

Guide to HMO Licensing

You must read this guide to HMO Licensing before completing the application form as it gives details of all the information and documentation needed to apply for the licence.

The application form may be used to apply for a **Mandatory HMO Licence**.

A mandatory HMO licence is for an HMO which is a building with 5 or more occupants who form 2 or more households and the occupiers occupy the living accommodation as their only or main residence.

Your application only becomes valid when you submit an application form containing all relevant information, you pay the appropriate licence fee and send us your Declarations and all required supporting documentation.

AVDC is a Data Controller under the Data Protection Act 1998. We hold information for the purposes specified in our notification to the Information Commissioner and may use this information for any of them. We may receive information about you from other organisations, or we may give information to them. If we do it will only be as the law permits, to check the accuracy of information, to prevent fraud or detect crime, or to protect public funds.

Completing the Application Form

Please be aware - that in order to complete the application form you must have the following:

- **Details (including an email address) of:**
 - Applicant
 - Proposed Licence Holder
 - Manager
 - Owner / Joint Owners
 - Long Term Tenant(s) / Leaseholder(s)
 - Any other person willing to be bound by the conditions of the licence
 - Mortgage Provider(s) and account number(s)

You must have informed these people of your intention to apply for an HMO licence before submitting your application. You will be asked to provide the date on which you (the Applicant) informed them.

- **A basic DBS check for:**
 - Proposed Licence Holder
 - Manager
- **Details of any accreditations, qualifications and memberships of landlords associations held by the proposed Licence Holder.**
- **Details regarding the facilities and amenities of the house.**
- **Details of the tenancy agreement.**
- **Details of the scheme in which the tenancy deposit is held**

Email addresses

Please note - that email will be the principal form of communication and by providing an email address Aylesbury Vale District Council will understand this to mean that the owner of the email address has agreed to the service of legal notices by email in accordance with section 247 of the Housing Act 2004. Aylesbury Vale District Council will not give email addresses to any third party, nor will we use it for any other purpose other than HMO licensing.

Applicant

The applicant is the person who completes and submits the application form. This is the person we will contact if we need to obtain further information about the application. The applicant will be required to sign and return a Declaration that all the information contained within the application form is correct, to pay the licence fee and to provide all supporting documentation.

In most cases the Council would expect the applicant to be the owner of the property and apply to be the proposed licence holder. However, an agent or company may apply on behalf of the proposed licence holder.

Proposed Licence Holder

The proposed licence holder must have the power to:

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

The Council has a duty to award the licence to the person it thinks is the most appropriate person to be the licence holder. If the owner/landlord has nominated a manager or managing agent to be the proposed licence holder, they must have the powers listed above in order for the Council to consider that they are the most appropriate person to hold the licence.

Where the proposed licence holder and the applicant are not the same the proposed licence holder will also be required to sign and return a Declaration that all the information contained within the application form is correct.

Your relationship to the licensable HMO

A "person having control" of a premises is someone who receives the rack-rent of the premises, whether on his own account OR as agent or trustee of another person.

There can therefore be more than one "person having control" for any premises. For example, if the rent is collected by a managing agent and then passed onto the owner, both the agent and the owner may be the "person having control".

The "rack-rent" is a rent which is not less than two-thirds of the full market value of the premises.

The proposed manager

The proposed manager of the house is either:

- (i) the person having control of the house; or
- (ii) a person who is an agent or employee of the person having control of the house.

The proposed manager must also be a fit and proper person and be a member of an approved property redress scheme.

Fit and Proper Person

The Council is required by law to be assured that the people involved in the management of a licensed HMO are fit and proper for that purpose. Thus, the Council, in deciding whether a licence should be granted, must have regard to evidence which shows that the proposed licence holder and / or the proposed manager, and any other person associated or formerly associated with them, are fit and proper persons.

The Government have decided that certain convictions preclude a person from being considered 'fit and proper' and therefore the Council must take into account any previous unspent convictions for the following matters when deciding whether a proposed licence holder or manager is 'fit and proper': -

- Violence, sex offences, fraud or drugs;
- Housing or Landlord and Tenant laws;
- Unlawful discrimination.

The proposed licence holder must declare any matters which the Council must have regard to and a basic DBS check will be requested. Previous failures of management of an HMO which have resulted in enforcement action by the Council may preclude the proposed licence holder from holding a licence.

Occupation

A single household refers to persons who are all members of the same family or relationship. Cohabiting couples of the opposite or of the same sex are considered to be members of the same family. A "relationship" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece, cousin, relationship of the half-blood and stepchild. Additionally, a person living with his/her employer's family or in accommodation supplied by his/her employer is classed as living in the same household, for example au pair, carer, gardener or personal assistant.

A single household can also mean one person, living alone in a unit of accommodation within the HMO, for example a student.

Documents required to support your application

Please provide copies of documentation as originals cannot be returned.

These may include:

- Evidence of residential address / business address of applicant, proposed licence holder and proposed manager, as appropriate.
- Building Regulations Completion Certificate – if applicable
- Current Fire Alarm Test / Installation Certificate – if applicable
- Current Emergency Lighting Test / Installation Certificate – if applicable
- Current Gas Safety Certificate – if applicable
- Current Electrical Inspection Report – dated within last 5 years
- Portable Appliance Test Certificate – if applicable
- Declaration of Compliance with relevant Furniture and Furnishings Fire Safety Regulations.
- Sketch plans of each floor of the HMO
- Energy Performance Certificate – if applicable
- Proof of any Deposit Holding Scheme
- Copy of typical Tenancy Agreement

Please note – do not send original documents as we are unable to return them.

Register of HMO Licences

Each HMO licence must be listed in the Register of Licences, which is available for inspection by members of the public at all reasonable times.

The following details will appear:

- Name and address of the Licence Holder
- Name and address of the Manager
- Address of the licensed HMO
- A short description of the HMO including the number of storeys, rooms and amenities
- A summary of the Licence Conditions
- The maximum number of persons and households permitted to occupy the HMO

Notice of application

The persons who need to know about this application are:

- Any mortgagee of the property
- Any owner of the property
- Any person who is a tenant or long leaseholder of the property or any part of it
- The proposed licence holder (if not you)
- The proposed managing agent (if any) (if not you)
- Any person who has agreed that he will be bound by any conditions in a licence if it is granted.

Declarations

Declaration of applicant, proposed licence holder, proposed manager and person having control of the property.

Please note that it is a criminal offence to knowingly supply information that is false or misleading for the purposes of obtaining a licence. Evidence of any statements made in this application may be required at a later date. If we subsequently discover something that is relevant and that you should have disclosed, or which has been incorrectly stated or described, your licence may be cancelled or other action taken. Operating an HMO that should be licensed without a licence is an offence liable to an unlimited fine. In addition, a Residential Property Tribunal may make a rent repayment order requiring you to repay any rents due during the period for which the property was unlicensed.