

## REPORT OF THE EXECUTIVE DIRECTOR OF NEIGHBOURHOODS

### LICENSING AND REGULATORY COMMITTEE – 28 FEBRUARY 2022

#### INTRODUCTION OF TAX CONDITIONALITY CHECKS FOR ALL RENEWAL HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND OPERATORS AND SCRAP METAL DEALERS

##### 1.0 Purpose of the Report

- 1.1 To advise the Committee about new legislation that is introducing a new tax check into the licensing process for some licence applications. This will require a change to the application process that is undertaken by Licensing Authorities, which will impact upon the Council's Licensing Section. The report also informs the Committee about what steps the Licensing Section is taking to inform the trade about these changes, plus the associated changes that need to be made to the licence application process.

##### 2.0 Description of Decision (Recommendation)

- 2.1 The Committee is requested to note the contents of this report.

##### 3.0 Background

- 3.1 In accordance with the HMRC's policy document published in July, 2021 entitled "Hidden Economy Conditionality", the HMRC is introducing a simple tax check that will take place when Applicants apply to renew their licences to: -

- (a) Drive hackney carriage vehicles and private hire vehicles;
- (b) Operate as a private hire vehicle operator; or
- (c) Carry on a business as a scrap metal dealer at a site, or as a mobile collector,

(collectively referred to as "the Licences"). The aim of this is to ensure that an Applicant is appropriately registered for tax.

- 3.2 For first-time Applicants for the Licences, the Licensing Section is required to direct them to the HMRC's published guidance about their tax obligations.

- 3.3 The following statement was made by the HMRC in "Hidden Economy Conditionality", :-

*"Tax conditionality is just one element of our strategy to tackle the hidden economy, which is made up of the minority of individuals and businesses who have sources of taxable income that are entirely hidden from HMRC.*

*The most recent tax gap estimates the UK lost around £2.6 billion of tax revenues to the hidden economy in 2018 to 2019 – depriving vital public services of funding. Conditionality is a proportionate and cost-effective way of moving people – some of whom simply don't understand their obligations – out of the hidden economy. It complements existing licensing rules, and recognises that third parties play a vital role in helping people pay the right tax".*

- 3.4 The Government legislated in the Finance Act 2021 to apply tax conditionality to the types of licence applications that are shown in Paragraph 3.1 above.
- 3.5 As from and including the 4 April 2022 all Applicants for the Licences must meet the tax conditionality requirements before the Council can consider their Application for the Licence that is in issue. The Council is prohibited from considering an Application for any of the Licences until certain, prescribed matters have been completed. To some extent tax conditionality introduces an additional element to the “fit and proper person test”, albeit one which is an administrative exercise. However, it could be argued that tax conditionality does raise honesty issues, ie. where an Applicant should be registered to pay tax, but is not.
- 3.6 In real terms, tax conditionality issues will not need to be considered by the Committee. Such issues will be addressed at an Officer level. HMRC has taken the decision to divide tax conditionality checks into two parts, ie. first-time applications and renewal applications.
- 3.7 For first-time Applications the Council is required to give information to Applicants about tax compliance. A first-time Application arises where an Applicant has not previously been granted the Licence that is sought, or the Applicant has previously held the Licence that they are seeking, but that Licence has not been in effect for a period of one year ending with the date on which the application is made.

Information about tax compliance will be highlighted in Application Forms, with guidance specified by the HMRC being signposted. The Applicant will be asked to confirm in their Application Form that they are aware of HMRC’s guidance. The Application Form will also draw to the attention of the Applicant the respective powers of the HMRC to obtain information from the Council under specified statutory provisions : Schedule 36 of the Finance Act 2008, (information and inspection powers), and Schedule 23 of the Finance Act 2011, (data-gathering powers).

- 3.8 For Renewal Applications the Council is required to obtain confirmation of a tax check from an Applicant. A tax check is required if the Applicant is: -
1. Renewing a Licence;
  2. Applying for the same type of Licence previously held, that ceased being valid less than a year ago; or
  3. Applying for the same type of Licence already held with another Licensing Authority.

All Applicants must provide prescribed information to HMRC to enable a tax check to be performed in relation to them. The aim of this is to ensure that an Applicant is appropriately registered for tax. The Applicant will complete this tax check via the GOV.UK website. However, there will be HMRC telephone support available for those Applicants who are unable to undertake a tax check online.

Once done, the Applicant will receive a 9-character tax check confirmation code from HMRC, which is valid for 120 days. The Renewal Application Form will contain a section for the Applicant to provide their 9-character tax check confirmation code. Once their Renewal Form is submitted the Licensing Section will use the code to check with the HMRC to confirm that an Applicant has completed a tax check.

Unless the HMRC confirms that a tax check is not required in respect of an Applicant due to default on the part of HMRC, the Council cannot consider a Renewal Application for a Licence, unless HMRC confirms that an Applicant has completed a tax check.

3.9 It is stressed that where a tax check is undertaken that, :-

- (a) The Licensing Section will only receive confirmation from HMRC that the tax check has been completed. It will not have access to any information about the Applicant's tax affairs; and
- (b) The 9-character tax check confirmation code is valid for 120 days. If it expires, the Applicant will need to obtain a new code.

#### **4.0 Current Position**

4.1 The details of how the tax checks will be completed on the ground, how the Council will check the code and the specific process details have yet to be finalised by HMRC. It is understood that systems are being subject to extensive testing by HMRC, with some Licensing Authorities assisting with this process.

4.2 The Licensing Section is currently working with Idox, (the providers of the software platform which the Council uses to process licence applications and our online application facility), to ensure that the application process adequately meets the forthcoming tax conditionality requirements. This will involve changes being made to existing Application Forms and Renewal Application Forms.

4.3 Information has been provided to the taxi trade via our newsletter. A Tax Conditionality page has also been created on the Council's website: [www.sunderland.gov.uk/article/20097/Tax-Conditionality-Check](http://www.sunderland.gov.uk/article/20097/Tax-Conditionality-Check) As the process is refined and further details become known, updated information will be provided.

4.4 In terms of scrap metal dealers, a letter is being drafted to be sent to all existing Site and Collector licence holders setting out the details of the Tax Conditionality check. The council web page will also be updated to include this information.

#### **5.0 Reason for the Decision**

5.1 No decision is required to be taken by the Committee. This report has been prepared to provide the Committee with an update about the important developments regarding tax conditionality.

#### **6.0 Alternative Options**

6.1 None submitted.

#### **7.0 Relevant Considerations/Consultation**

7.1 Consultation about tax conditionality was carried out by HMRC and circulated to the Licensing Authorities, as appropriate.

#### **8.0 Appearance before Committee**

8.1 Not applicable.

## **9.0 List of Appendices**

9.1 None.

## **10.0 Background Papers**

10.1 HMRC policy document “Hidden Economy Conditionality – July 2021

