
Report To:	General Purposes Board	Date:	8 November 2023
Report By:	Head of Legal, Democratic, Digital & Customer Services	Report No:	LS/113/23
Contact Officer:	Anne Sinclair	Contact No:	01475 712034
Subject:	Update Regarding HMRC Tax Conditionality		

1.0 PURPOSE AND SUMMARY

1.1 For Decision For Information/Noting

1.2 The purpose of this report is to provide members of the General Purposes Board with an update regarding the introduction and implementation of HMRC tax conditionality obligations. In Scotland these duties apply to certain licensing bodies, such as the Council, in relation to civic licence applications and renewal applications for taxi/private hire drivers, taxi/private booking offices, and licences to deal in scrap metal.

1.3 The new provisions were introduced as a result of amendments to the Finance Act 2021.

1.4 As a consequence of a change in timetable by the UK Government, the new provisions took effect from 2 October 2023, rather than 1 April 2023.

2.0 RECOMMENDATION

2.1 That Members of the General Purposes Board note the update in relation to implementation of the tax conditionality obligations upon licensing bodies, such as the Council, which took effect on 2 October 2023.

Iain Strachan
Head of Legal, Democratic, Digital & Customer Services

3.0 BACKGROUND AND CONTEXT

- 3.1 The General Purposes Board at its meeting on 9 November 2022 noted the terms of a report updating members regarding amendments which had been introduced by the Finance Bill 2022-23 to the Finance Act 2021. The effect of these amendments extended HMRC obligations upon licensing bodies, such as the Council, in relation to certain types of civic licence applications. In Scotland, the changes apply to applications and renewal applications for taxi/private hire drivers, taxi/private booking offices, and licences to deal in scrap metal
- 3.2 Current legislation is contained in section 125 and Schedule 33 to the Finance Act 2021 which imposes tax conditionality obligations upon licencing bodies who administer applications for certain public sector licences to either:
- Give information about tax requirements to first time applicants;
 - Get confirmation from HMRC that a renewal applicant has completed a tax check.
- 3.3 As a result of the amendment to the Finance Act 2021, the provisions set out at paragraph 3.2 above which were previously limited to England and Wales, have now been extended to Scotland and Northern Ireland.
- 3.4 Members are aware that HMRC has stated that its approach to tax conditionality is as a result of an aim to address part of the hidden economy, consisting of individuals and businesses with sources of taxable income that are hidden from HMRC, by helping applicants for certain public sector licences better understand their tax obligations by making access to the licence they need to trade conditional upon completing a tax check.
- 3.5 The UK Government in its HMRC Autumn Statement 2022 set out that the requirement to make the renewal of certain licences in Scotland and Northern Ireland conditional on applicants completing checks to confirm they are appropriately registered for tax would come into force for licence renewals from October 2023 rather than April 2023. Members of the Board were provided with an update in relation to this change of timeline at its meeting on 8 February 2023.

4.0 PROPOSALS

- 4.1 Paragraph 2 of Schedule 33 to the Finance Act 2021, as amended, sets out the obligations on licensing bodies, such as the Council, when dealing with first time applications in relation to licence applications to drive a taxi, private hire vehicle or car, operate a booking office for a private hire vehicle or car business, deal in scrap metal on a fixed site or carry on businesses as an itinerant metal dealer. In particular, licensing bodies must draw to the attention of applicants to HMRC guidance about their tax obligations and information about HMRC's powers. Prior to considering an application, the licensing body must get confirmation from the applicant that they are aware of the guidance.
- 4.2 The Council's Taxi Licensing application forms relating to Taxi/Private Hire Car drivers, booking office for a private hire vehicle or car business and in relation to scrap metal licences, have been amended in order to include a declaration that applicants are aware of HMRC guidance relating to tax checks. Applicants also require to provide a 9 character tax check code if applying to renew their licence. Guidance is provided to applicants in the application form regarding how to apply for a 9 character tax check code with advice that the tax check code can be found at : <https://www.gov.uk/guidance/confirm-your-tax-responsibilities-when-applying-for-a-taxi-private-hire-or-scrap-metal-licence> .
- 4.3 Guidance has been published on the Licensing Section of the Council's website with advice regarding the requirement to complete a tax check with HMRC when:
- renewing a licence;

-applying for the same type of licence previously held, that stopped being valid less than a year ago; or

-applying for the same type of licence already held with another licensing authority.

- 4.4 There is no requirement to complete a tax check if an applicant has never held a licence of the same type before or held a licence of the same type that stopped being valid a year or more before making an application. However, such applicants should follow HMRC tax responsibilities guidance.
- 4.5 In addition to publication of the above guidance set out in paragraph 4.3 of this report, letters were issued by the Council’s licensing section, prior to the implementation date of 2 October 2023, to all current licence holders of taxi/private hire vehicle driver licences, booking office licence holders and scrap metal dealer licence holders who are due to renew their licences before 31 January 2024, with further letters due to be issued to the next cohort prior to the end of November 2023.
- 4.6 There has been some additional work involved for licensing staff in preparing for the necessary changes to the licensing applications for licences to drive taxis and private hire vehicles, licences to operate a booking office for a private hire vehicle or car business, licences to carry on the business of a metal dealer on a fixed site and licences to carry on businesses as an itinerant metal dealer. The Council’s licensing staff have undertaken this work using existing resources.

5.0 IMPLICATIONS

5.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO
Financial		X
Legal/Risk		X
Human Resources		X
Strategic (Partnership/Council Plan)		X
Equalities, Fairer Scotland Duty & Children/Young People’s Rights & Wellbeing		X
Children & Young People’s Rights & Wellbeing		X
Environmental & Sustainability		X
Data Protection		X

5.2 Finance

There are no financial implications directly arising from this report.

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

5.3 Legal/Risk

The legal risks are set out within the body of this report.

5.4 Human Resources

The Council's licensing staff have undertaken this work using existing resources. The delay of six months prior to implementation of the tax checks assisted in ensuring processes and administration has been put in place to discharge the Council's obligations.

6.0 CONSULTATION

6.1 None

7.0 BACKGROUND PAPERS

7.1 None