

Agenda Item	18
Report No	ECI/47/2023

The Highland Council

Committee: Economy and Infrastructure

Date: 17 August 2023

Report Title: Visitor Levy Bill

Report By: Interim Depute Chief Executive

1 Purpose/Executive Summary

1.1 This report describes the legislative framework which may provide Local Authorities discretionary powers to introduce a visitor levy as set out by the Visitor Levy (Scotland) Bill which was introduced to the Scottish Parliament on 24 May 2023. The public consultation associated with the Bill runs until September and this paper also includes proposed key issues which would form the Council's response.

2 Recommendations

2.1 Members are asked to:-

- i) **Note** the introduction of the Local Visitor Levy Bill to the Scottish Parliament and the summary of the content of the Bill; and
- ii) **Consider** and **comment** on the proposed key issues which will inform the Council's response to the Scottish Parliament's consultation on the Bill as set out in Appendix 1.

3 Implications

3.1 **Resource** – A cross service working group, made up initially of staff from the Economy and Regeneration and Revenues services, has been established for the duration of the parliamentary process. As work gets underway to implement a registration and collection system for a visitor levy there will be additional resource implications for the Council which will require to be considered by the services concerned.

3.2 **Legal** – There are no legal implications arising from this report at this time, but the introduction of a Visitor Levy requires the passing of legislation by the Scottish Government which will have implications for how the Council implements any visitor levy scheme in Highland.

- 3.3 **Community (Equality, Poverty, Rural and Island)** – There are no community implications arising directly from this report. It is however anticipated that the use of any future levy income raised will bring a range of benefits to communities and create a more sustainable tourism industry.
- 3.4 **Climate Change / Carbon Clever** – While there are no direct climate change / carbon clever implications arising directly from this report, addressing climate change with any investment from future levy income raised will be a key consideration.
- 3.5 **Risk** – There are no risk implications arising directly from this report at this stage.
- 3.6 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** – There are no health and safety risks arising directly from this report.
- 3.7 **Gaelic** – There is no Gaelic implications arising directly from this report. It is however anticipated with any levy income raised and invested, Gaelic will be included into all relevant projects and communications in line with Council policy.

4 Visitor Levy (Scotland) Bill

- 4.1 The Visitor Levy (Scotland) Bill was introduced to the Scottish Parliament on 24 May 2023. The Bill will now proceed through the normal three stage process with Committee and MSP scrutiny before being debated and decided upon by Parliament. It is not possible to give a definitive timeline on the different stages as certain Bills may have significant amendment, others less so. However, more recently it has typically taken up to 13 months for Bills to pass through the various Committee and Parliamentary stages involved.
- 4.2 The Bill, as proposed, allows local authorities to introduce a scheme requiring:-
- the payment of a levy on the purchase of overnight stays in certain types of accommodation;
 - the amount of the levy will be a percentage of the cost of the accommodation; and
 - the person liable to pay the levy is the person who provides the accommodation.
- 4.3 The Bill has seven parts to it, has accompanying Explanatory Notes and published financial, policy and delegated powers memoranda. As Members will appreciate, there is significant detail involved in the Bill and in these various accompanying documents. The explanatory and policy notes provided usefully explain the thinking behind the various aspects of the Bill. The most obvious ones are detailed and discussed below.
- 4.4 Overnight Accommodation – defined as 6 or more hours between 12 noon on one day and 12 noon the next including midnight) for which a payment is made (includes hotels, hostels, guesthouses, B&Bs, self-catering accommodation, and pitches on campsites) It is stated that this list is not exhaustive, and the local authority could, if it wishes, exempt particular types of accommodation.

However, it is explicit that the Bill does not include accommodation in vehicles or onboard vessels that are undertaking a journey involving one or more overnight

journeys. Hence, the provision of a cabin on a ferry or overnight sleeper train, or the hiring of a campervan will not typically be subject to a levy. If at a boat mooring or staying in a campsite, then the levy will be applicable.

- 4.5 Percentage of cost of accommodation - A percentage rate rather than a flat rate has been chosen to ensure that the levy paid is proportionate to the cost of accommodation. This is considered by Scottish Government as a progressive and fair approach reflecting that the level of levy paid reflects the amount of money a visitor is prepared to spend on their accommodation. The rate will be set by the local authority.
- 4.6 Liable Person - The owner of the premises that have been booked for overnight accommodation is the person to pay the levy. This links liability clearly to a property within the Council area rather than on the visitor – thereby avoiding all the challenges involved if/when enforcing the levy.
- 4.7 Exemption and rebates - The local authority is able to put in place exemptions as it thinks is appropriate, for example, travel/accommodation to receive health care including carers/next of kin. National guidance will be prepared to inform this.
- 4.8 Levy collection, enforcement, penalties etc. - The Bill provides for and puts in place the necessary powers to enable the local authority to collect, enforce and issue penalties. The Scottish Government in doing so have sought to replicate the enforcement tools and measures that are in place for existing local taxes, such as council tax and non-domestic rates.

5 Introduction and use of a Levy

- 5.1 If a local authority is minded to introduce a levy scheme, the Bill sets out a range of steps that must be first undertaken:-
- prepare and publicise an outline of the proposed scheme, including a statement on objectives and assessment of impact;
 - consult with a range of community, business, and organisational representatives; and
 - prepare and publicise a report summarising consultation responses received and whether or not it plans to proceed. The Bill sets out the required content of a scheme.
- 5.2 After a local authority has made the decision to introduce a levy, the Bill proposes that it must wait at least 18 months (after the date on which it decided to introduce the scheme), before it can commence. Given the Committee and Parliamentary stages, Royal Assent and then the requirement for a local authority to conduct a consultation and assess impacts before a decision is taken to implement a levy scheme, the Scottish Government have indicated that the earliest a levy could be applied in Scotland would be in 2026.
- 5.3 The levy, net of any administration costs, must be used by a local authority for the purpose of developing, supporting and sustaining facilities and services which are substantially for, or used by, those visiting the area for leisure purposes. Facilities and services which are used by residents as well as visitors could receive funding depending on the assessment undertaken by the local authority as to whether the facility or service is substantially used by visitors. The Scottish Government indicate that the local authority should have regard to any local tourism strategy when considering how best to use the funds raised.

5.4 The Scottish Government announced the establishment of an Expert Group, facilitated by Visit Scotland to develop non statutory Guidance and Best Practice for local authorities in using this new discretionary power. It was reported that representatives from the tourism industry, COSLA and other partners will be invited. A request has been made to Visit Scotland and the Scottish Government for a representative from The Highland Council to input directly to the Expert Group given the importance of the region to the sector and the work which the Council has done to date.

6 A Highland Tourism Levy

6.1 A strategic priority contained within the Council's Administration Programme 2022-2027, is to work with partners to address service delivery challenges with a positive approach to change. One of the identified actions is to implement the tourism levy as an enabler to a vibrant attractive visitor experience.

6.2 In 2019, the Council undertook an extensive consultation on the visitor levy which resulted in a total of 6,600 responses from residents, businesses and visitors to the region. Whilst, overall, respondents were supportive of the levy being introduced in Highland, there were notable variations in the levels of support between the residents, businesses and visitors. The exercise and the subsequent agreement of the Council to the principle of introducing a visitor levy in Highland, identified a number of issues to be considered. These included protecting levy revenue for 'tourism uses,' geographical and strategic allocations, encompassing more than just those visitors staying in paid accommodation, ability to identify exceptions, and a flat rate over a percentage levy rate.

6.3 Now that the terms of the Bill are known, the Council's cross service working group are currently reviewing the content of the Bill and identifying the workplan/resource required to enable the Council to undertake the necessary steps to ensure that it is able to deliver on its Programme Commitment to introduce a levy.

6.4 The Scottish Parliament's Local Government, Housing and Planning Committee issued a 'call for views' on the Bill on 26 June 2023 with a deadline of 1 September for responses. That deadline has now been extended by 2 weeks to 15 September 2023. The proposed responses to the consultation questions are set out in **Appendix 1**. Members are being asked to consider and comment on these.

6.5 The Parliament has also created an online 'Citizen Space' which allows for more informal comments to be made on the key issues relating to the Bill. At the time of writing, it has received over 300 comments.

6.6 As opportunities arise the Council will engage proactively with Scottish Government and any Parliamentary Committees to ensure issues relevant to Highland are correctly identified and fed into the formal Parliamentary stages but also, are incorporated as required in associated National Guidance and regulation which will follow.

Designation: Interim Depute Chief Executive

Date: 24 July 2023

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Background Papers: [Visitor Levy \(Scotland\) Bill and supporting documents](#)
Visitor Levy (Scotland) Bill - [Call for Views 'Citizen Space'](#)

Appendices: Appendix 1 – Scottish Parliament's Call for Views – Questions
and Recommended Responses

Scottish Parliament's Call for Views
Questions and Recommended Responses

The proposed key points which would form part of the Council's response to each of the questions are bullet pointed below.

Q1) What are your views on whether local authorities should have a power to place a levy (a type of additional charge or fee) on top of the price charged for overnight accommodation in their area?

- The Highlands is one of the world's most famous and well-regarded visitor destinations. To ensure it remains a high-quality destination, more investment is needed in local tourism facilities, infrastructure and services.
- Concerns of over tourism is an ongoing issue in certain areas. The marked increase in visitor numbers have increased these concerns and demonstrated the need for investment in tourism infrastructure to ensure the visitor experience is a positive one for tourists and for our communities. Due to these pressures and the ongoing challenges with local authority budgets, there is a need for the Council to have the ability to have sufficient resources to tackle these challenges and improve the tourism experience for everyone in the region.
- In 2019 The Highland Council engaged in a public visitor levy consultation, the outcome of which resulted in a decision to support 'in principle' the introduction of a visitor levy.
- Funds such as the Rural Tourism Infrastructure Fund (RTIF) have been a greatly welcomed and had an important impact in certain parts of Highland. However, they have only delivered part of the solution and grant funds such as these are often only temporal, and there is a reliance on the Government to make them available.
- The Council is the most appropriate and well-placed organisation to implement and collect a visitor levy. The Council supports the principles of local decision making, particularly to help the people affected most by the challenges of local tourism. The Council therefore strongly agrees with the Bill Policy Memorandum statement of empowering local government and strengthening local democracy by giving Councils the discretionary fiscal power to implement a levy to support the region.

Q2) Given that the Bill is likely to result in different councils introducing a visitor levy in different ways or not doing so at all, what impact do you think the Bill will have in your area and across different parts of Scotland? For example, this could include any impact (positive or negative) on local authority finances, local accountability and flexibility, businesses, or on numbers of overnight visitors.

- The Council recognises that, along with significant increases in visitor numbers, there are major challenges facing the sector and the introduction of a levy needs to be carefully approached to avoid any negative impact on the industry.

- As set out in the response above in Question 1, the ability to derive a consistent and reliable income stream which can be tailored to the needs of Highland will have significant benefits for visitors and communities. Unlike grant funds such as RTIF which have a series of particular criteria and conditions to be met, a levy could be designed to address a wider range of impacts and priorities.

Q3) Do you agree with the Bill's definitions of a "chargeable transaction" and of "overnight accommodation"? If not, what definitions do you think would be better?

- Whilst the Council has no objections to the definition of "chargeable transaction" and "Overnight Accommodation," it does not agree with the list of 'types of accommodation' as it currently excludes wild campers and motorhomes when not staying in paid sites as well as cruise visitors who berth in Highland. These were two of the highest ranked responses to be levied in the Highland 2019 consultation, with many respondents arguing that these should be included as part of the levy to ensure a fair and level playing field. The Council urges the Scottish Government to revisit this issue.

Q4) What are your views on the Bill's proposal to allow councils to set the levy as a percentage of the chargeable transaction? Are there any other arrangements that you think might be better? If so, please give examples and a short description of the reasons why.

- Responses to the Highland Council consultation in 2019 showed greater support for a flat rate levy over a percentage rate. The Council considers that the Bill should be amended to remove the levy as a percentage of the cost of accommodation, to be replaced by a fixed cost levy, possibly banded, to reflect the variation in accommodation types and cost of rooms.

Q5) What are your views on the absence of an upper limit to the percentage rate (which would be for councils to decide) and that it could be different for different purposes or different areas within the local authority area, but not for different types of accommodation?

- Each local authority areas will be experiencing tourism at different levels. It therefore is appropriate that those experiencing more pressures in their area can decide to implement a different levy framework others areas.
- The Highland Council is pleased to see the Scottish Government have confidence in local authorities to set their own percentage rate. The Council would set a rate after extensive consultation and apply any percentage rate in a responsible way.

Q6) The Bill would allow councils to apply local exemptions and rebates to some types of guests if they choose to. It also allows the Scottish Government to set exemptions and rebates on a national basis where it considers it appropriate. What are your views on the Bill's proposals in relation to exemptions and rebates?

- The Highland Council agrees that there will be circumstances where applying a visitor levy is not appropriate and it supports the policy intention that local authorities can place exemptions as appropriate.

Q7) Do you agree with the Bill's requirements around the introduction and administration of a visitor levy scheme, including those relating to consultation, content, and publicity (Sections 11 to 15)? Are there any other requirements you think should be met before any introduction of the levy in a given area?

- Whilst the Highland visitor levy consultation in 2019 provided a solid basis for considering the principles and potential make of a levy, the Council recognises the need for further engagement with all those who will be affected by its introduction in Highland.

Q8) What are your views on the Bill's requirements for local authorities in respect of records keeping, reporting, and reviewing? (Sections 16, 18 and 19)

- The Council agrees that there should be a transparent process for records, reporting, reviewing on the scheme and welcomes discussions with other interested local authorities, government officials and the Parliamentary Committee on how best this should be implemented. However, the practicalities and costs of doing so need further consideration.

Q9) The Bill requires that net proceeds of the scheme should only be used to "achieve the scheme's objectives" and for "developing, supporting, and sustaining facilities and services which are substantially for or used by persons visiting the area of the local authority for leisure purposes." Do you agree with how the Bill proposes net proceeds should be used and if not, how do you think net proceeds should be used?

- The results of the 2019 Council-led consultation showed that 70% of respondents support any future levy revenue being ring-fenced for 'tourism uses' rather than the Councils general budget.
- The Council generally supports this position and with the scheme objectives. This will ensure that tourism investment in the region is significantly increased and have a positive impact on local communities/environment which are affected by tourism capacity.
- However, the Council believes that a fundamental focus of the levy must be on a physical infrastructure, given the challenges faced by the Council in maintaining and upgrading the vast network particularly in the Highlands. Not only will improvements be informed by the Council's own Tourism Strategy, Tourism Infrastructure Plan, but also in the context of Local Place Plans and partner agency plans.

Q10) What are your views on the Bill's requirements for accommodation providers to identify the chargeable part of their overnight rates, keep records, make returns, and make payments to relevant local authorities? Are there any other arrangements that you think would be better, for example, by reducing any "administrative burden" for accommodation providers?

- The Council agrees with the proposed requirements set on accommodation providers. However, further investigation is required to work through the implications of the Bill and how best it would be practicably implemented in Highland.

Q11) Do you have any comments on Part 5 of the Bill (Enforcement and Penalties and Appeals)? Are there any other arrangements that you think might be more appropriate in ensuring compliance and reducing the risk of avoidance?

- Further investigation is required to work through the implications of the Bill and how best it would be practicably implemented in Highland.

Q12) Do you have any comments on the issues that the Scottish Government proposes to deal with in regulations after the Bill has been passed? (Set out in the Delegated Powers Memorandum) Are there any that you think should be included in the Bill itself rather than being dealt with by regulations and if so, why?

- The Council does not foresee any issues with the proposed delegated powers for the subordinate legislation provisions provided in the Bill.

Q13) Do you have any comments on the accuracy of the estimated costs for the Scottish Government, local authorities, accommodation providers and others as set out in the Financial Memorandum and Business and Regulatory Impact Assessment (BRIA)?

- Further investigation is required to work through the implications of the Bill and how best it would be practicably implemented in Highland.