



**REPORT TO: EQUALITY AND DIVERSITY CORPORATE ADVISORY FORUM
ON 22 NOVEMBER 2013**

SUBJECT: RULING ON DIGITAL VAT FILING

BY: EQUAL OPPORTUNITIES OFFICER

1. REASON FOR REPORT

- 1.1 The Equality and Diversity Corporate Advisory Forum is asked to note and consider the implications of a recent ruling against HM Revenue and Customs on digital VAT filing and approve the recommendations in 2.1 which will ensure that the Moray Council is in compliance with equalities and human rights legislation.

2. RECOMMENDATION

- 2.1 **The Equality and Diversity Corporate Advisory Forum is asked to agree that the Equal Opportunities Officer will work with the various services to ensure that, where appropriate, Human Rights are included in the overall equality impact assessments.**

3. BACKGROUND

- 3.1 In a recent ruling the First-tier Tribunal Tax Chamber held that HMRC regulations which require the electronic filing of VAT returns were discriminatory. The electronic filing of VAT returns was made compulsory for all businesses from 1 April 2012. The only exceptions provided for in the legislation are where the Commissioners are satisfied that the person is a practicing member of a religious society or order whose beliefs are incompatible with the use of electronic communications, or where the taxpayer is in an insolvency procedure.
- 3.2 In Bishop Aztec Rhos & Brinklow vs HMRC Commissioners the judge held that the regulations which require online filing without providing an exemption for older people, people with disabilities and those who lived in areas which lacked broadband coverage, were in breach of the appellants' human rights – in particular Article 8 (right to respect for privacy and family life), Article 1 of Protocol 1 (protection of property) and Article 14 (prohibition of discrimination in relation to the previous 2 articles) and unlawful under European law.
- 3.3 The full 153 pages of the ruling can be found [here](#). What is clear from the ruling is that the grounds of discrimination under article 14 go far beyond those of the protected characteristics under the Equality Act 2010. In this

particular case it included computer illiteracy because of age or disability and living remotely in areas not covered by broadband. This meant that in order to comply these groups either had to incur extra costs (Art1P1) or rely on friends or family who had access to a PC, leaving them open to the risk of sharing private and sensitive information (Art 8). The ruling found that HMRC had not given sufficient justification nor had it provided sufficiently accessible and secure alternatives.

- 3.4 Increasingly, people are encouraged to use online facilities to access local authority services. This case is a reminder that, when such steps are taken in the future, it is important to ensure that those who don't have immediate access to IT can be supported in other ways.
- 3.5 When doing an Equality Impact Assessment it is worth remembering that if an activity has implications for the Convention rights, that a much broader view of protected groups need to be considered.

4. SUMMARY OF IMPLICATIONS

(a) Council / Community Planning Priorities

(b) Policy and Legal

(c) Financial implications

(d) Risk Implications

(e) Staffing Implications

(f) Property

(g) Equalities

(h) Consultations

5. CONCLUSION

5.1

Author of Report:
Background Papers:

Ref:

Signature: _____ Date : _____

Designation: _____ Name: _____