



HM Revenue  
& Customs

# Tackling the hidden economy: public sector licensing

**Summary of Responses**

7 November 2018

# Contents

1	Introduction	3
2	Summary of responses	6
3	Responses to questions posed in the consultation document	8
4	Next steps	24
Annex A	Conditionality process map	25
Annex B	List of stakeholders consulted	26

**On request this document can be produced in Welsh and alternative formats including large print, audio and Braille formats**

# 1. Introduction

- 1.1. This document summarises responses to the consultation document '*Tackling the hidden economy: public sector licensing*'. The consultation, which was announced at Autumn Budget 2017, proposed the introduction of checks on people's tax-registration status as part of the process of issuing some trading licences. This approach is known as 'conditionality' and is intended to tackle the hidden economy, which is made up of businesses and individuals that are not registered for the correct taxes or fail to declare a source of income. The tax gap from the hidden economy is estimated at £3.2bn for 2016-17.

The consultation set out ways in which new tax-registration checks could be administered. Licences issued in the following sectors were included for consideration in the consultation:

- private security;
- taxi and private hire vehicles (PHVs);
- waste management;
- houses in multiple occupation (HMOs) and selective licensing in the private rental sector;
- scrap metal, and
- retail and trade.

- 1.2. The consultation opened on 8 December 2017 and closed on 2 March 2018. The government is grateful to all those who responded or participated in meetings for taking the time to consider the issues raised by this consultation. A copy of the original consultation document is available at: <https://www.gov.uk/government/consultations/tackling-the-hidden-economy-public-sector-licensing>

## Context for the consultation

- 1.3. The majority of UK taxpayers pay what they owe, but a small minority are active in the hidden economy. The term hidden economy refers to individuals and businesses with sources of taxable economic activity that are entirely hidden from HM Revenue & Customs (HMRC). The hidden economy deprives the government of funding for vital public services and the hidden economy tax gap is estimated at £3.2 billion for 2016-17. HMRC is committed to achieving a significant and sustained narrowing of the hidden economy tax gap.
- 1.4. Tackling the hidden economy is also a crucial part of our role in supporting and creating a level playing field for compliant customers. The best way to tackle non-compliance is to prevent it from happening in the first place, while cracking down on the minority who break the rules. We are:
- promoting good compliance by designing it into our systems and processes, enabling customers to get their affairs right from the outset;

- preventing non-compliance by using the data we have to spot mistakes, prevent fraudulent claims, personalise online services and automate calculations;
  - Responding to non-compliance by identifying and targeting the areas of greatest risk, and using tough measures to tackle those who deliberately try to cheat the system.
- 1.5. We know that some people enter the hidden economy because they think it would be difficult to register and declare their income to HMRC. Some of those who are in the hidden economy find it more difficult to come forward and declare their earnings the longer they have been hidden from HMRC. This is one of the reasons why the government is making it easier than ever to register for, and pay tax through, accessible digital services. HMRC also provides support to new business, helping them to understand and comply with their tax obligations at the earliest opportunity.
- 1.6. At the same time, the government is developing new ways to steer people away from non-compliance before it occurs, including through closer working with intermediaries to play an active role in helping customers to understand and comply with their tax obligations.
- 1.7. The consultation proposed measures to introduce tax registration checks into some of the key public sector licence approvals that individuals and businesses need in order to trade.

### **Details of the consultation**

- 1.8. Few businesses can exist in a vacuum and most require services from other businesses, or licences, or authorisations from local or national government.
- 1.9. The consultation included proposals to introduce checks on the tax-registration status of applicants for licences. The checks would confirm that applicants for licences have disclosed taxable income from the licensed activity to HMRC. The consultation proposed that licences in the sectors below should be included for consideration and discussed ways that the checks could be integrated into licensing schemes:
- private security;
  - taxi and private hire vehicles (PHVs);
  - waste management;
  - houses in multiple occupation (HMOs) and selective licensing in the private rental sector;
  - scrap metal, and
  - retail and trade.
- 1.10. The proposals support a key aim of our strategy to crack down on the hidden economy by preventing people from entering it in the first place. They would promote tax registration by helping customers to understand their obligations and the simple steps they need to take to declare their income to HMRC.
- 1.11. The checks described in the consultation refer to whether a person is appropriately 'registered for tax' and the requirements for this can differ

depending on individual circumstances. The aim would be to determine whether or not a person is known to HMRC in respect of the following obligations:

- obligations to register for Income Tax;
- obligations to enrol employees for tax;
- obligations to register for Corporation Tax.

- 1.12. Tax registration is a simple marker of compliance because it shows that a person has told HMRC about a particular source of taxable income. Individuals or businesses who are not properly registered when they should be are hiding all or part of their income from HMRC.
- 1.13. These checks would aim to establish that taxable earnings in a licensed sector are being reported to HMRC when they should be. They would not require further checks on a person's tax status – for example, to identify whether or not the *correct* income has been reported for tax purposes.
- 1.14. The consultation made the case for introducing conditionality in sectors that are affected by the hidden economy. The aim is to introduce a simple and easy-to-administer process that would steer more customers away from the hidden economy and make it harder to trade as a hidden business.

### Responses to the consultation questions

- 1.15. This document sets out the questions asked in the consultation and provides an overview of the responses received. It follows the order of the consultation document. Some responses were not attributed to any particular question. In these cases, responses are grouped under the most relevant question.

### Structure of the consultation response document

- 1.16. This document is presented in the following further sections:
- **Section 3** sets out a summary of responses to the consultation together with the government's overarching response.
  - **Section 4** summarises responses HMRC received to specific questions posed in the consultation document and presents the government's response on each question.
  - **Section 5** sets out the next steps following publication of this response.
  - **Annex A** is a process map visualising how conditionality could work.
  - **Annex B** lists organisations that responded to the consultation or met with HMRC to discuss it.

## 2. Summary of responses

### Overview of responses

- 2.1. The consultation received 53 written responses and was informed by direct meetings with businesses, individuals, licensing authorities and representative bodies.
- 2.2. A list of respondents to the consultation and organisations that attended meetings during the consultation period (excluding named individuals) can be found at Annex B.

### General comments on the policy proposal

- 2.3. The majority of respondents were supportive of the principle of conditionality as set out in the consultation document. Most said conditionality could be effective at bringing people out of the hidden economy and acknowledged concerns around tax compliance within the relevant sectors. They did, however, highlight that the success of the policy will depend upon more detailed policy design. Responses also said that some licensing schemes covered by the consultation would be more suitable for the proposals than others.
- 2.4. The consultation set out options for integrating tax-registration checks into licensing regimes. Most feedback said that tax-registration checks would be best introduced as a mandatory check that licensing authorities must complete before processing a licence application. Respondents also agreed that licensing authorities should refer those applying for licences for the first time to suitable information or guidance about their tax obligations. A 'tax-registration check' would be appropriate later in the process, for those renewing a licence (typically after a number of years).
- 2.5. Several respondents said that information provided when licences are renewed should be verified in some way, and it would not be sufficient to rely on self-declarations from applicants. Ideally, the method of verification should be through use of digital services or submission of documentation, and there would need to be suitable options for those who are not able to digitally engage. The majority of respondents said a licence renewal should not be approved where no evidence is provided to support the tax-registration check.
- 2.6. The consultation also sought feedback on how to minimise impacts on both compliant customers and licensing authorities. Respondents said that there would be some set-up and running costs involved in implementing conditionality, but most felt those would be minimal if requirements are kept simple.

## Government response

- 2.7. The government is grateful for detailed feedback provided by licensing authorities, representative bodies and others during the consultation exercise.
- 2.8. Everyone has a duty to pay the taxes they owe. Where businesses are operating with the approval of a licence from local or national government, the licensed community and the wider public have a right to expect good standards of tax compliance.
- 2.9. The government intends to use legislation to introduce a 'tax registration check' linked to licence renewal application processes. This would make it harder for a small minority to hide their income from HMRC. It would support a level playing field and strengthen regulatory standards in sectors that are known to be affected by tax non-compliance.
- 2.10. In practice, this will mean that licensing authorities need to collect an additional piece of information about applicants as part of licensing processes. This would show that an applicant for a licence renewal has notified HMRC that they have taxable income – effectively confirming that a licensee is not operating in the hidden economy.
- 2.11. The government notes the majority view from stakeholders that this approach would not place undue burdens on licensing authorities, if it is introduced as a simple, administrative process that takes place before the licence is granted.
- 2.12. The government intends to develop a process to enable applicants to provide information about their tax-registration status to licensing authorities. It would also support applicants who need help with - or are not aware of - their responsibilities, ensuring they can get their affairs right from the outset.
- 2.13. The government will develop these proposals for a future Finance Bill and work with key stakeholders in the meantime to ensure that the new process is simple and as easy as possible to administer and comply with.
- 2.14. Having considered feedback from the consultation, the government intends to introduce legislation applying conditionality in the following licensed sectors in England and Wales:
  - the **taxis and private hire vehicles (PHVs)** sector;
  - the **waste** sector;
  - the **scrap metal** trade.
- 2.15. The government will consider further the case for applying conditionality in the other sectors included in the consultation, as well as the wider areas of licensing and regulation that were suggested by stakeholders (as described in section 3, below).
- 2.16. The government remains of the view that conditionality offers an important step towards integrating the tax system with wider government regulation, supporting customers in getting their tax affairs right, and ensuring a level playing field for businesses.



# 3. Responses to questions posed in the consultation document

## Chapter 2: options for applying conditionality through public sector licensing

3.1. Chapter two of the consultation proposed licences in six sectors that would be suitable for conditionality. In choosing the licences for the consultation, the following principles applied:

- *Alignment of conditionality with existing rules:* licences that were selected have existing conditions that align reasonably well with legal obligations to register for and pay tax.
- *Risks posed by the hidden economy:* while good standards of overall compliance exist in the sectors selected, they are vulnerable to exploitation by a minority who wish to undercut their competitors by operating in the hidden economy.
- *Potential wider benefits:* by integrating regulatory standards and developing closer working between HMRC and other parts of local or national government, there may be opportunities to drive up standards for the benefit of compliant businesses, as well as government and the public.

3.2. Licences included in the consultation were in the following sectors:

- Private security;
- Taxi and Private Hire Vehicles (PHV);
- Waste management;
- Houses in multiple occupation (HMOs) and selective licensing in the private rental sector;
- Scrap metal;
- Retail and trade (in particular, massage and special treatment licences and street-trading licences).

**Question 1: Please provide comments or evidence on the suitability of the government's proposals to apply conditionality to one or more of the licensing schemes outlined above. In your answer, please comment on:**

- **The extent to which checks on people's tax-registration status would address problems highlighted in the relevant sectors, or whether additional or alternative measures of compliance should be considered.**
- **How effective conditionality would be in improving standards of tax compliance in the sectors concerned.**
- **Any positive or negative effects that conditionality would have upon the compliant majority who trade in the relevant sectors; please provide details of any additional one-off or ongoing costs that might be incurred.**

- 3.3. Most respondents were supportive, in principle, of the government's proposals to introduce conditionality in the sectors described. A number acknowledged that there are problems around tax compliance within these sectors and most said conditionality could be effective in preventing people from entering the hidden economy.
- 3.4. A number felt the proposals would impose only a small impact on the compliant majority and licensing authorities, while being clear that the check would need to be quick and easy to complete and should not require licensing authorities to make complex assessments of people's tax status. Some responses highlighted greater concerns about specific sectors highlighted in the consultation (as detailed below). Responses are summarised by sector below:
- **Private Security:** Responses were supportive of applying conditionality within the sector, assessing that this could help to raise standards of tax compliance.
  - **Taxi and Private Hire Vehicles:** There was a broad consensus that taxi and private hire vehicle driver licences would be suitable for conditionality. Respondents generally welcomed efforts to crack down on the hidden economy and said checks were likely to be effective in bringing people out of the hidden economy.
  - **Waste Management:** Responses said that conditionality could improve tax compliance and also raise regulatory standards more generally in the sector. Views were more mixed on how effective the measures would be in addressing the behaviours of those in the sector who are determined to deliberately bypass regulatory checks.
  - **HMOs and selective licensing:** Most responses said conditionality has potential to identify landlords operating within the hidden economy, but several also raised concerns about potential burdens to landlords and/or licensing authorities. Several highlighted challenges in encouraging a minority of landlords to comply with licensing schemes, and suggested new tax checks could discourage compliance with schemes. Others were concerned about the practical effect of withholding a licence, including the impact for tenants living in affected properties.
  - **Scrap Metal:** Responses were mostly supportive of the principle of conditionality. Some said that it would help crack down on tax-non-compliance to the benefit of compliant operators within the sector. Some said that there are a significant number of illegal scrap metal operators due to low barriers of entry to the sector. A few respondents were worried that conditionality could act as a disincentive to get a licence and further widen the gap between the compliant and non-compliant.
  - **Retail and Trade:** Respondents said conditionality would have mixed effectiveness if applied to street trading and provision of market stalls because schemes vary significantly by location (for example, historic market towns may not operate any licensing on market stalls).

## Government response

- 3.5. As described in the consultation, each of these sectors is vulnerable to hidden economy activity.
- 3.6. Based on the responses to the consultation, the government intends to introduce a 'tax registration check' linked to licence renewal application processes in the following sectors (further detail is outlined below):
- **Private hire vehicle driver licences issued in England and Wales by local authorities;**
  - **Private hire vehicle operator licences issued in England and Wales by local authorities;**
  - **Taxi driver licences issued in England and Wales by local authorities;**
  - **Waste carrier licences issued in England and Wales by the Environment Agency and Natural Resources Wales;**
  - **Scrap metal dealer licences issued by local authorities in England and Wales.**
- 3.7. The government intends to work with the Welsh Government and relevant licensing authorities to develop the necessary legislation. The government will take time to refine the proposals with stakeholders, and to undertake detailed design work to ensure compliant customers and licensing authorities are not subject to disproportionate burdens.
- 3.8. The government is interested in the potential to apply similar changes to licensing in Scotland and Northern Ireland, but acknowledges there are some differences in the way licensing is administered in these jurisdictions. There is a need for further work and discussion with relevant stakeholders, including the devolved administrations, before the government determines whether it would be appropriate and effective to introduce similar tax-registration checks in Scotland and Northern Ireland.
- 3.9. The government will consider further the case for applying conditionality to environmental permitting for waste sites and exemptions to environmental permits, as described in the consultation.
- 3.10. The government will also consider further whether to apply conditionality to licenses for Houses in Multiple Occupation (HMOs). There is a strong case for addressing tax risks posed by the hidden economy through licensing in the private residential sector. The government recognises the concerns highlighted by some stakeholder groups and intends to carry out further work to assess how far these concerns could be mitigated through policy design, before determining whether to introduce legislation.
- 3.11. The government will also consider further the case for applying conditionality checks in the security sector. There is an existing, strong partnership between HMRC and the regulator for the security industry, the Security Industry

Authority (SIA). HMRC and the SIA continue to undertake joint work to tackle problems in the sector, including businesses abusing employment rules, running up high debts and taking part in payroll company fraud.

- 3.12. Further work is needed to assess whether and how the current proposals for conditionality could support these existing areas of collaboration. In particular, where problems related to the hidden economy arise due to employer compliance in the sector, the government intends to assess how effectively conditionality could address these risks, including through checks on front-line or non-front-line licensees.

**Question 2: Please provide comments or evidence on the suitability of applying forms of conditionality – or similar approaches to promote tax compliance – in the construction sector?**

- **Are there any other sectors that the government should consider for similar applications of conditionality?**

- 3.13. Few responses were received in relation to the construction sector. Responses cited regulations already in place to reduce tax evasion in construction; and a lack of obvious business approvals that would be suitable for conditionality.
- 3.14. Several responses suggested conditionality could be extended to apply to all sectors covered by the Licensing Act 2003, which provides for a unified system of regulation for the sale and supply of alcohol, the provision of regulated entertainment, and the provision of late night refreshment.
- 3.15. A few responses said conditionality should be extended to owners of private hire vehicles who lease cars to drivers, but others suggested that it would not greatly affect tax compliance within this trade.
- 3.16. Other suggestions related to authorised activity in the following areas: animal boarding, animal breeding, provision of mobile food and drink, driving instructors and other tuition, adult entertainment, pedal cabs, and short-term lettings.

**Government response**

- 3.17. The government notes the feedback provided in response to this question, and will consider the effectiveness and proportionality of any options to extend conditionality to other licensed sectors in the future.

### Chapter 3: options for developing tax-registration checks

3.18. The third chapter of the consultation suggested ways that a licensing authority could ensure that people applying for licences are properly registered for tax. The chapter set out options to make tax-registration checks a part of the application and renewal process for licences.

3.19. **The broad approach towards implementing conditionality set out within this chapter reflected the following key principles:**

- New applicants should be signposted towards tax obligations and HMRC services but no firm checks should be needed, as people applying for licences for the first time may not have been trading long enough to be required to register for tax;
- Tax-registration checks should apply to those *renewing* licences, as returning applicants are likely to have been trading long enough to be obligated to register for tax;
- Tax registration checks should require applicants to submit appropriate proof that they are registered for tax, or to declare that they do not need to be registered;
- There should be no requirement upon licensing authorities to carry out more detailed tax checks when licence renewals take place, beyond confirming the tax-registration status of an applicant.

3.20. Key proposals set out in this chapter include:

#### **Amending terms of licences to introduce conditionality:**

- The chapter sought views on how conditionality should be integrated into licensing procedures.

#### **The nature of checks on applicants for licences:**

- The chapter also set out how licensing authorities could differentiate between new applications and renewals. It proposed that those applying for a licence for the first time should not be subject to tax-registration checks, but should be directed towards appropriate guidance on meeting their tax obligations. Those applying to renew licences should be subject to tax-registration checks.
- It also proposed options on how an applicant could evidence their tax-registration status, and covered cases where applicants have a permissible reason for not being registered for tax.

#### **Data verification with HMRC and data disclosure to licensing authorities:**

- The chapter also discussed the potential need for HMRC to check details provided to licensing authorities after the point that licences have been granted – for example, to assess overall levels of compliance in the licensed population and, potentially, in a small number of cases to identify where applicants have provided false information to a licensing authority.

- The chapter discussed some of HMRC's current data-collection powers, and asked about additional powers that might be needed to support the tax-registration checks that were described in this chapter.
- The chapter asked about the case for new powers for HMRC to disclose information back to a licensing authority, and the circumstances in which such powers might be needed.

**Question 3: please describe how tax-registration or a similar standard of compliance could be introduced into existing terms and conditions of licences:**

- **Would it be best to introduce tax conditionality as a new, standalone condition of licences, or would it better included as a consideration with fit-and-proper person or similar checks?**
- **Would tax-registration be the best standard of compliance, or should a similar or broader standard of compliance be introduced – if so, what additional factors should be considered?**

- 3.21. Most respondents who commented on this section agreed that tax-registration checks should apply at the point at which licences are renewed (rather than to applicants applying for licences for the first time). Respondents said that any conditions or checks implemented should be simple to understand and evidence so as not to create a burden for the compliant majority and licensing authorities.
- 3.22. Most who commented felt the checks would be easy to implement into licensing regimes if kept simple and clear. They said that appropriate instructions or guidance should be produced by HMRC.
- 3.23. Several respondents said that tax-registration checks should become a mandatory stage that must be completed before licences are granted. This would be different from making tax registration a condition of holding a licence – the latter may be more difficult to implement since it would have to be enforced by licensing authorities on an ongoing basis.

**Government response**

- 3.24. The government agrees that any proposals to develop conditionality must place only minimal additional requirements on licensing authorities and customers. In view of the consultation responses, the government believes the best approach is to introduce a statutory obligation for licensing authorities to conduct checks on an applicant's tax-registration status when they apply to renew a licence. Applicants would need to provide evidence relating to tax registration before a licensing authority reaches a decision on whether or not to renew a licence. The process map at Annex A visualises the steps a licensing authority will take to complete the tax registration check.
- 3.25. In practice, this means that evidence of an applicant's tax-registration status would become an additional piece of information that a licensing authority must collect as part of the process of renewing a relevant licence.

3.26. The statutory obligation upon licensing authorities would be created as a standalone obligation; this means it would not amend or affect existing licensing conditions.

**Question 4: please comment on the proposed process for introducing tax checks into new licences.**

- **How effective would it be in promoting registration?**
- **How easily could the required changes be introduced into licensing processes?**
- **Please provide details of any additional one-off and ongoing costs that might be incurred.**

3.27. Most respondents supported the government's proposal to differentiate between the processes that should be followed when licences are first issued and when licences are renewed. The process for those applying for licences for the first time would require them to confirm that they understand key tax obligations and have access to further guidance. Checks for licence renewals would confirm that applicants are properly registered for tax.

3.28. Some respondents said that tax-registration checks might push those who wish to remain hidden to HMRC further underground, widening the gap between the compliant majority and those operating illegally. Others pointed out that being registered does not necessarily equate to good compliance with tax legislation.

3.29. Respondents said the main costs of introducing tax checks would relate to staff training, updating of systems, forms and websites and any additional time taken to process applications.

**Government response**

3.30. The government believes that the approach set out in the consultation will ensure that most applicants applying for licences for the first time understand their key tax obligations. Annex A visualises how this process would work.

3.31. In particular, it would be sufficient for licensing authorities to direct first-time applicants towards key tax information and take a declaration confirming that an applicant has understood their obligations.

3.32. The government understands that specific approaches may differ depending on systems and protocols that are operated by individual licensing authorities. It would issue guidance setting out what information should be provided to first-time applicants.

**Question 5: please provide evidence on the likely effectiveness of these proposals in motivating more applicants to register with HMRC.**

3.33. The majority of respondents said that the proposals would encourage those operating within the hidden economy to register for the appropriate taxes. Where it is difficult to operate without a licence, conditionality has the potential to bring those people into the formal economy. Some respondents said that where people deliberately engage in illegal activity, it is unlikely they are known to licensing authorities and so the checks would not affect that population.

Some respondents judged that the checks are likely to have the biggest effect where people are operating in the hidden economy because they don't fully understand their obligations, or have missed key deadlines to notify HMRC of their income.

### Government response

3.34. The government believes that conditionality will promote compliance by ensuring that those trading in relevant sectors understand, and are able to comply with, their tax obligations. It will also prevent non-compliance by making it harder for a minority to deliberately hide their income from HMRC.

### Question 6: please provide further evidence on the suitability of the options described for verifying the tax-registration status of people applying for licences.

- **If evidence of an applicant's registration status is generated through personal or business tax accounts, how could applicants transfer this to a licensing authority in a secure and efficient way?**
  - **If evidence is generated through use of documentation, how could applicants transfer this to a licensing authority in a secure and efficient way?**
  - **Would an option be needed for those who do not engage digitally with HMRC?**
- 3.35. The majority of respondents said the relevant checks should be verified through tax documentation or a secure digital system. Several said that HMRC would need to supply clear guidance on what documentation would be acceptable.
- 3.36. Some respondents said that electronic documents could be uploaded using a secure portal or within the licence application process. Documents could also be accepted by email. Hard copies could be requested if needed.
- 3.37. A number of respondents suggested a system enabling a licensing authority to look up an applicant's tax-registration status based on the applicants' National Insurance Number or Unique Tax Reference number.
- 3.38. Respondents said physical documents could be transferred to licensing authorities in line with existing administrative practices using post, courier or by the applicant directly. It is also possible under some systems to scan and email documents during the application process.
- 3.39. Several commented that there would need to be another option available for those who cannot engage digitally. Some respondents said licensing authorities already provide support to those customers, and the tax-registration check could be integrated into the current process.

### Government response

3.40. The government agrees that the best approach would be to develop a digital service allowing an applicant to demonstrate their tax-registration status to a licensing authority. For the majority of customers, this will ensure that checks

can be satisfied swiftly and securely, allowing them to be directed to appropriate sources of further support regarding their tax affairs, where necessary.

- 3.41. One option would be for applicants to generate evidence through their digital tax account and transfer it securely to a licensing authority. The government believes this would also ensure simplicity for licensing authorities and reduce the need for HMRC to obtain data from licensing authorities in order to check evidence provided by applicants.
- 3.42. The government recognises that many people interact online using assistive technology. HMRC will ensure that any digital service conforms to government accessibility standards.
- 3.43. The government also understands that not everyone is able to engage HMRC digitally and would ensure that suitable support exists for customers who require digital assistance.
- 3.44. HMRC will undertake further work to identify the optimum design of the digital service, as well as the best options for accommodating the needs of customers who are unable to engage digitally.

**Question 7: How frequently would applicants have a permissible reason for not being registered for tax in the sectors outlined in chapter 2?**

- **If applicants have a permissible reason for not being registered, how should they be able to demonstrate this in order to obtain the licence?**
  - **How can HMRC ensure that any process is simple for applicants and licensing authorities to administer?**
- 3.45. Most respondents said that there would be few cases where an applicant has a permissible reason for not being registered for tax, but there would need to be a way for licensing authorities to deal with these cases. Respondents said that permissible reasons would include people holding a licence ‘just in case’ it is needed, but without trading or receiving employment in the licensed sector.
  - 3.46. Some respondents said they did not see many reasons why someone would not need to be registered for tax if they hold a relevant licence. Other respondents said it would be difficult to create an exhaustive list of such reasons. By extension, it would also be difficult to be prescriptive on the evidence that would be required to support this.
  - 3.47. Some respondents suggested this could be dealt with by allowing the applicant to submit a declaration to a licensing authority. Those declarations would then be shared with HMRC for further investigation.
  - 3.48. Some respondents said HMRC would need to provide appropriate support to licensing authorities dealing with these cases – since they do not, and should not, need detailed tax knowledge to discharge their functions. They said that a licensing authority should be able to refer an application to HMRC for guidance, or the applicant should be able to request a document from HMRC to show that registration is not required.

### Government response

- 3.49. The government agrees that a minority of people applying to renew licences may have a permissible reason for not being registered for tax. In these cases, requiring applicants to provide documentary evidence to a licensing body that they do not need to be registered for tax would add complexity for both applicants and licensing authorities.
- 3.50. To avoid this risk, the government intends to explore options for applicants to notify HMRC that they do not believe they have to pay tax. Applicants could use this notification as a way of satisfying the requirements of the tax-registration check. Any process will be easy-to-use for applicants. This would avoid the need for applicants to supply detailed tax information to support their application for a licence. On receipt of the declaration, licensing authorities would follow the process in Annex A and proceed with the application.
- 3.51. This approach strikes a good balance between reducing the complexity for licensing authorities, ensuring no barriers are created for applicants and preventing hidden economy activity. HMRC have existing powers, including powers to open tax enquiries and gather information, which may be used if they believe an applicant has falsely declared that they do not need to be registered for tax.

### Question 8: Should licensing authorities refuse to process licences where no evidence is provided to verify an applicant's declaration that they are registered for tax?

- 3.52. The majority of respondents said that licensing authorities should refuse a licence application if sufficient evidence of the applicant's tax-registration status is not provided. Some respondents said that licensing authorities should have some discretion to place an application 'on hold' until the evidence is provided within a pre-determined timeframe.
- 3.53. Two respondents said that licensing authorities should not refuse to process a licence if uncertainty about the applicant's tax registration status is the only thing stopping the licence from being issued. In reference to the private rental sector, some respondents felt that refusing to renew a licence could result in unintended consequences. For example, failing to renew a licence for an HMO could have an impact upon those living in the relevant property, and could mean that the licensing authority has to manage the HMO on an interim basis.

### Government response

- 3.54. The government believes that the simplest and clearest approach is one where licensing authorities should not reach a decision on whether to grant a licence renewal until the applicant has provided the necessary evidence that they are registered for tax (or evidence of a permissible reason for not being registered in accordance with the process described above).
- 3.55. In effect, this would mean that an application for a licence renewal is not complete until a person has supplied either the required evidence of tax compliance, or a declaration that they do not need to be registered. When

following the process visualised at Annex A, in these cases, the application should be returned to the applicant to rectify.

**Question 9: Please comment on data powers that might be needed to support the tax-registration checks described in this chapter.**

- 3.56. Some respondents said that HMRC already has sufficient powers to collect information from licensing authorities and they believe these are broadly adequate under current legislation.
- 3.57. Some respondents said that all data collected and shared must be compliant with the General Data Protection Regulations (GDPR); others highlighted that the exchange of any data under this process should have a basis in statute.
- 3.58. Some respondents said that data may need to be exchanged in both directions (from licensing authorities to HMRC and vice versa) for conditionality to meet its proposed objectives and empower licensing authorities to refuse licences on grounds of tax non-compliance.
- 3.59. One respondent said that new processes would be required because existing data exchange is governed by specific legal gateways which would not be suitable for facilitating a tax-registration check.

**Government response**

- 3.60. The government remains of the view that existing powers granted to HMRC for the purpose of gathering information from licensing authorities are sufficient to support conditionality as described in this consultation. It is not the government's intention to expand these powers for the purposes of conditionality.

**Question 10: please comment on the circumstances in which HMRC could disclose relevant information back to a licensing authority.**

- **What action would licensing authorities wish to take in these cases?**
  - **Are there circumstances in which licensing authorities would wish to be informed about a licence holder engaging in tax non-compliance, beyond a failure to register for tax? Please describe what these would be.**
- 3.61. Some respondents said that HMRC should be provided with powers to disclose further information about applicants' tax status to licensing authorities. For example, if HMRC identifies that applicants or licence holders have provided false information to HMRC or the licensing authority in order to satisfy the tax-registration check, HMRC should have powers to disclose this to a licensing authority. The licensing authority may then wish to take enforcement action against that person on the basis that they have provided false information to obtain the licence.
  - 3.62. Some respondents said that any disclosures made by HMRC to a licensing authority should be limited to what is required to support the tax checks. Others felt that it would not be appropriate to enable licensing authorities to enforce matters relevant to tax. Others said that tax irregularities associated with

licence holders should be investigated by HMRC who should, in turn, work closely with licensing authorities to revoke licences, where appropriate.

### **Government response**

- 3.63. The government has concluded that HMRC should be able to disclose only sufficient information to a licensing authority to enable completion of a tax-registration check at the time an application is made – in accordance with the process outlined at Annex A. This should not include wider information about an applicant's tax affairs. This approach strikes a good balance between the need to ensure applicants' privacy and the need to ensure the check is simple to administer.
- 3.64. The government has listened to feedback on a wider disclosure gateway and concluded that such a power would not be required in order to operate conditionality.

### **Question 11: What one-off and ongoing costs and administrative burdens do you think will arise as a result of this proposal? Please provide evidence on the extent to which these proposals would minimise additional administrative burdens for licensing bodies?**

- 3.65. Respondents said the likely one off costs for licensing authorities would be the initial set up costs such as updating databases, systems, processes, websites, forms and staff training. Ongoing costs could be the additional administration or processing time. Respondents said that these costs could be recovered through licensing fees.
- 3.66. Some respondents also said these increased costs would be minimised providing only simple evidence were required to support the process.
- 3.67. Respondents said the costs for applicants would comprise those associated with the additional time taken to generate the evidence needed for the application.

### **Government response**

- 3.68. The government believes the process described above would minimise the complexity and time taken to carry out any tax-registration checks for licensing authorities. The government will continue to refine the process, and ensure it is simple and easy to administer for licensing authorities and applicants.
- 3.69. The government acknowledges the initial costs to implement conditionality which include amending statutory forms and licensing systems to accommodate checks, and the small additional time spent processing the additional questions. The government expects that the initial set up costs and ongoing running costs would be minimal, and recoverable through licensing fees.

**Question 12: Are there any extra steps or safeguards that should be considered, particularly for customer groups who may find it difficult to provide proof that they are registered for tax?**

- 3.70. Respondents said that safeguards were needed for certain groups who may face difficulty engaging with HMRC to ensure that they are able to comply with the new requirements.
- 3.71. One respondent said that people who already use HMRC's Needs Extra Support (NES) service could receive further assistance using this route. Another respondent said tax checks could create a barrier for overseas applicants.
- 3.72. Two respondents said further consultation or discussion should take place with the groups identified to ensure they are able to adapt to the process.
- 3.73. Two respondents said some applicants may encounter delays in obtaining evidence to satisfy the new condition, and a temporary licence or registration should be issued while the evidence is being generated.
- 3.74. One respondent raised a concern that if evidence were to be lost or mislaid, the information could be used for fraud. Safeguards should be put in place so that any requested evidence could not be used fraudulently.

**Government response**

- 3.75. The government agrees that the process should provide support for those who have difficulty engaging with the tax system. For example, the process for people applying for a licence for the first time would ensure they are directed to information about their tax obligations, as appropriate.
- 3.76. The government understands that not everyone is able to engage with HMRC through a single route, and appropriate support would be available to ensure that those who do not engage digitally have alternative ways of satisfying the requirements.

## Chapter 4: minimising burdens and impacts

3.77. The fourth chapter of the consultation sought evidence on the extent to which the government's proposals would address risks posed by the hidden economy in the identified sectors, while minimising any burdens for customers and licensing authorities. The consultation sought views on the following areas:

- minimising administrative burdens upon customers;
- minimising impacts on customer privacy;
- minimising burdens for licensing authorities;
- appeals.

### **Question 13: Do you agree that the proposals set out in chapter 3 strike an appropriate balance between the need to safeguard customer privacy and to address risks posed by the hidden economy? Are there any different or additional safeguards that the government should consider?**

3.78. The majority of respondents said that the proposals strike a balance between the need to maintain customer privacy and the need to improve tax compliance. Some respondents said any new system should be kept as simple as possible for both applicants and licensing authorities. They also said that a new process to support evidence generation should utilise existing personal tax accounts.

3.79. Several respondents said the proposals did not strike an appropriate balance. These comments were provided in relation to the private rental sector, and suggested it was more proportionate to share licensing data with HMRC.

### **Government response**

3.80. The government remains of the view that the proposals set out in this consultation are a proportionate approach to tackling the hidden economy.

3.81. The policy design has been developed with a view to minimising the amount of tax-related information that would be shared with a licensing authority. For example, applicants would not be required to submit information about their income to licensing authorities. Instead, applicants would only be required to show that they have notified HMRC that they have taxable income. It is not the government's intention for licensing authorities to make a judgement on an individual's employment status or any other tax-investigative checks.

3.82. Licensing authorities' protocols for handling personal information will need to comply with relevant data protection legislation, including protections provided by the Data Protection Act 2018.

### **Question 14: please provide evidence on the extent to which these proposals would minimise administrative burdens for licensing authorities. Are there any extra steps or safeguards that should be considered?**

3.83. Some respondents said the proposal is likely to only have a small additional impact on licensing authorities, providing the checks are kept simple and integrated with the licence application process.

- 3.84. Two respondents said that HMRC would need to produce clear guidance for applicants and licensing authorities.
- 3.85. One respondent said that complexity might be increased due to the range of documents that may need to be submitted depending on the applicant's tax status. Another said HMRC should produce a list of acceptable documents that can be used to verify an applicant's tax-registration status. Another suggested a digital system, allowing a licensing authority to look up an applicant's tax-registration status.
- 3.86. One respondent said licensing authorities' resources are stretched and financial support should be given to implement the proposals.

### **Government response**

- 3.87. The government believes that the process set out above would minimise the administrative burdens for licensing authorities in carrying out tax-registration checks. These would be broadly limited to the costs associated in updating licensing forms and systems, familiarisation costs for staff in relation to new requirements and the ongoing need to carry out checks as part of licensing processes.
- 3.88. In the future, HMRC will publish guidance for licensing authorities to support them with the implementation and the evidence requirements of conditionality.

### **Question 15: Please describe appeal mechanisms that would, or should, apply in relation to the proposals detailed in chapter 3. Please describe any additional one-off and on-going costs or any administrative burdens associated with these proposals, and how these could be kept to a minimum.**

- 3.89. Several respondents felt that existing appeal mechanisms would be sufficient to support the proposal. Where the applicant failed to provide the necessary evidence their application would not be processed. This check would be administrative in nature. By contrast, where an applicant fails the 'fit and proper person' test or a licence is revoked, the decision can be reviewed by the licensing board and there is an appeal right to the magistrate's court.
- 3.90. One respondent said that HMRC would need to provide clear guidance to both applicants and licensing authorities on evidence requirements.
- 3.91. Two respondents said that the refusal of some particular licences could have a large effect on the applicant's ability to trade, and concessions should be made until the necessary evidence is provided.

### **Government response**

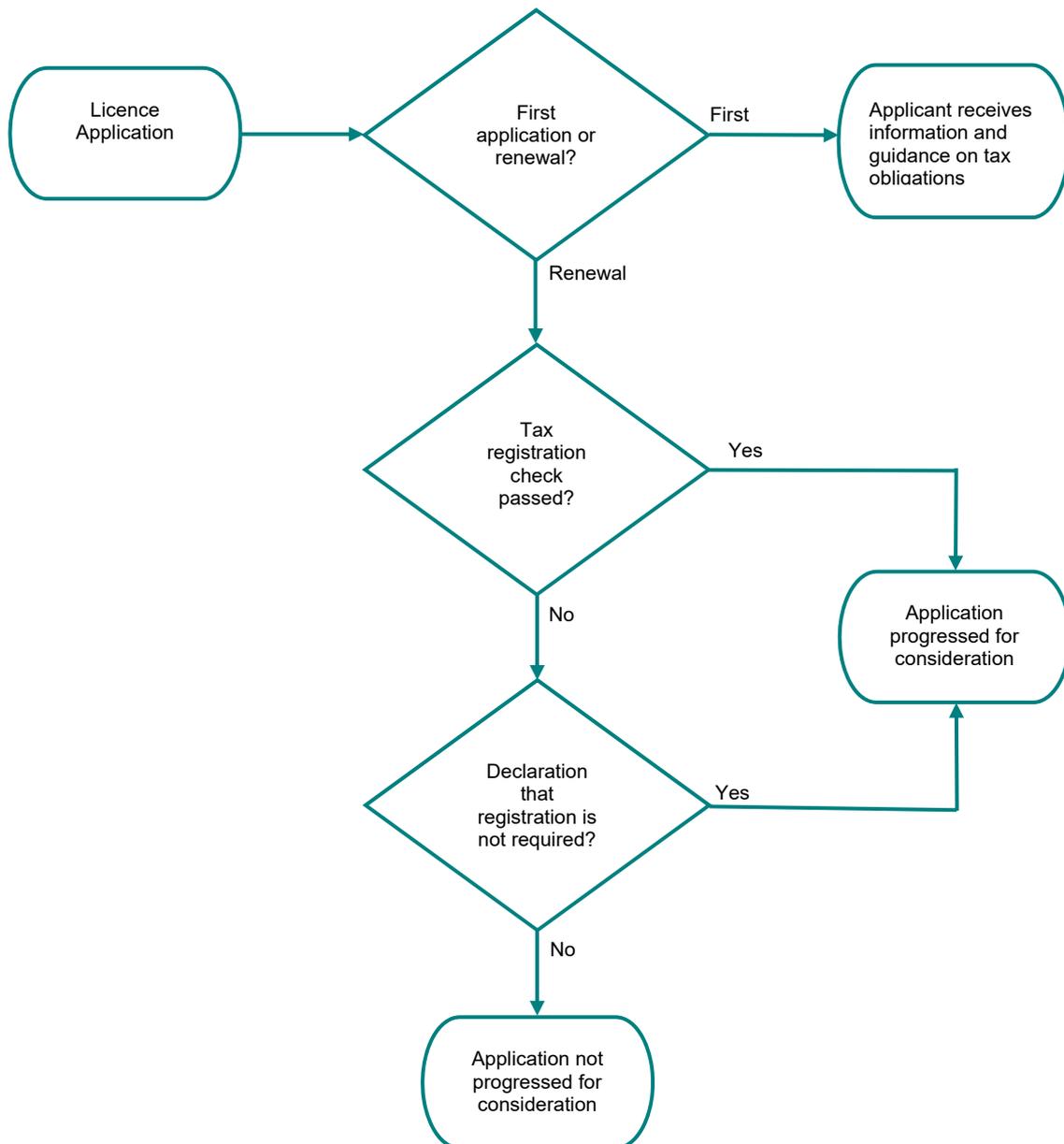
- 3.92. The government believes that, in itself, the requirement on licensing authorities to gather evidence of tax registration would not require additional appeal rights.
- 3.93. In practice, if an applicant fails to provide the required evidence during the application process, then the licensing authority would be under a duty not to process the licence. The applicant could remedy this by taking simple steps to register for the appropriate tax or generating the required evidence that tax registration isn't required before demonstrating this to the licensing authority.

3.94. As described above, there would also be safeguards in place to ensure that anyone who does not understand how to fulfil the requirements of a tax-registration check is given appropriate support from HMRC. This would ensure that no one is unfairly prevented from obtaining a licence.

## 4. Next steps

- 4.1. The government is grateful for the range of views and evidence provided in response to this consultation.
- 4.2. The government intends to develop legislation to introduce conditionality linked to licence renewal processes, as described in this response document. The government aims to introduce legislation for the overarching conditionality framework in a future Finance Bill.
- 4.3. As described above, HMRC intends to develop a digital platform to provide an easy-to-use method for people to evidence their tax-registration status, with alternative support for those who need it.
- 4.4. In the period before legislation is introduced, HMRC will work with stakeholders, including the devolved administrations, to identify the best approach to designing and implementing the requirements for conditionality.

# Annex A: Conditionality process map



## Annex B: List of stakeholders consulted

- Association of Accounting Technicians
- Association of Chartered Certified Accountants
- Association of Convenience Stores
- Bagillt Car Spares
- Birmingham City Council
- Blackburn with Darwen Borough Council
- Bradford Council Licensing Services
- British Metals Recycling Association
- Broadland District Council
- Chartered Institute of Taxation – Low Incomes Tax Reform Group
- Chartered Institution of Wastes Management
- Cleveland Auto Recyclers
- Colchester Borough Council
- Environmental Services Association
- G4S
- Generation Rent
- GMB
- Institute of Licensing
- International Professional Security Association
- Leeds City Council
- Local Government Association
- Licensed Private Hire Car Association
- Licensed Taxi Drivers Association
- London borough of Newham
- LSL Property Services
- Manchester City Council
- National Association of Licensing and Enforcement Officers
- National Association of Taxi Users
- National Hairdressers Federation
- North Ayrshire Council
- Office of Tax Simplification

- Private Housing Officers Group
- Residential Landlords Association
- Rochford District Council
- Royal Borough of Greenwich
- Salford City Council
- Sandwell Council
- Shelter
- South West Tourism Alliance
- Suez Recycling
- Taunton Deane Borough Council
- The Tourism Alliance
- Tyre Recovery Association
- Uber
- Vehicle Recyclers Association
- Waste Management Brokers Association
- Wine and Spirit Trade Association
- Wood Recyclers Association