



DEVELOPMENT & TRANSPORT POLICY DEVELOPMENT & SCRUTINY PANEL

TRANSIENT VISITOR LEVY - PROPOSED CONSULTATION RESPONSE

REPORT BY HEAD OF PLANNING ECONOMIC DEVELOPMENT & REGNERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise the Panel of the Scottish Government's Consultation on the Principles of a Local Discretionary Transient Visitor Levy (TVL) or Tourist Tax.

B. RECOMMENDATION

It is recommended that the panel notes and considers the following recommendations which are intended to be submitted to the Council Executive for approval:

1. Notes the terms of the consultation; and
2. Agrees this report as the council's response to the consultation

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs Being honest, open and accountable Making best use of our resources
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Policy: As part of the 2019-20 Draft Budget, the Scottish Government committed to consult on the principles of TVL. Legal: May have implications going forward
III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	Linked to council's own SOA
VI	Resources - (Financial, Staffing and Property)	There could be significant financial implications in terms of TVL liability, billing and collection.

VII	Consideration at PDSP	This is the first consideration by PDSP.
VIII	Other consultations	Finance. Visit West Lothian has been encouraged to respond.

D. TERMS OF REPORT

D.1 Background

The Scottish Government published its Consultation on the Principles of a Local Discretionary Transient Visitor Levy or Tourist Tax on 9 September 2019. The consultation seeks answers to a set of 14 questions by the closing date of 2 December 2019.

The consultation comprises six chapters plus appendices:

Chapter 1 Introduction & background
Chapter 2 The policy context
Chapter 3 The balance between local autonomy and national consistency
Chapter 4 What activity should a visitor levy apply to?
Chapter 5 Local decision making
Chapter 6 Further considerations

A short overview of each chapter is given below.

D.2 Chapter 1 Introduction & Background

Kate Forbes MSP, Minister for Public Finance and Digital Economy highlights the importance of tourism to the Scottish economy noting that over 200,000 people are employed in the sector, and affirming the Scottish Governments commitment to maintaining and enhancing the tourism sector's economic, social and environmental contributions

The chapter states that in 2018, there were over 15.3 million overnight visits to Scotland consisting of 11.8 million domestic visitors (from within UK) and over 3.5 million overseas visitors as well as just under 138 million day visits.

The chapter notes the pressures that these visitor numbers have created in some areas of Scotland, the calls from COSLA for the powers to create a local tourist tax and the significant opposition from representatives of the tourism sector.

In West Lothian there were 344,680 overnight visitors, with 142,500 staying in fee paying accommodation and 202,200 staying with friends or relatives. (Source; 2017 STEAM report). This represents an opportunity to examine the proposed Visitor Levy from a West Lothian context.

D.3 Chapter 2 The Policy Context

The chapter develops the three key elements of policy context that drive the Government's thinking around the development of a visitor levy. These are:

- Support the sustainable growth of the tourism sector across Scotland, particularly in cities and regions which have experienced high visitor numbers in recent years.
- Strengthen local democracy through increased local decision making and more empowered communities.
- Create a new local tax power which is consistent with the Government's overall approach to taxation.

The implementation of a Visitor Levy in West Lothian has the potential to raise approximately £250,000 per annum (Source; 2017 STEAM report overnight visitor numbers, £2 per room per night) that could be invested to support and attract tourism. Consideration would need to be given to how the levy is calculated, collected and invested.

D.4 Chapter 3 The Balance between Local Autonomy and National

This chapter recognises that tourism benefits and challenges vary across the country, due to factors such as population, demography and rurality. It therefore suggests that the appropriate body to levy a tourist tax would be local authorities.

It is stressed that local authorities would be under no obligation to implement a visitor levy and that the initial position of the Scottish Government would be that there are some overarching design principles set out in national legislation which must be followed by all local authorities that opt to introduce a visitor levy.

West Lothian is well placed geographically to benefit from Edinburgh as a tourist destination. 'Over tourism' in the capital has led to visitors looking for accommodation further out from the city itself and West Lothian has excellent transport links to/from Edinburgh.

D.5 Chapter 4 What Activity Should A Visitor Levy Apply To?

This chapter notes that overnight stays in commercially let accommodation would be liable for the levy in the Bill. It is noted that whilst the Scottish Government is not currently minded to expand the visitor levy beyond overnight stays, it does express a wish to explore both the desirability and feasibility of applying a visitor levy other than in relation to overnight stays before making a final decision. Other visitor activities that are suggested are day visitors to a local authority area; cruise ship visitors who disembark for a day; and wild or rough camping, including motorhomes or caravans parked and occupied overnight in places that are not formal campsites or parking places.

The chapter notes that there are a number of different ways that a tourism tax could be applied; these include a flat rate per person per night; a flat rate per room per night; a percentage of accommodation charge; and a flat rate per night dependent on the quality of accommodation.

The Consultation makes no decision on the application of the tax and invites views from all perspectives, on each basis of charging described above. Views are also sought on whether the basis of the charge should be determined nationally, or for a local authority to decide.

The implications of VAT on the tourism tax are highlighted, noting that all but one of the EU member states that operate a tourist tax applied lower rates of VAT on accommodation compared to the UK. The consultation states that it is likely that VAT would be payable on the base price plus levy amount.

The Consultation does make it clear that there are groups that the Scottish Government considers it would be unacceptable for a local authority to impose a visitor levy on under any circumstances. These include the following: Homeless people, Asylum seekers/refugees, Victims of domestic abuse and people who have been rehoused temporarily as a result of fire/flood etc.

A range of other groups that have been suggested for exemption are: Disabled people and registered blind/deaf and their carers, Those travelling outwith their local authority area for medical care, and their carers or next of kin, Children and young people under a certain age, Students, Long stay guests (e.g. people staying for more than 14 days), Business travellers, Local residents (paying for overnight accommodation within the area in which they reside permanently).

West Lothian attracts 800,000 day visitors per annum (Source; 2017 STEAM report) and consideration should be given to whether this group should be included in a version of a Visitor Levy.

D.6 Chapter 5 Local Decision Making

The chapter asks what requirements a local authority should have in place before it can decide to implement a visitor levy. These measures could include; Produce an initial statement of intention to consider introducing a visitor levy, A timeframe for introduction of at least one financial year following conclusion of consultation and engagement activities,

Have held a consultation in their local area to gather views from all those who will be affected by the visitor levy, Have conducted required impact assessments, Have assessed the administrative burden on businesses and taken steps to minimise this, If the legislation allows the rate to be set locally the local authority has demonstrated why the chosen rate of the visitor levy is optimal for that area, Have appropriate mechanisms in place to allow visitor levies collected to be remitted to the local authority, Have made information about the visitor levy and how to pay it available and in the public domain, for both business and visitors, The approach to collaborative decision making on revenue spending is set out in the public domain, Establish an approach to monitoring and publically reporting revenues raised and their expenditure on an annual basis, The approach to monitoring and reporting on the impact of the visitor levy on an annual basis, is clearly set out in the public domain,

Establish an approach to evaluating and publically reporting the impact of the visitor levy, within a reasonable period after introduction.

The Consultation raises the question of what extreme circumstances would be appropriate for the Scottish Government to prevent a local authority from applying a visitor levy, whilst acknowledging the commitment to enhance local decision making.

It is proposed that any receipts raised must fund local authority expenditure and should be spent on tourism related activities including responding to tourism pressures, in the local authority area and not be subject to any pooling or redistribution.

The Consultation states that the Scottish Government is of the view that, where local tourism strategies exist, local authorities should allocate revenues from visitor levies towards delivering the priorities articulated within these strategies.

There are 60 providers of commercial short term let accommodation in West Lothian and 2,672 beds available. (Source; 2017 STEAM report). As the industry body, Visit West Lothian (VWL) is well placed to consult with the sector on the Visitor Levy.

Visit West Lothian is due to launch its new Action Strategy for 2021 – 2025 in Summer 2020, therefore the timing of the Visitor Levy consultation in West Lothian would work well.

D.7 Chapter 6 Further Considerations

The concluding chapter questions whether the term 'visitor levy' is appropriate for the new powers in the consultation documents, if it avoids negative or incorrect inference.

The importance of the visitor being aware of the levy, how and when they will pay it is highlighted.

It is noted that the power to implement the levy would not be available to local authorities until Summer 2021 at the earliest and the prospective transitional measures that would need to be put in place for bookings paid for in advance would need to be discussed.

The impact assessments that are required are:

- Business and Regulatory Impact Assessment (BRIA)
- Equality Impact Assessment (EQIA)
- Data Protection Impact Assessment (DPIA)

A partial BRIA already completed indicates that the main groups that will be affected by a visitor levy are: Visitors (both domestic and international), Tourism accommodation providers and their employees, Other tourism businesses and wider economy, Local residents and general public, Local Authorities.

The key types of impact on these groups which have been identified include: Visitor behaviour (spend less, stay less time, go elsewhere), Business behaviour (reaction to levy and reaction to change in visitor behaviour), Reduced visitor spend and knock on economic impacts more widely, Improved environment for local community, Improved perceptions of tourism held by public, Increase in revenue available for investment by local authorities, reputation of Scotland as a welcoming place

From a West Lothian perspective, consideration should be given to both the positive and negative impacts of a Visitor Levy.

- Without financial support, Visit West Lothian will not be able to continue its work in promoting West Lothian as a tourism destination.
- Visitor Levy is generally considered in areas of 'over-tourism', it would be difficult to argue that this applies in West Lothian.
- The price an accommodation provider charges is subject to market rate. In order to remain competitive a business cannot increase above this rate and still offer the same product without losing custom. It is therefore likely that the business would choose to absorb the TVL cost as opposed to passing it on the consumer.
- There are no major issues around visitor infrastructure that currently need addressed.
- Should the Visitor Levy be applied in other local authority areas, would West Lothian fall behind in terms of support for the sector.

E. CONCLUSION

The Consultation on the Principles of a Local Discretionary Transient Visitor Levy or Tourist Tax details the consideration required ahead of the decision whether to implement a Visitor Levy in West Lothian.

F. BACKGROUND REFERENCES

<https://www.gov.scot/publications/consultation-principles-local-discretionary-transient-visitor-levy-tourist-tax/pages/5/>

2017 STEAM Report – available via Committee Services

Appendices/Attachments:

Appendix 1 Consultation Response

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5 November 2019

Appendix 1: TRANSIENT VISITOR LEVY - PROPOSED CONSULTATION REPONSE

Q1. Do you think that the design of a visitor levy should be set out:

a) wholly in a national framework

b) mostly at a national level with some local discretion

c) mostly at local level with some overarching national principles.

Please provide a reason (or reasons) for your answer:

Scottish Government is committed to legislating to provide local authorities with the power to apply a discretionary visitor levy.

Q2: Is an overnight stay in commercially let accommodation an appropriate basis for applying a levy on visitors?

Yes

No

Don't know

Please provide a reason (or reasons) for your answer:

This is consistent with similar schemes in other countries.

Q3: Which of the following activities do you think a visitor levy could be robustly applied to and enforced, and how?

Tick all boxes that apply and provide reasons where possible

Day visitors not staying overnight

Please explain how a visitor levy could be applied and enforced on day visitors:

Cruise ship passengers who disembark for a day before re-joining the vessel

Please explain how a visitor levy could be applied and enforced on cruise ship passengers:

Wild or rough camping, including in motorhomes and camper vans

Please explain how a visitor levy could be applied and enforced on rough camping, including motorhomes and camper vans:

None of the above

Q4: The consultation paper sets out four options for the basis of the charge (section 5.1).

Please tick which one you think would work best in Scotland? (Tick one box below)

Flat rate per person per night

Flat rate per room per night

A percentage of total accommodation charge

Flat rate per night dependent on the quality of accommodation

This is consistent with similar schemes in other countries.

Q5: In addition, for each option in Q4 what are: the considerations for accommodation users, accommodation providers and local authorities.

Flat rate per person per night

Implications for accommodation users: transparent scheme

Implications for accommodation providers: potential administration burden

Implications for local authorities: additional income to support local tourism but additional billing, collection and enforcement challenges

Flat rate per room

Implications for accommodation users:

Implications for accommodation providers:

Implications for local authorities:

A percentage of total accommodation charge

Implications for accommodation users:

Implications for accommodation providers:

Implications for local authorities:

Flat rate per night dependent on the quality of accommodation

Implications for accommodation users:

Implications for accommodation providers:

Implications for local authorities:

Q6: Do you think that the basis of the charge should be set out in a national framework, or be for a local authority to decide?

Set out in a national framework

Decided by local authorities

Don't know

Consistent across Scotland, easy for visitors to understand.

Q7: Do you think that the rate of the visitor levy should be set out in a national framework or should it be for the local authority to decide?

Tick one box:

Set out at national level

Decided by local authorities

Don't know

Consistent across Scotland, easy for visitors to understand.

Q8: What factors should be considered to ensure the rate of the visitor levy is appropriate?

Consider what is charged in other countries e.g. France, Spain.

Levy should not be a disincentive to tourism

Q9: If the rate of the visitor levy were to be set by individual local authorities, should an upper limit or cap be set at a national level?

Tick one box

Set out at a national level

Decided by local authorities

Don't know

Consistent with local democracy.

The Scottish Government is of the opinion that there are some groups that it would be unacceptable to impose a visitor levy on under any circumstances. These include:

- Homeless people
- Asylum seekers/refugees
- Travelling communities (such as Gypsy travellers and other traveller communities)
- Victims of domestic abuse placed temporarily in refuges or short term accommodation because their normal home is unsafe for them to stay in
- Those placed temporarily in refuges or short term accommodation because their normal home is unsafe for them to stay in.

Beyond these groups, other groups could be included for exemption either at the national or local level.

Q10: Do you think that all exemptions should be the same across Scotland and therefore set out in the national legislation, or should local authorities have scope to select some exemptions?

Tick one box below:

All exemptions should be the same across Scotland and local authorities should not have any discretion.

Some exemptions should be set at national level, and some should be at the local authority's discretion

Q11: Which additional exemptions from the list below do you think should be applied to a visitor levy?

Tick all that apply

Disabled people and registered blind/deaf and their carers

Those travelling out with their local authority area for medical care, and their carers or next of kin

Children and young people under a certain age

Students

Long stay guests (e.g. people staying for more than 14 days)

Business travellers

Local resident (paying for overnight accommodation within the local authority in which they reside permanently)

Q12: Are there any other exemptions that you think should apply?

No, not at this stage

Q13: What is your view of the proposal that accommodation providers should be ultimately responsible for the collection and remittance to the appropriate local authority, even if the tax is collected by a third party booking agent or platform

Tick one

Agree

Disagree

Consistent with broad principles of tax collection.

Q14: If accommodation providers were required to remit visitor levies after the overnight stays to which they relate (even if the payment was made well in advance) how frequently should the levies collected be required to be remitted to the levying local authority?

Tick one box

Ongoing basis (e.g. each night)

Monthly

Quarterly

Annually

A quarterly collection basis would put less of a burden on providers.

It will be necessary for accommodation providers to collect information from visitors to apply the visitor levy correctly and retain records to demonstrate compliance. This information may vary depending on the basis of the charge. It will be essential that local authorities and accommodation providers comply with General Data Protection Regulation (GDPR) in handling personal data.

Q15: What information should an accommodation provider be required to collect and retain to ensure compliance?

Please list below and explain why you think that information is needed for the four different scenarios below:

If the basis of the charge is on a:

- a) flat rate per person per night**
- b) flat rate per room per night**
- c) percentage of total accommodation charge**
- d) flat rate per night dependent on the quality of accommodation**

This will require careful consideration and guidance to ensure compliance with GDPR.

Q16: How can a local authority choosing to apply a visitor levy ensure it has a comprehensive list of all those providing overnight accommodation on a commercial basis in their local authority area?

A number of sources including but not limited to Non-domestic rates (NDR) records; local knowledge; planning and licensing records.

Q17: What enforcement powers should a local authority have to ensure compliance and prevent avoidance and evasion by accommodation providers?

Similar to Non-domestic rates powers.

Q18: Should non-compliance by an accommodation provider be subject to a civil penalty (i.e a fine) and if so, what would be the appropriate level be?

Tick one:

Yes

No

Don't Know

Please state level of civil penalty (fine) (in £ pounds sterling) that you think is appropriate? Requires guidance from Legal colleagues.

Q19: A list of requirements that local authorities could be expected to meet before being able to introduce a visitor levy is summarised below.

Do you agree or disagree with these options. (please tick the appropriate box)

If you have any other suggestion for requirements then please add these in the box below together with your reasons

	Agree	Disagree
Produce an initial statement of intention to consider introducing a visitor levy	√	
A timeframe for introduction of at least one financial year following conclusion of consultation and engagement activities	√	
Have held a consultation in their local area to gather views from all those who will be affected by the visitor levy	√	
Have conducted required impact assessments	√	
Have assessed the administrative burden on businesses and taken steps to minimise this	√	
If the legislation allows the rate to be set locally the local authority has demonstrated why the chosen rate of the visitor levy is optimal for that area	√	
Have appropriate mechanisms in place to allow visitor levies collected to be remitted to the local authority	√	
Have made information about the visitor levy and how to pay it available and in the public domain, for both business and visitors	√	
The approach to collaborative decision making on revenue spending is set out in the public domain	√	

Establish an approach to monitoring and publically reporting revenues raised and their expenditure on an annual basis	√	
The approach to monitoring and reporting on the impact of the visitor levy on an annual basis, is clearly set out in the public domain	√	
Establish an approach to evaluating and publically reporting, the impact of the visitor levy, within a reasonable period after introduction	√	
<p>Please add any other comments on the requirements listed above</p> <p>Please list any other requirements you think might be necessary, together with reasons below:</p>		

Q20: Should Scottish Government be able to prevent a local authority from applying a visitor levy?

Yes

No

Don't Know

Q21: Under what circumstances should Scottish Government be able to do this?

Nil response

Q22: What requirements might be placed on local authorities to engage with local stakeholders to determine how revenues are spent?

West Lothian Council would do this without being required to do so.

Q23: How might this engagement be best achieved?

A partnership approach consistent with existing good practice.

Q24: Should revenues from a visitor levy be allocated to priorities articulated through local tourism strategies, where they exist?

Yes

No

Don't Know

Q25: What reporting arrangements might be required of local authorities to account for the expenditure of receipts from a visitor levy?

Similar arrangements to those that already exist. It could be included in annual accounts.

Q26: If a local authority was to impose a visitor levy on a specific area within the authority, should any revenue raised have to be spent only in that area?

Yes

No

Don't Know

West Lothian would not impose a visitor levy in a specific area

Q27: Is the name 'visitor levy' appropriate for the new powers proposed in the consultation document?

Yes

No

Don't Know

Tourist tax is more transparent.

Q28: If not, what do you consider to be a better alternative and why?

Please provide a reason (or reasons) for your answer:

As Q27 above

Under existing law accommodation providers already must clearly display the price of their accommodation and any VAT which applies to their prices.

Q29: What requirements should apply to ensure accommodation prices transparently display a visitor levy?

We can learn from existing practice in other countries.

Q30: What, if any, transition arrangements should apply when accommodation is reserved and paid for in advance of a local authority choosing to impose, or subsequently vary, a visitor levy for the period the accommodation is let?

This will need more consideration and guidance from legal and financial colleagues.

Q31. Should these transition arrangements be set out in a national framework or be decided by local authorities?

Tick one box:

Set out in a national framework

Decided by local authorities

Don't know

Our partial BRIA indicates that the main groups that will be affected by a visitor levy are:

- Visitors (both domestic and international)
- Tourism accommodation providers and their employees
- Other tourism businesses and wider economy
- Local residents and general public
- Local Authorities

Q32: In addition to what is set out in our draft BRIA are you aware of any additional impacts the visitor levy will have for any of these groups?

Not at this time

Q33: Are there any other groups not listed here that should be given attention in the impact assessments?

Not at this time