

ARGYLL AND BUTE COUNCIL OFFICER RESPONSE TO THE SCOTTISH
GOVERNMENT'S VISITOR LEVY (SCOTLAND) BILL CONSULTATION

1.0 INTRODUCTION

- 1.1 The purpose of this paper is to provide the Environment, Development and Infrastructure (EDI) Committee with an officer response (to be submitted by 15th September) to the Scottish Government's Visitor Levy (Scotland) Bill consultation, see: [Visitor Levy Bill - call for views - Scottish Parliament - Citizen Space](#).
- 1.2 The response includes input from various council services, including Development & Economic Growth, HR, Finance and Legal (**Appendix 1** provides the detailed Argyll and Bute Council officer response to the consultation questions).

2.0 RECOMMENDATIONS

The Environment, Development and Infrastructure Committee is asked to approve the officer response to the Visit Levy (Scotland Bill) for submission.

3.0 DETAIL

Local Visitor Levy Context

- 3.1 The Scottish Government, as part of its Programme for Government, announced that it will bring forward legislation (Bill) to give local authorities the power to introduce a Local Visitor Levy (LVL).
- 3.2 The proposed Bill allows local authorities to introduce a LVL scheme as follows:
- 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.
- 3.3 The Bill comprises of seven parts, with detailed accompanying explanatory notes and published financial, policy and delegated powers memoranda. The documents explain the thinking behind the various aspects of the Bill. The key issues are outlined below and provides useful context for the consultation questions and associated Argyll and Bute Council response presented in **Appendix 1**:

- **overnight accommodation:** defined as a period, including any combination of periods, of six or more hours between 12 noon on one day and 12 noon on the following day, which includes midnight, for which a payment is required (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 on board 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.

The LVL scheme must also specify when a purchase of overnight accommodation is to give rise to the levy. This might be the whole of the scheme period, or a different period or periods. For example, it might specify particular dates in a calendar year when the levy is applied (for example, the period 'beginning with the first Monday in April and ending with St Andrew's Day', 30th November).

- **percentage 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.
- **liable person:** the owner of the premises that have been booked for overnight accommodation is liable to collect the levy and subsequently pay the local authority. This links liability clearly to a property within the council area rather than on the visitor.
- **exemptions 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 exemptions and rebates.
- **levy collections, 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 has sought to replicate the enforcement tools and measures that are in place for existing local taxes, such as council tax and non-domestic rates.

Local Visitor Levy Implementation

3.4 The Bill sets out a range of steps that must be taken by a local authority prior to the introduction of a LVL as follows:

- 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.

- 3.5 In terms of timescale: a local authority may not bring a LVL scheme into force until at least 18 months after the date on which the local authority decides to introduce a scheme (i.e. 18 months after the date on which it publicises a report stating that it intends to proceed with the proposal to introduce a LVL scheme). Due to the required governance stages for the Bill, the Scottish Government has indicated that the earliest a levy could be applied is in 2026.
- 3.6 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 has indicated that the local authority should have regard to any local tourism strategy when considering how best to use the funds raised.

Highlands and Islands Regional Economic Partnership Senior Officers' Group

- 3.7 Argyll and Bute Council's Economic Growth Manager has been asked to lead on the LVL issues through establishing a sub-group of the Highlands and Islands Regional Economic Partnership Senior Officers' Group (H&I REP SOG) with nominated attendees from all seven local authorities (including North Ayrshire) and VisitScotland. VisitScotland has been asked to establish an Expert Group to develop non statutory Guidance and Best Practice for local authorities in using this new discretionary power.
- 3.8 The first meeting of the LVL sub-group is on Monday 28th August where consideration will be given to a regional approach (recognising local variations) to consultation, implementation, use of the levy, regional representation on the Expert Group and collective issues to highlight with regard to the response to the Bill consultation (**Appendix 1** updated appropriately further to the this meeting).

4.0 CONCLUSION

- 4.1 There is still a considerable amount of time and possible changes to the Bill before a LVL could be introduced. This time will allow the council to review and share processes, advertise its intention to impose the levy and most significantly consult with the tourism industry, colleagues in other local authorities and the general public.

5.0 IMPLICATIONS

- 5.1 Policy – implementation of a Local Visitor Levy (LVL).

- 5.2 Financial – none directly arising from this report that said the levy could raise a substantial annual income for the council that will require to be appropriately managed and delivered.
- 5.3 Legal – all appropriate legal implications will be taken into consideration.
- 5.4 HR – none.
- 5.5 Fairer Scotland Duty - the Fairer Scotland Duty, Part 1 of the Equality Act 2010, came into force in April 2018. The duty places a legal responsibility on particular public bodies in Scotland, such as Argyll and Bute Council, to pay due regard to (actively consider) how they can reduce inequalities of outcome, caused by socio-economic disadvantage, when making strategic decisions and how this has been implemented.
 - 5.5.1 Equalities - all interventions will comply with all Equal Opportunities/Fairer Scotland Duty policies and obligations.
 - 5.5.2 Socio-economic Duty - all project activities will comply with the council's socio-economic duty.
 - 5.5.3 Islands - VL is relevant to the whole of Argyll and Bute including the island communities.
- 5.6 Climate Change – LVL funded interventions will need to consider the net zero transition agenda.
- 5.7 Risk – failing to respond to this consultation, will limit the influence on the concerns with the content of the LVL (Scotland) Bill.
- 5.8 Customer Service – None.

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August 2023

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APPENDICES

Appendix 1: Proposed Officer Response to the Visitor Levy (Scotland) Bill

APPENDIX 1: PROPOSED OFFICER RESPONSE TO THE VISITOR LEVY (SCOTLAND) BILL

The proposed Argyll and Bute Council officer response to the consultation questions are as follows:

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?

Argyll and Bute Council is in favour of applying a visitor levy in order to mitigate the adverse effects of increased tourism traffic throughout our council area. Funds gathered can be used to supplement local budgets to create a more enjoyable visitor experience and support local communities. The council is the most appropriate and best-placed organisation to implement and collect a visitor levy across the whole of the council area.

Funds such as the Rural Tourism Infrastructure Fund (RTIF) have been greatly welcomed and had an important impact in certain parts of Argyll and Bute. However, they have only delivered part of the solution and competitive, grant funds such as these are project driven with limited impact across a wider geographical area. The levy offers an opportunity to both take a holistic approach to the matter of tourism infrastructure and implement a longer term approach based on the future certainty of funding being in place rather than temporary Government initiatives.

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 levy offers considerable potential to deliver a positive and welcoming experience for tourists visiting the area together with local residents that will also make use of improved infrastructure and visitor services. The levy needs to be delivered through a local decision making process administered by individual local authorities. That said, Argyll and Bute Council is working with the Highlands and Islands Regional Economic Partnership Senior Officers' Group and SLAED, in an effort to collaborate with other local authorities and VisitScotland on the implementation of a local visitor levy (recognising local and regional variations).

Furthermore, the council will consult with internal departments, local industry bodies, local communities and other appropriate national agencies in order to minimise any potential negative impact of implementing the levy in Argyll and Bute.

With reference to the response above of Question 1, the ability to derive a consistent and reliable income stream which can be tailored to the needs of Argyll and Bute 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?

Yes, as a 'chargeable transaction' is defined as a purchase of the right to reside in or at overnight accommodation for a period of one or more nights. However, further thought needs to be given to 'types of accommodation' as it currently excludes motorhomes when not staying in paid sites as well as cruise visitors who berth and/or discharge passengers in Argyll and Bute ports.

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.

The council considers that the Bill should be amended to offer the choice to councils to either introduce the levy as a percentage of the cost of accommodation, or by a fixed cost levy, possibly banded, to reflect the variation in accommodation types and cost of rooms.

It should be noted that the auditing of a percentage levy could be problematic as there are many different rates hotels charge, e.g. some rates include dinner that would need to be excluded, thus the levy payment could be more open to fraudulent activity.

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?

The rate applied, with no upper limit, should reflect the ability and appetite for visitors to pay the levy and not be counterproductive to the sector by deterring visitors. The council will set a rate after extensive consultation with key stakeholders.

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?

Exemptions and rebates, where applied are a critical part of any payment system. This will help attract visitors with particular needs and issues. Local knowledge is also a key requirement to successfully apply exemptions etc. In short, councils should have full flexibility to introduce exemptions and rebates based on local needs and the Scottish Government should take this into account when designing a national system.

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?

Yes, in general Argyll and Bute Council officers agree with the Bill's requirements. However, the (at least) 18 month timescale imposed on local authorities from approval to bringing a LVL scheme into force is too long. In addition, the consultation process may bring

considerations to light that will require further scrutiny before the consultation is published.

No, the council considers that no other requirements should be met prior to the implementation of the levy if the council chooses to do so, including the implementation of any waiting period.

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)

Argyll and Bute already keeps its accounts in accordance with the requirements of the Scottish Government. It is important to note that funds accrued from the LVL may not be paid into the local authority bank account in time for inclusion in a given financial year. For example, a tourism business may collect a LVL in the period up to the end of March in a given year. This may not be paid into the local authority bank account until well into the new financial year.

It is important to note that not all of any funds accrued as part of a LVL could be spent within the 18 month period. The local authority may wish to review funds collected at the end of the first 12 month collection period and take a longer term approach to spending the funds than the noted 18 months.

Is the three year Review of Scheme significantly different to the requested Annual Reports?

In short, whatever is put in place needs to be simple and easy to administer.

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?

There is clearly not a “one size fits all” process for use of the proceeds. For example, many of the local authorities have no island communities and the particular stresses and strains that tourism can place on these communities. All services benefit from tourism and therefore local authorities need full flexibility around how the money is spent – no ring fencing - taking into account (but not limited to) local geographic and transport challenges.

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 provisions maintain transparency on charging and recovery – though this should be in a manner that allows flexibility across the range of providers so that smaller operators do not carry a disproportionate administrative burden as a result.

Officers support requirements for accommodation providers to identify the chargeable part of their overnight rates, keep records, make returns, and make payments to relevant local

authorities but that the mechanism for doing this should be proportionate to the size of the business in terms of general costs and the administrative burden associated with it. Existing local tax administration systems could be adapted to provide an online portal to give businesses access for gathering the information and provide back office functionality for the council to automate the issuing of bills and debt recovery processes.

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?

The power to impose penalties on certain persons in accordance with the provisions in this Chapter is a discretionary power which allows local authorities to decide on whether or not to impose where liability arises - statutory guidance on the exercise of that discretion should be provided to ensure consistency of approach.

The position on proposals for Review and Appeal are noted.

These are processes which may turn out to be lengthy and complex and will potentially require significant additional resource.

Section 65 and 66 of the Bill gives local authorities the power to apply for summary warrant for enforcement purposes. This is welcomed and very important because it makes recovery of any debt much more efficient.

The application of penalties should be clear and applicable across Scotland to ensure consistency/fairness and reduce the risk of challenge/appeal.

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?

None at this time.

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)?

It is very difficult to comment on the accuracy of these figures without doing an extensive consultation exercise within the local authority. It is also dependent on the software we are able to use. It is proposed that the administration of this within the local authority should sit with the Revenue and Benefits service who already have a system in place for billing NDR and BIDS levies therefore it is possible this could be adapted without a huge financial implication.

The council already sends thousands of items to the Sherriff Court annually and has the software to do this should this be required to recover any arrears of visitor levies. There obviously would be staffing costs to administer the scheme within the team but by adapting existing systems and processes already in use by the Revenues team then the system

costs should hopefully not be significant.

Overall, whilst there is high level information as the likely type of costs which may be attributable to local authorities, there are a number of factors which require to be ascertained before a holistic view can be taken as to the direct financial implications, both for businesses but also for local authorities. The costs identified have a large variation and in general is difficult to measure against in terms of individual implications for each authority.