



GREAT YARMOUTH
BOROUGH COUNCIL

APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION (HMO).

GUIDANCE NOTES.

The Housing Act 2004 introduced the mandatory licensing of high risk Houses in Multiple Occupation (“HMO”) from 6th April 2006. **A high risk HMO is a property comprising of 3 or more storeys with 5 or more persons who form two or more households, who share (or lack) an amenity such as a bathroom, kitchen or toilet.** Buildings consisting solely of self contained flats or purpose built flats are normally exempt from licensing. If you are unsure whether your property requires a HMO licence then please make use of the Pre-Application Form which is available on request and can be down loaded from the Borough Council’s website at: www.great-yarmouth.gov.uk

Licence Application Procedure

Before lodging an application for a licence for a House in Multiple Occupation (HMO), please ensure that you have read the following guidance notes. Please answer all questions unless directed. This form is to be used when you want to apply for a licence for a House in Multiple Occupation. The application for a HMO licence is a 6-stage process:

Stage 1: General Details

Stage 2: Applicant Details

Stage 3: Licence Holder Details

Stage 4: Manager and/or Key Holder Details (if applicable)

Stage 5: Property Details

Stage 6: Application Declaration and Fit and Proper Person Declaration
HMO Application Checklist

The Council aims to acknowledge receipt of your application within 7-days wherever possible, subject to the level of applications received. You should keep your acknowledgement safe as this is proof that you have complied with the law. If a tenant or their representative asks you for a copy of your licence you should show them your acknowledgement letter.

Once the Council has received your application and fee, a pre-licensing inspection of the HMO will be carried out usually within 10-days. Access to all areas of the HMO will be required. The main purpose of this inspection is to establish any works that may be necessary for the compliance with the conditions of the HMO licence (and relevant legislation).

If the HMO is to be granted a licence you will initially issued with a Draft Licence as to allow a period of representation about the licence conditions, during which

any concerns relating to the conditions can be considered and hopefully resolved. Where agreement cannot be reached the licence will be issued and you will have the opportunity to make an appeal to a Residential Property Tribunal. Your rights of appeal will be detailed with the issue of the licence.

Having processed your application the Council will enter details of your licence on a public register that the Council is obliged by law to keep.

Once the licence is issued the Council must be satisfied that the terms of the licence are being satisfied and that the HMO is free from any Category 1 hazards, as detailed in the Housing Health and Safety Rating System (HHSRS) introduced by the Housing Act 2004. The Council will conduct another inspection of the licensed property within the period of the licence. The Council will make arrangements with you regarding this inspection.

You should note that: –

1. A HMO licence is *not* transferable.
Where a property changes ownership the new landlord must make an application for a licence. No repayment of the licence fee will be made for any unexpired period of the licence and a full fee will be required from the new applicant.
2. Where a licence holder wishes to alter the terms of their licence, for example there is a change in manager details or a change in occupancy levels, they may apply for a “**Variation to the Licence**”.
The application will be an application to “Vary a licence”. A fee may be payable for this, to cover the Council’s costs in administering the changes.
3. A variation of the licence will not be granted until the full fee has been paid.
It is important to note that it is an offence to change the terms of the licence without the agreement of the Council. This could lead to legal proceedings being instituted against both the licence holder and manager (if different) and a fine of up to £20,000 upon summary conviction.
4. Where an HMO property owner intends to sell the property or otherwise change the use of the property so that it no longer requires to be licensed, or the Licence holder dies during the period of the Licence, then the following procedure will apply. A ‘**Temporary Exemption Notice**’ (**‘TEN’**) **can be issued, on application, if appropriate**. A TEN is valid for up to 3 months and will be recorded on a public register. In exceptional circumstances a TEN may be renewed, again on application from the responsible person, for a second period of 3 months.

HMO Licensing Fee.

Great Yarmouth Borough Council has set the HMO Licence fee at a flat rate of £305 per licensable property. Please note that this fee must accompany each application form.

EXPLANATION OF TERMS

In these notes, “the Act” means the Housing Act 2004, unless otherwise stated, all references to sections etc are to sections in the Act. Part 2 of the Act introduced a mandatory scheme to licence HMOs of a description contained in regulations. It is intended initially to apply to larger higher risk HMOs of 3 or more storeys occupied by 5 or more unrelated people. Part 3 of the Act refers to the selective licensing of all privately rented properties.

The national minimum HMO standards are detailed in the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions)(England) Regulations 2006 (SI 2006 No 323)

The term Management Regulations in question 3.36 of section 3 refers to The Management of Houses in Multiple Occupation (England) Regulations 2006 (SI 2006 NO 372).

Meaning of “HMO”

“HMO” means a house in multiple occupation as defined by sections 254 to 259, Housing Act 2004 and it applies to a wide range of housing types and includes:

- A building or a part of a building, which consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
- The living accommodation is occupied by persons who do not form a single household;
- Where two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities;
- Buildings converted into self-contained flats if more than one third of the flats are tenanted and the conversion does not comply with Building Regulations 1991 or subsequent Building Regulations. See sections 254-257 of the Act.

Licensable HMO’s

A licensable HMO is a HMO which comprises 3 or more storeys/floors and 5 or more unrelated occupiers forming two or more households sharing facilities (e.g. kitchen, bathroom, WC) or lacking one or all of those facilities within their individual letting.

A storey or floor includes:

- *Any basement used wholly or partly as living accommodation: that has been constructed, converted or adapted for use wholly or in part as living accommodation: that is being used in connection with and as an integral part of the HMO.*
- *Any attic used wholly or partly as living accommodation: that has been constructed, converted or adapted for use wholly or partly as living accommodation or is being used in connection with an integral part of the HMO.*
- *Each storey comprising business premises either above or below the living accommodation*

HMOs consisting only of self contained flats are not normally subject to mandatory licensing. However, if there is a self contained flat in the same HMO as non self contained accommodation it has to be licensed as part of the HMO.

What is a “Household”.

The following are ‘households’ for the purposes of the Housing Act 2004:

Members of the same family living together including:

- Couples married to each other or living together as husband and wife (or in an equivalent relationship in the case of persons of the same sex)
- Relatives living together, including parents, grandparents, children (and step-children), grand-children, brothers, sisters, uncles, aunts, nephews, nieces or cousins.
- Half relatives will be treated as full relatives. A foster child living with his foster parent is treated as living in the same household as his foster parent.

Any domestic staff are also included in the household if they are living rent-free in accommodation provided by the person for whom they are working.

Applicant

This may be the property owner, the proposed license holder, the proposed property manager, the person having control of the property or the person managing the property or somebody acting on their behalf who has completed the application for whatever reason.

Proposed Licence holder

The most appropriate person to be responsible for the property and to hold the licence.

Person managing the property

This is not necessarily the same as the Managing Agent or the Manager. The person managing means the person who is an owner or lessee (tenant) of the premises or who receives the rent for the property or other payments for it from persons who are in occupation as tenants or licensees of parts of the premises.

This applies whether the person receives the rent directly or through an agent or trustee. Where the rents or other payments are received through someone who is an agent or trustee not only does it include the owner (or lessee) but it also includes the agent or trustee.

Person having control of the property

This means the person who receives the rack rent of the property or who would be in a position to receive it if the premises were let at a rack rent. Rack rent is defined as the rent which is not less than 2/3rds of the full net rental value of the premises. The person having control includes not only the person who receives the rent in this way on his own account but also someone who receives it as agent or trustee for another or someone else.

Where the property is owned by a company or similar body a responsible person of that company must be named as the licence holder.

Owner

Means person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple of the premises whether in possession or reversion: and includes also a person holding or entitled to the rents and the profits of the premises under a lease of which the unexpired term exceeds 3 years.

Fit and proper person

The Local Authority must be satisfied that the person applying for an HMO licence is a "fit and proper person" to hold a licence. The test applied to any person managing the premises and any director or partner in a company or organisation that owns or manages the HMO. The local Authority may check with the Criminal Records Authority whether the applicant has any relevant convictions. Not all convictions are relevant to a person's prospective role as an operator of an HMO.

Spent Convictions

This is a detailed and comprehensive matter and it is recommended you seek independent legal advice on the matter but as a general guide the following may be useful.

Under the Rehabilitation of Offenders Act 1974 criminal convictions can become spent or ignored after a rehabilitation period. They do not need to be disclosed. The rehabilitation period varies depending on the sentence or order imposed by the court – not the nature of the offence. Custodial sentences of more than two and a half years can never become spent. All borstal or detention centre sentences are now spent. The periods from the date of conviction are as follows:

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Sentence	Rehabilitation Period
1. Prison sentences of 6 months or less, including suspended sentences and detention in a young offender institution	7 years (3 ½ years if 17 or younger when convicted)
2. Prison sentences of more than 6 months to 2 and a half years, including suspended sentences and detention in a young offender institution	10 years (5 years if 17 or younger)
3. Fines (even if subsequently imprisoned for fine default), compensation, probation (for convictions on or after 3 February 1995), community service, combination, action plan, curfew, drug treatment and testing and reparation orders	5 years (2 ½ years if 17 or younger)
4. Absolute discharge	6 months
5. Conditional discharge or bind-over, probation (for convictions before 3 February 1995), supervision, care orders	1 year or until the order expires (whichever is longer)
6. Attendance centre orders	1 year after the order expires
7. Hospital orders (with or without a restriction order)	5 years or 2 years after the order expires (whichever is longer)
8. Referral Order	Once the order expires

Furnishings

All upholstered furniture provided with rented accommodation must comply with the Fire and Furnishings (Fire Safety/Amendment) Regulations 1993. This means that all furnishings provided within the tenancy must have passed cigarette and match ignition tests and the filling materials have passed the flammability tests. If your furniture complies then it should have a label attached permanently with the lining giving details as appropriate – see question 3.37 in section 3.

IMPORTANT

It is a criminal offence to make a false statement in an application for an HMO licence, or to fail to comply with any licence condition, or to permit the property to be occupied by more than the permitted number of persons/households.

If you require further information or clarification please contact the Community Protection Team on 01493 846478 or via email: health@great-yarmouth.gov.uk

The completed form and fee should be returned to:

**Community Protection Team
Environmental Health
Maltings House,
Malthouse Lane
Gorleston
Great Yarmouth,
NR 31 0GY**

Amenity and Fire Safety Standards in HMOs in Great Yarmouth:

Your attention is drawn to the following documents available on request from Environmental Health and that can also be downloaded from the Borough Council's website www.great-yarmouth.gov.uk

1. **Amenity Standards for Privately Rented Dwellings:** *A Guide for the Owners, Landlords and Managing Agents on the Housing Standards of Privately Rented Accommodation;*
2. **Fire Precautions in Dwellings:** *A guide for landlords and managing agents of private sector housing.*

Note: These documents are currently in draft format but are expected to be formally adopted by the Borough Council during 2009.