

# **HMO LICENSING APPLICATION GUIDANCE FOR LANDLORDS AND APPLICANTS**

## Mandatory HMO Licensing

Not all HMO's are licensable. Where a HMO is occupied by less than 5 people, it will not require a licence. If the building is occupied by 5 or more people, forming 2 or more households then you must apply for a licence. If the building has the potential to be occupied by 5 or more people then it is advisable to apply for a licence.

There are certain exemptions:

- Buildings controlled or managed by public sector bodies or Registered Social Landlords
- Student halls of residence, when run by an education establishment
- Buildings occupied principally for the purposes of a religion whose principal occupation is prayer, contemplation, education or the relief of suffering
- Buildings providing accommodation for specific groups which are governed by specific legislation (children's homes, immigration centres, bail hostels, residential family centres)
- HMO's that meet the definition of Section 257 of the Housing Act 2004

## Applying for a HMO Licence in Amber Valley

There is a detailed application form which must be fully completed and submitted. This form is available electronically via the Council's website [www.ambervalley.gov.uk/](http://www.ambervalley.gov.uk/) or a paper form can be requested by contacting the Housing team on 01773 841339.

The application form must be completed in full, including a plan drawing with dimensions marked and declarations signed where required.

Council officers are happy to work with landlords to offer advice wherever needed on the application process and throughout the licence period.

In addition, there is a list of documents (below) which must also be supplied for the application to be a valid one.

### List of required documents

- Plan of the building, drawn to scale or showing room dimensions (this can be hand drawn or professional documents if you have them)
- Evidence of residential/business address of proposed licence holder / manager
- Building Regulations completion certificate and planning consents – if applicable
- Current fire alarm test certificate
- Current emergency lighting test certificate
- Service contract for fire alarm and emergency lighting
- Current landlord's gas safety certificate
- Most recent period installation condition report for the electrical installation
- Most recent PAT certificate if applicable
- Fire Safety Risk Assessment if applicable
- Licensing fee

### Filling in the form

All applicable sections of the application form must be fully completed and all relevant documents submitted. If additional information is supplied on a separate sheet, please make sure that these documents are securely attached to the application form.

Where the form is submitted electronically, attachments can be scanned and emailed to the following address [eh.housing@ambervalley.gov.uk](mailto:eh.housing@ambervalley.gov.uk) . The address of the property concerned must be clearly stated in the subject field.

**Where an application is found to be incomplete, a letter shall be sent to the applicant listing the outstanding items and requesting that they are submitted within 14 days. Failure to submit the information within 14 days without reasonable excuse will result in the application being made ineffective. Where this could be considered deliberate avoidance of applying for a licence then legal proceedings may be instigated which could result in prosecution or civil penalty.**

#### Licence Fee

The Licence fee has been calculated based on the predicted costs of establishing and administering the licensing scheme. The licence fee has been agreed by Full Council as £589.05 per licence period (standard period shall be 5 years). This fee is made up of two parts £349.40 for the primary application and £239.65 for the licence itself (the secondary element). We are under a legal obligation to split the fee.

The Council offers various payment options. Please contact us on 01773 841339 to find out more.

## **Notes to accompany the application form**

#### Note 1 (page 2)

The applicant/proposed licence holder must be a named individual and not a company. If a company applies to be licence holder, they must nominate an appropriate person to hold the licence within that company.

The Council has a duty to award the licence to the person it thinks is the most appropriate person to be the licence holder. In normal circumstances the Council would expect the applicant to be the owner/landlord of the dwelling and apply to be the proposed licence holder. The proposed licence holder must have the power to:

- collect rental income
- let and terminate tenancies
- access all parts of the dwelling
- authorise repairs and maintenance to the property.

If this is the case, please complete Section 1 following the instructions given. If the owner/landlord has nominated a manager or managing agent to be the proposed licence holder, they must have the power to undertake the listed conditions such as collect rental income, in order for the Council to assume that they are the most appropriate person to hold the licence.

#### Note 2 (page 3)

Please provide details of permanent residential or business address of the applicant and/or proposed licence holder – not the address of the HMO to be licensed.

The full permanent residential address is required, together with the necessary supporting documents to confirm the address. Evidence that will be accepted by the Council as proof of address will be 1 of the following:

- current driver's licence
- recent bank or building society statement (from the last three months)

- recent utility bill (from the last 3 months)
- recent tax correspondence

Photocopies of the above documents are not accepted. Original documents must be sent with the application form, or alternative arrangements made with the Council for original documents to be verified. The Council has a duty to maintain a public register and make sure that the contents of the register are available at the authority's head office for inspection by members of the public at all reasonable times. The permanent residential/business address will be the address used on the public register. If you would prefer an alternative address to be used on the public register, please complete Section 2.4 in full in addition to providing residential/business address.

Note 3 (page 2/3)

A person having control of the property in normal circumstances is the legal owner/freeholder of the property. In circumstances where the owner/freeholder has leased the property to another person or company, the leaseholder will become the person having control of the property.

Note 4 (page 5)

**FIT AND PROPER PERSON**

In deciding whether a licence should be granted, the Council must have regard to evidence which shows that the proposed licence holder and/or manager, and any other person associated or formerly associated with them on a personal, work or other basis, is a fit and proper person.

To make sure that the Council can adequately assess whether a licence holder is a fit and proper person a series of questions have been devised. You must answer 'yes' or 'no' to all of the questions in this Section. If you answer 'yes' to any of the questions, it will be necessary for the Council to undertake a further assessment. In accordance with the Rehabilitation of Offenders Act 1974, you are not required to provide details about previous convictions which are 'spent'. A conviction becomes 'spent' after a certain length of time which changes depending on the sentence and your age at the time of the conviction. The periods are halved if the conviction took place when you were aged 17 or less. If a person is sentenced to more than two and a half years in prison, his/her conviction can never become 'spent'. Therefore, all unspent convictions must be declared. The following table indicates the period required for the conviction to become spent:

<b>Sentence</b>	<b>Period of good conduct needed for conviction to be spent</b>
6 months to 2½ years Imprisonment	10 years
Less than 6 months' imprisonment	7 years
Borstal Training	7 years
A fine or Community Services Order	5 years
Probation Order, Conditional Discharge, or Bind Over	1 year
An Absolute Discharge	6 months

To enable the Council to be satisfied that the information given is correct, please sign the declaration on the form. This will also ensure that in certain cases other authorities such as the Police Authority can be consulted during the licensing process. If the declaration is not signed, the application cannot be processed.

Any information given will be treated as confidential and used only in connection with this application. If you have any doubts about whether you have to declare a previous conviction, you should contact your local Probation Office, the Citizens' Advice Bureau, or your Solicitor.

**Disclosure Scotland** can provide a basic disclosure that contains details of unspent convictions personal to an applicant. This type of disclosure is only issued to the applicant and may be used more than once.

Contact details:

PO Box 250, Glasgow, G511 1YU

Tel. no: 0870 609 6006

Fax: 0870 609 6996

e-mail: [info@disclosurescotland.co.uk](mailto:info@disclosurescotland.co.uk)

## How your application will be processed

Once all relevant documents have been received, the Council will aim to determine the application within 8 weeks.

See attached sheet with advice on how personal information will be held by the Council.

The information provided in the application will be used to determine the following:

- whether the property is reasonably suitable for occupation for the maximum number of households or persons specified in the application or decided by the authority
- the proposed licence holder is the most appropriate person to be the licence holder and is a fit and proper person to be the licence holder
- the proposed manager of the house is the person having control of the house or an agent or employee of that person and is a fit and proper person to be the manager of the property, and
- that the proposed management arrangements for the property are otherwise satisfactory.

If the Council is satisfied that the above applies then it has a duty to grant a licence. Further information on the way that Amber Valley Borough Council approaches HMO licensing can be found in the **HMO Licensing Policy 2018**.

It is intended that all properties where an application for a HMO licence is made, shall be visited during the application process. In addition to verifying the information provided within the application form, an inspection shall also be carried out under Part 1 of the Housing Act 2004 (the Housing Health and Safety Rating System) in order to determine whether there are any hazards in the property which required attention. This shall be dealt with separately to the licence application, unless the hazards affect the above criteria for licensing. It is also intended that a routine revisit shall be scheduled during the term of the licence, in addition to any visits required as a result of a complaint or other intelligence received.

The licence will specify the maximum number of person and households permitted to live in the house. The licence will have a document attached which contains licence conditions. It is important that these licence conditions are adhered to, as enforcement action can be taken where evidence is obtained at any stage during the licence period, that any of the conditions have been breached.

A notice of intention to grant a licence shall be issued when the Council is satisfied that the above has been met.

A draft licence will then be issued to the applicant and any other relevant parties. A consultation period of 14 shall follow, where any representations in relation to the granting of the licence, or the conditions of the licence can be made and shall be considered.

The Council shall then issue a final licence, or an amendment from the draft licence.

The standard duration of a licence shall be 5 years, however the Council has discretion to issue a licence for a lesser period where circumstances make this a more suitable option.

Where it is not possible to grant a licence, there are a number of options which the Council must consider, details of which are contained within the **HMO policy 2018** document.

The HMO licence must be displayed within the property.