICEIC, BRE Certification Ltd, British Standard Institution, ELECSA Ltd, or NAPIT Certification Ltd. Similar schemes/organisations as approved by the Department of Communities and Local Government will also be acceptable. In exceptional circumstances, the Council may accept certificates from an electrician who is not registered by one of the aforementioned organisations, upon consideration of the person's proof of qualifications.
10. Certificates and/or documentation which have been requested, must be forwarded or produced to Private Sector Housing at the address stated at 1 above within 14 days of the request.

11. The Licence Holder and Manager(s) of the house must receive suitable basic training on the law and legal requirements relating to managing an HMO within one year (prior to, or following) of the issue of the licence. This requirement can be satisfied in one of the following ways:
 1. by completion of the accreditation training of the National Landlords Association (NLA) or Residential Landlords Association (RLA) and submitting the pass certificates to the Council for confirmation;
 11. by completion of other suitable training on the law and legal requirements relating to managing an HMO, subject to approval by the Council in advance and subject to submitting a pass certificate or similar document to the Council for confirmation.

Or if available

111. by attending the Council approved, one-day training course;
12. The Licence Holder must take responsibility for waste and recycling, ensuring that sufficient refuse and recycling containers are available for tenants' use, ensuring that tenants/occupiers are made aware of the arrangements for the collection of refuse and bulky goods and that the tenants /occupiers return the containers within the boundary of the property on the day of collection. The Licence Holder must work with the Council to find solutions where the tenants are not disposing of waste effectively.
13. The Licence Holder must ensure that any tenancy agreement used is written in plain English and must provide the Council with a copy within 14 days of a request to do so.
14. The Licence Holder must undertake reasonable steps to resolve complaints of nuisance and/or anti-social behaviour perpetrated by his or her tenant(s)/occupier(s) or visitor(s) to the licensed premises.
15. The Licence Holder must take reasonable steps to obtain references as to the character and behaviour of a prospective tenant/occupier from previous landlords and/or persons of standing in the community.
16. The Licence holder must ensure that the occupiers of the HMO are given clear instruction on the action to be taken in the event of the following emergencies: heating and hot water breakdown, gas and water leaks, electrical problems, problems with the fire alarm system and any severe disrepair necessitating urgent action and that the occupiers are provided with contact details for such emergencies.
17. The Licence holder shall ensure that appropriate instruction and or training is given to each tenant at the beginning of their occupancy, regarding all fire precautions and equipment provided in the HMO. This must include, but not limited to, understanding the alarm systems, the importance of the fire doors, and protecting the escape route, keeping the escape route free of obstructions and the use of firefighting equipment.
18. Licence holders, who do not have to comply with the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014, must ensure that all tenants are made aware of to whom they should address tenancy complaints. The name address, telephone number and e mail address to where complaints should be addressed must be displayed in a conspicuous position within the common area of the building.

19. Where the Licence Holder demands a deposit he/she must provide the tenant/occupier with a statement of the terms of the tenancy deposit, which must be paid into one of the designated schemes, including:
1. Details of the deposit required;
 11. Details of what the deposit covers together with a written, agreed inventory signed by the tenants/occupiers;
 111. Details of the designated scheme into which the deposit has been paid;
 - 1V. A copy of the relevant documentation in respect of the scheme deposit;
 - v. Details of the arrangements and timescales for the return of the deposit

Part 3 - Additional Conditions

Part 3 is based on the information provided following the information provided on the application form together with a licence inspection. It is a detailed schedule of the works required in relation to amenity standards (Section 65 Housing Act 2004). Any works required and their timescale for completion will be detailed.

Amenity Standard	Timescale for Completion

Any formal communication with regard to this schedule should be made to: Private Sector Housing and Safety Manager at:

private.sector.housing@eastriding.gov.uk