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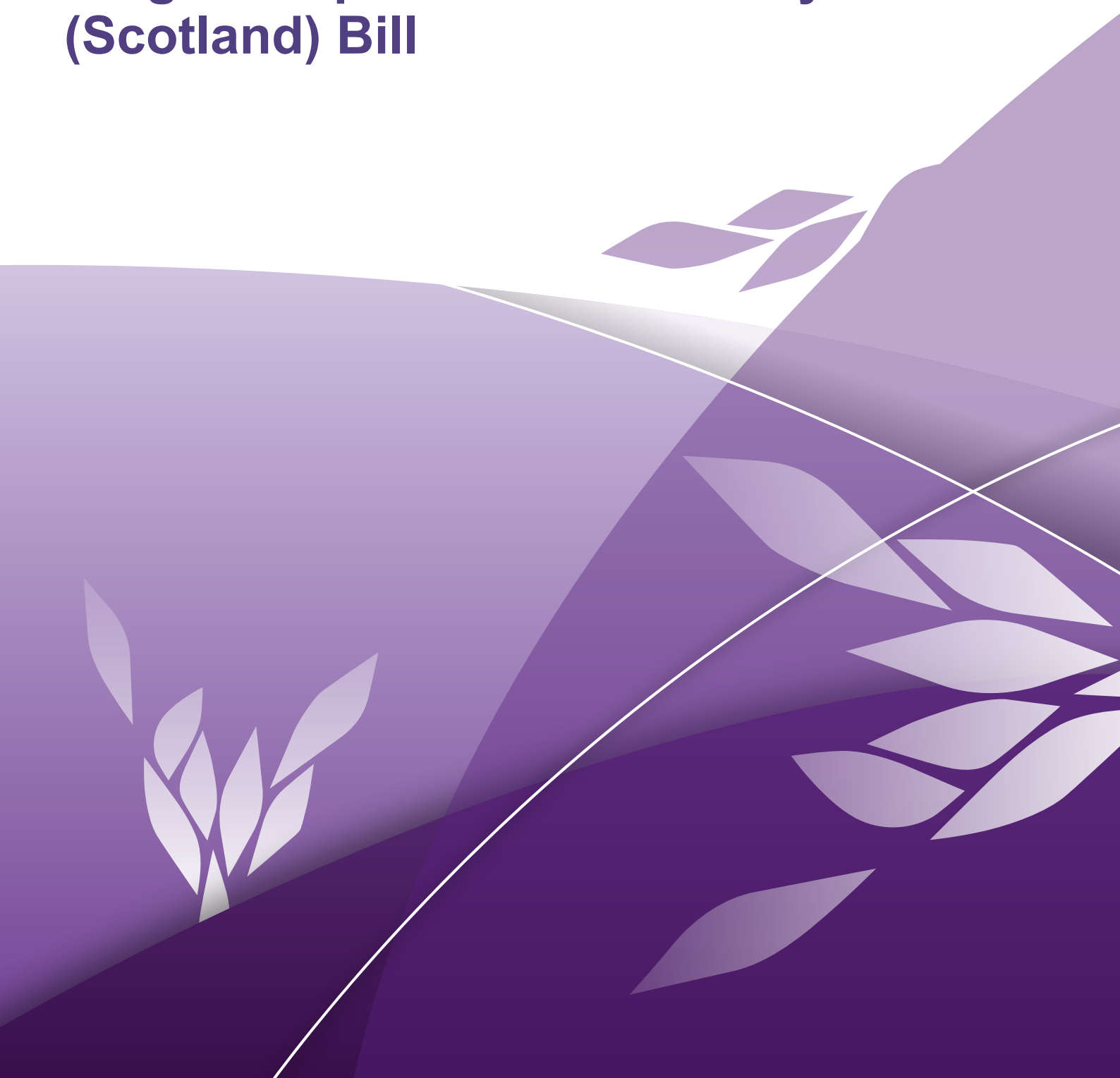
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10th Report, 2023 (Session 6)

## Local Government, Housing and Planning Committee

# Stage 1 Report on Visitor Levy (Scotland) Bill



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# Local Government, Housing and Planning Committee

To consider and report on matters relating to local government and planning falling within the responsibility of the Cabinet Secretary for Finance and matters relating to housing and tenants' rights within the responsibility of the Cabinet Secretary for Social Justice and matters relating to the Local Government Boundary Commission and local governance review and democratic renewal within the responsibility of the Deputy First Minister.



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# Committee Membership



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Scottish Conservative  
and Unionist Party



**Stephanie Callaghan**  
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**Pam Gosal**  
Scottish Conservative  
and Unionist Party



**Mark Griffin**  
Scottish Labour



**Marie McNair**  
Scottish National Party

# Membership Changes

There were two changes to the membership of the Committee during the inquiry--

- On 28 June 2023, Annie Wells MSP was replaced by Pam Gosal MSP.
- On 31 October 2023, Ivan Mckee MSP was replaced by Stephanie Callaghan MSP.

# Introduction

1. The Visitor Levy (Scotland) Bill was introduced in the Scottish Parliament by the Minister for Community Wealth and Public Finance (“the Minister”) on 23 May 2023. The Local Government, Housing and Planning Committee was designated lead committee for consideration of the Bill at Stage 1 on 14 June. The Bill and its accompanying documents are available on the [Scottish Parliament website](#).
2. Under the Parliament’s Standing Orders Rule 9.6.3(a), it is for the lead committee to report to the Parliament on the general principles of the Bill. In doing so, it must take account of views submitted to it by any other committee. The lead committee is also required to report on the [Financial Memorandum](#) (FM) and [Policy Memorandum](#), which accompany the Bill.
3. Whilst not a formal accompanying document, the Scottish Government has also produced a [Business and Regulatory Impact Assessment](#) (BRIA) for the Bill. The purpose of a BRIA is to “help to assess the likely costs, benefits and risks of any proposed primary or secondary legislation, voluntary regulation, codes of practice, policy changes or guidance that may have an impact on the public, private or third sector.”<sup>1</sup>
4. The Bill’s Policy Memorandum states that “the overall policy objective of the Bill is to give a discretionary power to local authorities to introduce a levy on stays in overnight accommodation in all, or part, of their area if they choose to do so.”
5. Further information on the background to the Bill and the changes it seeks to implement can be found in the [Scottish Parliament Information Centre \(SPICe\) briefing on the Bill](#).

# Call for views and engagement

6. The Committee published a call for views on the Bill in June with a deadline for responses of 15 September 2023. Over 370 responses to the formal call for views were received from a broad range of stakeholders. All published responses can be accessed on [the Committee's website](#). SPICe produced a [summary of written submissions](#) which is also available online.
7. Over 400 individual users also commented on the Bill's provisions via the less formal [Your Priorities online forum](#). The Parliament's Participation and Communities Team (PACT) produced a [summary of online forum submissions](#) which is available online.
8. PACT also held five separate community meetings across Scotland with the support of community organisations. A [summary of these meetings](#) has been published online.
9. The Committee wishes to place on record its thanks to everyone who contributed to these community discussions and to all those who provided written and oral evidence to help inform its scrutiny of the Bill.

## Committee consideration

10. The Committee has taken evidence on the Bill in five meetings as follows—
  - 18 June 2023: Scottish Government Bill Team;
  - 24 October 2023: Two panels representing accommodation providers;
  - 31 October 2023: Local authorities followed by the European Tourism Association (ETOA);
  - 7 November 2023: Representatives of the tourism sector followed by Destination Management Organisations (DMOs) and other local stakeholders.
  - 14 November 2023: COSLA followed by the Minister.
11. Further information on witnesses from whom the Committee took oral evidence can be found in Annexe A which includes links to all meeting papers and official reports.

## Background

12. The Policy Memorandum explains that in 2018, COSLA and the City of Edinburgh Council called for the Scottish Government to grant powers to councils to enable them to introduce a local tourist tax “if the circumstances are right”. The main reason stated was to help councils meet the cost of maintaining public services used by tourists, thus enhancing the visitor experience at no additional cost to local residents. COSLA also suggested that permitting councils to decide whether or not to introduce a visitor tax would help strengthen local democracy and enhance flexibility.
13. The Scottish Government then engaged with the tourism industry, local authorities and the wider business community on a “national discussion” on tourist taxes which ran from November 2018 to January 2019.<sup>2</sup>
14. Representatives of the tourism sector, particularly accommodation providers, were strongly opposed to the idea of a tourist tax. Concerns from the sector focussed on the impact of additional taxation on Scotland's competitive position, arguing that existing taxes such as Non-Domestic Rates and VAT were already relatively high. There were also concerns about additional cost and resource burdens potentially being imposed on businesses.
15. The Scottish Government's 2022 Resource Spending Review<sup>3</sup> spoke of a future Visitor Levy in the context of the New Deal with local government, which was being negotiated between the Scottish Government and COSLA at the time. [The Verity House Agreement](#) was published in June 2023 and committed the Scottish Government to supporting an increase in the fiscal flexibilities available to councils. Indeed, Scottish Government officials confirmed to the Committee in June that “the overriding drive” behind the Bill “is to fiscally empower local authorities, giving them a new tool to use, if they wish to do so, in their areas”.<sup>4</sup>
16. The Policy Memorandum further states that central and local government were working “to agree an approach which improves the delivery of sustainable public services. The introduction of a visitor levy forms an important part of this work and the local government Fiscal Framework and is a significant step towards the Scottish Government's ambition of fiscally empowering local government and strengthening local democracy.”<sup>5</sup>
17. The Policy Memorandum also notes that the Scottish Government's approach to a visitor levy has taken account of its overarching approach to tax policy, as set out in the Framework for Tax 2021.<sup>6</sup>
18. The Policy Memorandum summarises the importance of the tourism sector to Scotland, differing approaches taken to similar levies in other parts of Europe, consultation through the National Discussion and formal public consultation before addressing the individual provisions and policy objectives of the Bill.

## Scottish Government consultation

19. A public consultation took place between September and December 2019, with a

consultation analysis report published in March 2020<sup>7</sup>. Work was then paused during the COVID-19 pandemic, until the 2022-23 Scottish budget<sup>8</sup> committed the Scottish Government to resuming work on a visitor levy.

20. When asked about pre-introduction consultation and engagement in oral evidence, several witnesses agreed that it had been “very good” and “inclusive” and witnesses representing local DMOs all confirmed that they had been involved.<sup>9</sup> The ETOA agreed, stating “no one could accuse Scotland of rushing into the scheme. The pandemic clearly got in the way, but the process is exemplary, so you are to be commended on that front.”<sup>10</sup>
21. COSLA also agreed that “the route to this particular bill has been an example of really good communication and co-production between local government, the Scottish Government, partners and businesses. There have been many conversations in an effort to get this right.”<sup>11</sup>
22. However, most witnesses agreed that it was vital that consultation was maintained, with Hostelling Scotland for example, stating that “the crucial thing is that, from today, the consultation continues. The tourism industry needs to be at the table when decisions are being made.” Aberdeen City and Shire Hotels Association agreed, stating that “accommodation providers and the tourism industry need to be at the heart of that decision-making once the revenue has been raised. If we are not able to significantly influence that, the consultation will not have worked. That is how we will know whether we have been listened to.” Scottish Land and Estates made a similar point, stating “We would like to see a committee with some neutral external members scrutinising what that money will be spent on.”<sup>12</sup>
23. The Scottish Tourism Alliance (STA) published a manifesto<sup>13</sup> containing recommendations on the Bill in January 2023 and was “grateful and thankful that the Scottish Government’s reception of the manifesto has been very positive” and that “many of the asks and the recommendations that we set out have been listened to and taken on.” In its view, “it is about getting the levy and its application right if it goes ahead. We would rather be in the camp than on the outside throwing stones in, because we want to influence the policy and ensure that, together, we get it absolutely right so that it becomes a force for good.”<sup>9</sup>
24. The Bill Team confirmed in oral evidence that the Minister wrote to Visit Scotland, the STA, and COSLA when the Bill was published “inviting them to form an expert group tasked very specifically with looking at guidance and best practice for local authorities wishing to use the discretionary power that the bill seeks to create.”<sup>4</sup> In oral evidence, the Association of Scotland’s Self-Caterers (ASSC) confirmed that it was “delighted” to be part of the group but “it feels, rather, as though the cart was put before the horse. We need to look at the policy objectives and go back to the BRIA so that it reflects the 2023 data, considers small businesses and actually consults them and, rather than just hearing them, listens to the voices of small businesses. That needs to happen. Right now, it just feels like a done deal, again.”<sup>12</sup>

25. **The Committee commends the Scottish Government and its partners for**

**the effective consultation that took place before the Bill was introduced. However, the Committee is clear that such effective engagement must continue through the expert group and at a local level in areas considering introducing a levy scheme to help ensure that any future schemes work effectively and in the best interests of all relevant stakeholders.**

# The Bill

26. The Bill is “enabling legislation”, meaning local authorities would not be obliged to introduce a levy – indeed it appears likely that only a minority would do so in the first instance. The Bill Team confirmed in June that “three or four local authorities have expressed an interest in introducing a visitor levy and have carried out preliminary work towards potentially introducing a levy.”<sup>4</sup> For those councils that do wish to introduce a levy, or those that might decide to do so at a later date, the Bill sets out how levies and associated schemes should operate.
27. The Bill consists of seven parts, with 75 sections:
- Part 1: Power for local authorities to impose levy and overview;
  - Part 2: Key concepts including basis and calculation of levy and exemptions and rebates;
  - Part 3: Introduction and administration of the levy including process, finances, and performance;
  - Part 4: Returns and payment;
  - Part 5: Enforcement of the levy and penalties;
  - Part 6: Registers of liable persons and information sharing;
  - Part 7: General provisions including interpretation, regulation-making powers, ancillary provision, and commencement.

# Part 1: Power to introduce a levy

28. Part 1 enables local authorities to introduce a levy on the purchase of overnight accommodation should they choose to do so. The Committee invited general views on this proposal and the majority of respondents were opposed. Opposition was particularly strong in responses from accommodation providers, and it is worth noting that many alluded to other recent legislation, most notably regulations on short-term lets licensing which, it was suggested, were having a damaging effect on the sector.
29. Before the Bill was announced, the STA consistently opposed the introduction of a levy and its written submission states that the proposal “remains contentious for the tourism and hospitality sector, with a significant proportion of the business community still strongly opposed.”<sup>14</sup> Since the introduction of the Bill, however, the STA has adopted an approach that seeks to ensure that “any legislation works effectively for tourism, local authorities and, most importantly, continues to be in the best interests of visitors and local communities”.<sup>15</sup>
30. Several respondents from the tourism and hospitality sector described the challenges they have faced in recent years, chiefly COVID-19, the associated lockdowns and a subsequent cost-of-living crisis/inflationary pressures, business regulation and taxation, and difficulties in recruiting staff. The Bill is therefore viewed by some as an unwanted policy being forced on a struggling sector at the wrong time. It was further suggested that the introduction of a levy would increase business costs and regulatory burdens whilst also making Scotland less attractive to visitors.
31. The Committee explored the recovery of the sector post-Covid in oral evidence and heard that whilst numbers have bounced back, profitability has not. SkyeConnect, for example, stated “it is certainly true that we have seen a return to pre-pandemic levels, but ... that has not necessarily translated into extra profitability or success in the businesses. A lot of the businesses are struggling at the moment, despite the numbers making it sound like everything is great. Profits are being heavily squeezed.”<sup>9</sup> Outer Hebrides Tourism agreed that “profitability is definitely down. Businesses are finding things more challenging”. In its view, “due to challenges around finance and the flow of finance within the sector, there is broad support for some form of levy.”<sup>9</sup>
32. Whilst many from the tourism and accommodation sector opposed a levy in principle, many respondents agreed with the Bill, citing personal experiences of paying similar taxes when travelling abroad and viewing this as a normal part of the tourist experience. Some also suggested that tourism can have negative consequences for communities in the most popular destinations, which they hoped a visitor levy might help mitigate. Edinburgh City Council also argued that the pace at which visitor demand was growing in the capital, whilst economically advantageous, “requires sustained and further investment”<sup>16</sup> which a levy could help provide. Highland Council pointed out that whilst tourism brings great benefits, it also brings huge costs and in order “to provide the best possible improvements for visitors, we need to fund that in some way.”<sup>17</sup>

33. Visit Scotland agreed that “tourism levies and taxes across Europe have been long standing in many countries. They have largely been positive. Particularly in those countries where they form a more significant fund and are invested in the visitor economy, they have proved to be successful at improving the quality of what visitors experience and supporting businesses in seeking to play an important part in the visitor economy. There is not very much evidence of them impacting negatively on consumers’ decision making or choices about going to a particular destination.”<sup>9</sup>
34. Venture North confirmed that it had conducted a survey and the results had been “marginal” with 53 per cent of tourism businesses opposing a levy whereas the public consultation found that 59 per cent supported one.<sup>9</sup>
35. The Scottish Chambers of Commerce noted the range of views that existed among its network and highlighted existing challenges faced by the industry. As such, it argued that any visitor levy should not place an additional administrative burden on individual businesses. In its view, a Business Improvement District (BID) style approach would be preferable.<sup>18</sup> The BID model is discussed further in paragraphs 330 to 337 below.

## Deterrent effect?

36. The Federation of Small Businesses Scotland (“FSB Scotland”) highlighted that visitors to Scotland (and to the UK as a whole) already pay relatively high levels of tax on accommodation (through a 20% VAT rate) when compared to most European countries. Some of its members therefore fear that a levy “could risk making Scotland less competitive internationally and domestically and also incur additional costs for already struggling businesses”.<sup>19</sup> This concern was shared by others including UKHospitality Scotland which highlighted specific concerns about potential impacts on the business travel and events market of “decisions of event organisers on whether to bring lucrative business meetings, conferences and events to destinations in Scotland,” which, in turn, “would have a negative impact on other areas of the visitor economy and hospitality sector.”<sup>20</sup>
37. The Scottish Bed & Breakfast Association (SBBA) also cited other taxes including alcohol taxes and air departure tax, stating that “in 2019, the World Economic Forum rated the UK 140th out of 140 countries on tourism price competitiveness.”<sup>21</sup> Similarly, the ASSC highlighted “a recent PWC report”<sup>22</sup> which “found that tourist demand is highly sensitive to changes in price. An additional £1 as a levy will have a major detrimental impact on visitor spend.”<sup>12</sup>
38. When invited to comment on these concerns, the Bill Team pointed out that the BRIA also highlights research recognising “that tourism in the UK as a whole is not, in price terms alone, especially competitive. When the wider visitor offer is considered, however, the UK suddenly becomes a very attractive destination and is very high in the rankings.” Edinburgh City Council agreed, stating that “a visitor levy is only one factor that impacts demand. The most important thing is reputation and quality of the experience.”<sup>4</sup>
39. The STA also expressed concern that a levy could discourage visitors from staying overnight in an area, which could lead to more day trippers and fewer overnight visitors, potentially displacing spend away from restaurants, bars and shops and

therefore adversely impacting on local economies. Sykes Family Holiday Cottages pointed out that “overnight visitors spend six times what day visitors spend.”<sup>12</sup>

40. The STA highlighted a Scottish Licensed Trade Association survey which found that from 2022 to 2023 occupancy was up 7 per cent whilst “turnover was up by 12 per cent, and profit was down by 18 per cent.”<sup>9</sup> However, Festivals Edinburgh confirmed that it had recently published “an economic impact study of the first year back at scale since Covid and we have shown that, with about 70 per cent of the visitors in total volume numbers that we had before the pandemic, we are achieving at least the same amount of additional economic value—and more when you look at the economic value that is delivered for cities.”<sup>9</sup>
41. The ETOA agreed that “the UK is expensive with regard to the tax on top of services because we do not apply a discount to accommodation. To that extent, it represents a relative competitive disadvantage...when people say, “Look—we are already taxed highly”, that is, factually, the case.” However, it also highlighted the example of Copenhagen which charges 25% VAT on accommodation to demonstrate that “a high tax burden does not necessarily lead to problems with attracting visitors.” The ETOA confirmed it was “not aware” of any negative economic impact following the introduction of a levy in other jurisdictions and noted that whilst numbers had recovered, “it seems to us that there is now less tolerance of crowding, and the sensitivity to over-tourism is more acute now than it was before.”<sup>10</sup>
42. When asked whether it had modelled the behavioural impact of different percentage rates and whether there was a point where it might start to become a deterrent, the Bill Team explained that it had done so for percentage rates ranging from one to seven percent. Whilst there was evidence of price sensitivity for some Mediterranean beach resort destinations “which are easily substitutable”, this was less of a factor “for locations that are more unique and not substitutable.” Given that Scotland has many unique offerings it continued, cost “is probably not one of the top factors.”<sup>4</sup>

**43. The Committee considers that, on balance, the introduction of a levy at a modest rate would be unlikely to have a significant deterrent effect on visitor numbers, given the unique nature of Scotland as a destination and the experiences of other jurisdictions where a levy has been introduced.**

**44. However, the Committee remains mindful of the current economic pressures under which the tourism industry is operating, especially in rural and island communities, and agrees that there would be the potential for a levy to impact on visitor numbers should it be set at an overly high rate.**

**45. The Committee therefore considers it vital that robust monitoring of the Bill’s impact is undertaken, in order to ensure that any levy introduced is not deterring visitors from coming to Scotland.**

## National approach versus local flexibility?

46. A key theme to emerge during the Committee's scrutiny of the Bill, and one that is returned to throughout this report, relates to the pros and cons of a national approach compared to local flexibility. Representatives of the tourism and accommodation sectors generally favoured national consistency, whereas most local authorities preferred greater local flexibility in keeping with the principles set out in the Verity House Agreement. The Minister explained in oral evidence that a key question "was the balance between local flexibility and national consistency. That is a common thread going through the on-going debate" around various elements of the Bill. In his view, "the bill takes a middle way between having too rigid or too lax a national framework." <sup>11</sup>
47. Some respondents expressed concerns about local authorities having responsibility for introducing and collecting levies, given what they saw as poor implementation of the short-term lets regulations. Several felt that having up to 32 different visitor levy schemes could create duplication of effort along with confusion for visitors and for accommodation providers alike. Others expressed scepticism as to whether funds raised by councils would actually be used to improve the tourist experience. It was therefore suggested by many that a national approach to the levy would be preferable.
48. Of the 17 local authorities that provided written submissions, the majority supported the Bill and welcomed the flexibilities it would bring, which would allow councils to design and implement a levy in a way that suited local circumstances. It was also suggested that a discretionary visitor tax could help strengthen local democracy in Scotland, whilst the income generated would be invested into infrastructure and services used by visitors, therefore helping reduce pressures on other funding streams.
49. COSLA highlighted the importance of local authorities having their own revenue raising powers, particularly in light of ongoing budgetary challenges. COSLA noted that budget reductions by councils in recent years had been concentrated in specific service areas, many of which relate to services used by tourists including culture and leisure, spending on roads and on environmental services. In COSLA's view, revenues raised by a visitor levy could be invested in these areas to the benefit of tourists and residents alike.
50. The Scottish Local Authorities Economic Development Group (SLAED) suggested that a levy would provide an opportunity for local authorities "to take a holistic approach to tourism infrastructure with longer-term solutions based on greater funding certainty" <sup>23</sup> whilst Argyll and Bute Council also highlighted the benefit of what could be "a consistent and reliable income stream." <sup>24</sup> However, South Lanarkshire Council pointed out that the Bill could only be expected to benefit a relatively small number of councils, given that many areas do not attract sufficient numbers of overnight visitors to make its introduction worthwhile.
51. Highland Council and the City of Edinburgh Council noted that their areas are often the main reasons why people visit Scotland, highlighting the increase in visitor numbers in recent years and describing some of the pressures mass tourism can put on local infrastructure and services. In Highland Council's view—

” “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 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.” <sup>17</sup>

52. West Lothian Council agreed, stating that it “has to be a local decision where elected members consider the positive and negative impact as part of the decision-making process. It is vital that the impacts, both positive and negative, are fully explored and considered as part of the process, however these are likely to be unique to specific areas and local circumstances.” <sup>25</sup>
53. However, SLAED identified potential problems with having different rates across the country and expressed concern that such variation could lead to “disparities in tourism costs and influence tourists to choose to visit certain areas over others”. <sup>26</sup> Similarly, Glasgow Life maintained that “local tax levels should be broadly similar across Scotland and should not distort consumer decisions around visitor destinations”. <sup>27</sup> East Lothian Council agreed and called for a set rate or percentage to be applied nationally.
54. Revenue Scotland agreed that “complexity is added...where different rates are applied in different locations, areas, or for different purposes. A common and consistent identification (across local authority boundaries) will be critical to ensure certainty and efficiency.” <sup>28</sup>
55. Whilst accepting that the Bill provided scope for local authorities to make decisions at a local level, Orkney Islands Council highlighted what it saw as a “one-size fits all approach” as the Bill only allows for the taxing of overnight visitors. In its view, the Scottish Government should consider granting a general power of competence to Scottish local authorities rather than increasing fiscal autonomy in a gradual, piecemeal manner. Such a power, it suggested, would “not only expand the scope for local democracy, putting Scotland on a par with England, Wales and Northern Ireland, which already have such powers, it could also provide Orkney Islands Council with a mechanism through which revenues from a wider range of tourism-related activity could be more equitably levied.” <sup>29</sup>
56. The ASSC confirmed in oral evidence that “we fundamentally oppose the levy, as you know, but we absolutely agree that, if it is to go ahead, it should be a national scheme. There should not be 32 different schemes. It should be simplified, and there should be a national cap.” <sup>12</sup>
57. The SBBA also opposed the introduction of a levy, but if one is to be introduced, it too advocated “a simple, consistent Scotland-wide levy rather than a postcode lottery of 32 different visitor levies”. <sup>21</sup> UKHospitality Scotland agreed, explaining “we would like the bill to take a national approach, so that we do not have extreme divergence across local authorities. We run the risk of having a patchwork-quilt approach, which would become difficult for businesses that operate across multiple local authority areas.” <sup>9</sup>

58. Expedia, Travelodge and Airbnb supported a more consistent approach, with the latter stating this was particularly important for operators offering accommodation in more than one council area. Travelodge highlighted potential complications for businesses with multiple locations in different areas, all of which could have a different form of the levy. In its view, as a UK-wide business, the devolution of this policy to local authorities would have practical implications for its business model including its web-based reservations and accounting processes: “From mid-2026 it is likely that our systems and processes will need to be capable of the collecting, processing, accounting for and payment of varying local Levies, by hotel per council district. This will require significant systems development given our web-based prepayment model and creates long term uncertainty for the business.”<sup>30</sup>
59. Expedia also expressed concern that the proposed approach “will result in a patchwork of different rates and exemptions, across geographic areas that are inconsistently defined. This will be confusing for travellers and accommodation providers, hard to administer and difficult to enforce. Ultimately it will mean that the levy is less effective at raising money for local communities.” In its view, “the best tourism taxes therefore seek to apply a single rate across an entire jurisdiction, with no exemptions or variability”.<sup>31</sup>

**60. The Committee appreciates that there are persuasive arguments in favour of a local approach as well as for national consistency and recognises the concerns of many in the tourism sector around the complexity that different local approaches could bring. However, on balance, the majority of members of the Committee are persuaded that local government should have the flexibility to design an approach best suited to local circumstances in keeping with the principles set out in the Verity House Agreement.<sup>i</sup>**

**61. Again, the Committee considers it imperative that any negative impacts of such local flexibility for businesses and others are robustly monitored and measured so that any such impacts can be addressed should they become evident.**

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<sup>i</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

## Part 2: Key concepts and exemptions

### The “Chargeable Transaction”

62. Part 2 of the Bill defines the “chargeable transaction” which would trigger the payment of a levy as “a purchase for value of the right to reside in or at overnight accommodation situated within the area to which a Visitor Levy scheme relates for a period of one or more nights.” Any levy would apply to the accommodation element of an overnight stay only. The cost of food, drink, entertainment, car parking, leisure facilities or any other non-accommodation elements should not be included in the taxable amount.
63. South Ayrshire Council agreed with the definition but suggested that it would be “cumbersome” for accommodation providers to separate non-chargeable costs and hoped to avoid a situation where a provider could argue that for a £100 total bill, the “overnight accommodation” costs £10 per night and breakfast costs £90.<sup>32</sup> North Ayrshire Council raised similar concerns, stating that a provider could essentially offer a ‘free’ bed and then present a separate charge attributed to breakfast, parking, and other services.<sup>33</sup>
64. The STA supports the Bill’s definition of a “chargeable transaction” and UKHospitality Scotland confirmed that “there is logic in applying the levy first to accommodation. It is easy to identify and capture the funds—it is easy for the remittance to take place.” However, it agreed that “it will be a challenge for businesses to strip out packages and arrive at the final figure for accommodation” and there may also be a reluctance to publish such information, given that much of it would be commercially sensitive.<sup>9</sup> Similarly, the British Holiday & Home Parks Association (BHHPA) was concerned that this approach might “discourage the business model of creating package bookings (i.e., stay plus use of pool and an evening event) which is a positive sales tool for businesses.”<sup>34</sup>
65. The BHHPA also pointed out that bookings made through online travel agencies do not provide a breakdown of charges, noting that “all the accommodation industry benefits from packaging things together, and it will be really complicated to work out how that will go through the agencies.”<sup>9</sup> Hostelling Scotland suggested that it would be possible to separate out accommodation costs from other services, but this “would need system development...the costs of applying that would be a concern.”<sup>12</sup>
66. The Professional Association of Self-Caterers (PASC) also highlighted potential challenges based on the practicalities of running a business reliant on a variety of booking platforms. For example, it stated that an accommodation provider may use up to twenty or thirty different booking platforms and “the accommodation provider has no means to adjust final pricing to accommodate percentage taxes on the same, unless the platform concerned implements the necessary coding changes.” PASC also noted the potential for further complications where businesses use dynamic pricing or in scenarios involving refunds, changes to bookings or additional charges, which start “to turn into an administrative nightmare for the average micro-accommodation provider.”<sup>35</sup>

67. In Visit Scotland's view, however, "many ancillary things are added to bills for a variety of reasons, but the fundamentals, if kept straightforward, are as easy as we can make them and are sympathetic to businesses and the challenges that they face."<sup>9</sup> The ETOA noted that in Germany, "it is quite common for breakfast and other items to be excluded."<sup>10</sup>

68. **The majority of members of the Committee agree with the Bill's definition of the "chargeable transaction" which they consider brings clarity on exactly what the levy would apply to. Whilst the Committee recognises that there will be challenges for some businesses in separating out non-accommodation costs, the majority of members of the Committee consider that these would not be insurmountable given that similar approaches exist and have functioned effectively in other parts of Europe.**<sup>ii</sup>

69. **Whilst not insurmountable, any levy introduced under the Bill will present challenges to business and the Committee invites the Scottish Government to respond to the concerns set out above in respect of any potential "gaming" of the system, challenges in separating out the "chargeable transaction" from packages, the interaction with online booking platforms, and dynamic pricing.**

## Definition of overnight accommodation

70. The Bill provides that the levy becomes payable when a person "takes entry" to overnight accommodation and defines "overnight" as "any continuous period of six or more hours between 12 noon on one day and 12 noon on the following day which includes midnight." Further definitions are provided for circumstances in which a stay involves a combination of two or more individual periods of time.
71. The Chartered Institute of Taxation (CIOT) queried this definition, suggesting that it could "allow some scenarios to escape the levy" which would only apply when somebody 'takes entry' to the accommodation. The CIOT asked whether the definition referred to checking in and physically entering the accommodation and sought clarification of whether the full levy would still be payable if the number of guests changed post-booking, for example, if a booking was for two guests but only one checked in.<sup>36</sup>
72. Outer Hebrides Tourism also suggested that accommodation-based collection of the levy was "quite limiting" as it fails to account for motorhome users and cruise passengers coming to the islands. In its view, "a model based on collection at a port of entry, using existing mechanisms, would not only take pressure off some of the providers in the sector but would also open up collection to a much wider range of tourists."<sup>9</sup> Comhairle nan Eilean Siar agreed that this could provide a solution but

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<sup>ii</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

acknowledged that it was in a near unique position given its island status. The STA also stated that the current definition of “overnight accommodation”, and the decision to exempt wild camping and moveable campervans from the levy, “risks there being an uneven playing field between traditional and newer models of visitor accommodation”.<sup>14</sup>

73. Issues around camper vans/motorhomes, wild campers and cruise ship passengers are considered more fully in paragraphs 92 to 115 below.
74. The BHHPA also noted a lack of clarity on holiday park lets which could be defined as either renting a holiday caravan or a pitch hire where the guest brings his or her own accommodation, such as privately owned caravans temporarily sited on hired pitches.
75. However, Visit Scotland confirmed that its “overriding view at present is that the approach to the accommodation piece makes good sense and is logical and applicable” as it provides “a good, solid basis for the levy.”<sup>9</sup>

76. **The Committee supports the Bill’s definition of “overnight accommodation” but invites the Scottish Government to respond to the queries from the Chartered Institute of Taxation and the BHHPA as set out above.**

## Types of accommodation covered

77. Sections 3 and 4 provide a definition of “overnight accommodation” for the purposes of the Bill, including the following types of accommodation—
- hotels
  - hostels
  - guest houses
  - bed and breakfast accommodation,
  - self-catering accommodation
  - camping sites
  - caravan parks
  - boat moorings or berthings
  - accommodation in a vehicle, or on board a vessel, which is permanently or predominantly situated in one place
  - any other place at which a room or area is offered by the occupier for residential purposes otherwise than as a visitor’s only or usual place of residence.

78. The Policy Memorandum states that “this list is not exhaustive, and the policy intention is that any premises that are offered for residential purposes, other than to be an individual’s usual place of residence, are liable for the charge.”<sup>37</sup> However, the Bill makes clear that this does not apply to gypsy and traveller sites, or to accommodation in a vehicle, or on board a vessel, that is undertaking a journey involving one or more overnight stops.
79. Respondents to the call for views were broadly content with the types of accommodation covered although specific concerns were raised in respect of certain types, notably including boat moorings or berthings.
80. Both British Marine Scotland and the Royal Yachting Society suggested that the list should be amended as moorings or berthings should not be defined as a type of accommodation. Instead, they explained, they are primarily a safe haven for vessels. The British Ports Association stated that any move to increase costs for ports and harbours could impact the commercial viability of such facilities and reduce local tourist spend, “not to mention reduce the attractiveness of Scottish coastal areas to the sailing community”. They therefore believe that “there is a strong case to remove recreational vessels and moorings from the scope of the rules”.<sup>38</sup> Scottish Land and Estates agreed that a levy on moorings “would be extremely difficult to administer” given that provision of a mooring was not the same as provision of accommodation and providers of moorings have no power to inspect a boat to see whether anyone is sleeping on it.<sup>12</sup>
81. The STA agreed that boat moorings fees did not include the purchase of overnight accommodation and instead, boaters are charged for a safe haven for boats and marine services fees such as utilities, lifting out, maintenance and repair services, and on-site boat storage. The STA further pointed out that many of these vessels do not even have onboard accommodation.
82. Many mooring associations are small volunteer-led operations, and some individuals expressed concern that office bearers would become the “liable person” for keeping records and returning visitor levies. The Cruising Association expressed concern that the extra administrative burden caused by a levy “could become the final straw that would make many small providers withdraw entirely”<sup>39</sup>, thereby reducing the moorings available to visitors and the related income they bring to many remote and/or island communities.
83. In oral evidence, the Minister confirmed that he was “familiar with the concerns that have been raised by the sector, and I recognise them.” He continued, “clearly, concern was expressed that the legislation might unintentionally capture certain activity in a way that was not consistent with the policy intention. We are having close discussions to ensure that such issues are fully understood. If required, we will lodge amendments to clarify the position at stage 2.”<sup>11</sup>
84. Others suggested that the levy should not apply to specific types of accommodation including low cost huts operated by mountaineering clubs on a not-for-profit basis, temporary campsites run by volunteers (of which there had been 82 in Scotland in 2023 by late October according to the Camping and Caravanning Club), or low-cost accommodation such as hostels, particularly for school and youth groups from less privileged areas.

85. **The Committee agrees that boat moorings or berthings should not be captured by the Bill and invites the Scottish Government to bring forward amendments at stage 2 to remove them from its scope. The Committee also invites the Scottish Government to respond to concerns in respect of mountaineering huts, temporary campsites and hostels as set out above.**

## Types of visitors not captured by the Bill

86. Whilst most respondents were broadly content with the types of accommodation covered by the Bill (with the exception of those specific examples set out above), a key concern that arose in written and oral evidence related to visitors not covered by it, most notably cruise ship passengers, users of motor homes or camper vans and “wild campers”.<sup>iii</sup>
87. Several respondents, particularly those from the Highlands and Islands, suggested that the Bill provides for an “accommodation levy” rather than a “visitor levy” since such visitors wouldn’t be covered. It was suggested by some that visitors paying to stay overnight generally contribute more to local economies, but they would be the ones who were penalised by the levy.
88. In respect of day visitors, Argyll and Bute Council was “interested in exploring ways in which they could be included, but the practicalities of doing it are quite difficult.”<sup>10</sup> Visit Arran expressed concern that a levy would lead to increased numbers of such visitors, noting that nearly 60 percent of the island’s visitors were day visitors and wouldn’t pay a levy.
89. When asked in oral evidence about areas with high levels of “day-trippers” not paying for overnight accommodation in the area, the Bill Team highlighted practical challenges in applying a levy to such visitors, including how to distinguish visitors from local residents.<sup>4</sup>
90. Inverclyde Council noted that several forms of accommodation that place burdens on local areas are not currently captured by the Bill although it recognised that this would be difficult to manage. In particular, it would like to see the Bill widened to include cruise passengers, a view supported by several other councils including Orkney, Dundee, Aberdeen, Comhairle nan Eilean Siar and Shetland.
91. For the SBBA, “it would be unfair to single out specific sectors for an extra tax while leaving others untaxed, because...that would distort behaviour and make certain behaviours worse, such as use of camper vans and wild camping, which have

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<sup>iii</sup> Whilst the term “wild campers” was used by several respondents to the call for views, it has been suggested that “irresponsible campers” is a more appropriate term. The key difference being that many “wild campers” act responsibly, for example by removing their litter and taking care of the natural environment, whereas “irresponsible campers” are more likely to leave litter behind and cause other forms of environmental damage, thereby increasing costs for local authorities and causing other undesirable consequences. Irrespective of the terminology used, neither type of camper would pay a levy if they chose not to stay overnight in a registered campsite.

extremely negative impacts in rural areas.”<sup>12</sup> Hostelling Scotland agreed, stating “at the moment, it feels polarised, because other accommodation providers are not included. I would very much welcome the extension of the bill to cover them.”<sup>12</sup>

## Camper vans, motor homes and “wild camping”

92. Highland Council also called for wild campers and motorhomes not staying in paid sites to be included, in addition to cruise visitors, stating that whilst it recognised “certain additional challenges from collecting a levy from wild campers, motorhomes, and cruise ship passengers...legislation should not restrict the ability for Local Authorities to work through viable solutions and introduce a suitable levy framework, be that as part of the initial levy scheme to be approved, or as part of future schemes.”<sup>17</sup>
93. Highland Council noted that camper van numbers had increased by a third in its area between 2021 and 2022 and strongly opposed any scenario under which camper van users staying in a registered site would pay a levy, but those parking by the side of the road would not. For this reason, Highland Council’s view is that all visiting camper vans should be captured by the Bill, regardless of where they parked for the night.
94. Highland Council went on to note the rapid pace of technological advances, suggesting that “new effective solutions will emerge, such as AI enabled vehicle recognition.” In its view, “it would therefore be short sighted...to focus exclusively on paid accommodation and not seek to future proof the legislation.”<sup>17</sup> Edinburgh Tourism Action Group (ETAG) agreed that it was “not insurmountable that mobile homes, in particular, could be charged a levy at the point at which they are rented, and I think that GPS tracking or another kind of technology could be involved in that.”<sup>12</sup>
95. Skye Connect noted that it had conducted a survey which strongly supported this position with 85% of respondents agreeing that the levy should also apply to campervans, caravans, and motorhomes whilst 80% supported the use of number-plate recognition technology to charge campervan drivers.<sup>9</sup> However, the ETOA stated that it “could see such an approach being very complex.”<sup>10</sup>
96. In the STA’s view, along with that of many campsite owners, self-catering businesses and DMOs, it is fundamentally unfair that revenues raised from a visitor levy are often cited as being needed to mitigate problems caused by wild camping and motor home users who are seen as contributing little to the local economy and wouldn’t pay a levy. In its view, the Bill should be amended to include the rented provision of campervans and motorhomes under the definition of “overnight accommodation”, charged at the point of hire with revenues being retained by the council in whose area the rental took place. However, the STA also noted in oral evidence that this “would obviously be inappropriate if all the hire companies are set up in Glasgow and the camper vans head off to the Highlands.”<sup>9</sup>
97. The ASSC expanded on this view in oral evidence, highlighting the importance of all accommodation providers having the same burden—

” “ ... you cannot exempt camper van hire providers because that would increase the number of camper vans on the roads. That is already happening post-pandemic and post short-term lets closing down. The levy will exacerbate that. If people have to pay the levy at a campsite, they will not stay on a campsite—they will stay in a lay-by, where they will not be charged.” <sup>12</sup>

98. In the ASSC’s view, “if we are talking about a levy on the accommodation provider, the camper van hire operator would be the point at which to take the levy and remit it to the local authority. That is the only way of doing it and is, very clearly, a very easy way of doing it.” For the ASSC, failure to implement such a solution “renders the system an unlevel playing field immediately.” <sup>12</sup> Scottish Land and Estates agreed that someone hiring out a campervan was effectively providing accommodation so “a levy on them, and not on where they are parked, would probably be a better way.” <sup>12</sup>
99. The SBBA supported this position, stating “in principle, any levy on tourism needs to provide a level playing field: it must apply to all tourism—especially forms of tourism that have a high negative impact. It would be perverse if, for instance, rural B and Bs were subjected to a tax while camper vans that are trailing around and stopping overnight in areas of natural beauty were not, and nor were...cruise-ship arrivals and day visitors to cities.” <sup>12</sup>
100. However, COSLA explained that it had “looked at wild campers, motorhomes and such like. Unless they stayed on dedicated sites, it would be very difficult and probably quite onerous to collect a levy from them. It would get to a point at which what we brought in through the levy would be lost in the collection.” <sup>11</sup>
101. Visit Scotland agreed that “in the fullness of time, it would be good to get the levy to apply, if appropriate, to those visitors, but we are not yet convinced that there are necessarily the right answers available, particularly in relation to motorhomes and cruise ships.” It was therefore reluctant to “slow up the process that we have begun in order to include what are, by comparison, relatively small parts of the market.” <sup>9</sup> UKHospitality Scotland agreed that “it would be helpful to focus on what we are trying to achieve with the bill as it stands instead of trying to add in more.” It explained that the industry was concerned that the levy would act as a “gateway” to the introduction of further charges and was clear that “there needs to be detailed conversations about what the changes are and the impact they would have. Trying to fit things into the bill perhaps does not provide the right opportunity to have those conversations.” <sup>9</sup>
102. Visit Scotland also confirmed that it chairs a camper van and motorhome working group and was undertaking research on the issue. It hoped that this would help it “understand where the options for the levy might sit in relation to existing legislation and local authorities’ existing powers.” Visit Scotland further highlighted examples where motorhome users are “quite happy to pay an overnight charge for good services and good places to stay” and suggested that councils already had powers to charge for overnight stays in certain circumstances with its representative stating that “there may be existing legislation and existing opportunities to address a large portion of the motorhome piece, although I would not say all of it, and I think there is scope to pursue that.” <sup>9</sup>

103. The Minister also highlighted potential challenges around the inclusion of motorhomes including “administration, compliance and enforcement issues.” He further noted that the Bill contained a clear definition of the “chargeable event” which applied to the purchase of overnight accommodation. His supporting officials also pointed towards the VisitScotland-led group and reiterated a willingness to engage further with stakeholders, “but we are aware that the chargeable event for a motorhome looks very different to the chargeable event in the bill.” <sup>11</sup>

104. **The Committee welcomes the ongoing work taking place, particularly around users of motor homes and awaits the conclusions of the working group with interest, including on Visit Scotland’s suggestion that “there may be existing legislation and existing opportunities to address a large portion of the motorhome piece.” However, the Committee acknowledges that it would be challenging for the “chargeable event” to cover such visitors and is clear that it does not wish to see the legislation delayed as a result.**

105. **The Committee also agrees with the STA that it would not be appropriate for a levy to be imposed at the point of hire in the scenario outlined above whereby the transaction takes place in a major city, but drivers then travel to rural parts of Scotland where local authorities would see no benefit from a levy being charged at the point of hire.**

106. **The Committee would welcome the Scottish Government’s views on suggestions for potential future technological solutions to this issue and an overview of any intended next steps.**

## Cruise ships

107. In respect of cruise ships, Highland Council explained, “we have 325,000 cruise ship visitors every year. Even a tiny amount of a disembarkation charge would make a fantastic difference in some remote communities.” <sup>10</sup> Argyll and Bute Council also expressed a strong interest in including cruise ship passengers but pointed out that whilst this could be easier to deliver where councils control the assets, some “cruise ships come into other ports that are privately run and it would have to be fair and consistent across the board.” <sup>10</sup> COSLA agreed that it was “certainly seeking to have passengers included, in a discretionary way, either in the bill or in another appropriate legislative vehicle...However, those things are not always straightforward.” <sup>11</sup>

108. Visit Scotland also pointed out that “the port is frequently not the area where the visitors go, so there is a disconnect between the arrival point and where the visitor impact is.” <sup>9</sup> However, ETAG contended that in respect of “cruise ships that are berthed in the Firth of Forth, for example, just because it is seen as being too

technical to add them in, that does not mean that we should not revisit the issue.”<sup>12</sup>

109. The STA highlighted the importance of cruise ships to local economies and stated that “it is absolutely critical that the cruise point is looked at very carefully and in isolation.”<sup>9</sup> UKHospitality Scotland agreed, stating that “we need to understand a lot more about the way the cruise market will go in the future and what impact introducing a disembarkation charge or a levy for vessels coming into ports would have on the decisions cruise operators make.”<sup>9</sup>
110. When asked in June about whether the Bill could be amended to cover cruise ships, the Bill Team explained that “a cruise ship is a very different animal from a hotel that is fixed in one local authority area...People on cruise ships stay on the cruise ship but also pay to be moved around to different places and to visit different locations. The taxable event is very different. The powers and provisions that would be needed for cruise ships would be very different from the ones in the bill.”<sup>4</sup>
111. The Bill Team went on to note that it had considered the issue of cruise ships in detail, but a number of questions still had to be addressed, “how should crew be treated when they come onshore? What would the taxable event be? Would it be disembarkation by passengers? Would the port authority or cruise ship operator be responsible for collecting it? What about when cruise ships are moored offshore and passengers are tendered onshore? How would the levy work in those circumstances?”<sup>4</sup>
112. Whilst it was possible that the expected fiscal framework for local government might include measures on how new local taxes might be introduced, potentially including on cruise ships, this “would represent a different taxable event, we see that as being a separate exercise to the one that is before the committee.” The Bill Team further stated that “to have included cruise ships in the bill would probably have required a whole separate consultation exercise and would have delayed the bill, potentially by several years.”<sup>4</sup>
113. The Minister then [wrote to the Committee](#) on 27 October to advise it that the Scottish Government will “seek to give local authorities the power to create a cruise ship levy. More policy work needs to be carried out, including consultation with the cruise industry, but we are open to considering adding a cruise ship levy to the Bill.”
114. Expanding on his letter in oral evidence, the Minister confirmed that “policy work on that levy is under way, in partnership with local government. That will lead to a formal public consultation, which will allow all relevant groups to provide their input on the proposal. We may seek to amend the bill to include a cruise ship levy, but that will very much depend on whether the policy development work and the consultation have been completed and on the view that Parliament takes on the scope of the bill.” However, he was clear that he did not want to delay the Bill “if work on a cruise ship levy has not been completed in time for such a provision to be added.”<sup>11</sup>

115. **The Committee welcomes the further consultation taking place to explore issues around whether cruise ship passengers could be covered by the Bill. However, the Committee acknowledges that it would be challenging for**

**the “chargeable event” to cover such visitors and is clear that it does not wish to see this legislation delayed as a result.**

## Percentage Rate

116. The Bill provides that the levy amount is to be calculated by multiplying the taxable amount by a percentage rate, to be set by the local authority. This was a key area of consideration during the Committee’s scrutiny with diverging views on the appropriateness of a percentage rate in comparison to a flat charge per person per night. The Policy Memorandum states that—
- ” “The Scottish Government has decided that a percentage rate is the most appropriate basis for a visitor levy. A flat rate approach would mean that the visitor levy charged did not adjust for accommodation of different qualities, or at different times of year, and would not automatically keep pace with inflation. In contrast a percentage rate approach means the visitor levy charged automatically reflects the difference in prices paid for different types of accommodation with, for example, a pitch on a campsite attracting a lower amount of visitor levy than a luxury hotel, even though the percentage rate applied to each would be the same. It therefore reflects the amount that someone is willing to pay for overnight accommodation. It means a visitor levy will reflect the quality of accommodation, and adapt as the price of accommodation rises or falls with seasonality, inflation, and other factors.” <sup>5</sup>
117. Many councils, including Dundee, East Ayrshire, South Lanarkshire and West Lothian, agreed that a percentage rate was fairer than a flat rate. The latter, South Ayrshire Council argued, “could disproportionately penalise visitors staying in budget accommodation” <sup>32</sup>. Others, including Highland Council preferred a flat or fixed rate, with Orkney Islands Council stating that “a fixed rate would be more appropriate as it would simplify a visitor levy scheme for both visitors and local businesses and make it easier to administer and enforce.” <sup>29</sup> Glasgow City Council agreed, explaining that “a percentage charging model for the levy will mean an increased time burden on accommodation providers needing to work out the rate to charge for the levy on customers’ bills.” <sup>40</sup> East Lothian Council also highlighted potential complications with a percentage rate where providers used “dynamic pricing” where the nightly rate fluctuates in line with demand.
118. However, in respect of the fairness of a flat fee, the ETOA noted that “the point about being regressive is very important. It is very hard to justify someone who is staying in budget accommodation paying the same amount that someone who is staying in high-end accommodation is paying.” <sup>10</sup>
119. Other councils sought greater flexibility still so they could decide whether a percentage rate or a flat rate was more appropriate for their area.
120. Given the difference in opinions between councils, it is perhaps unsurprising that COSLA advocates councils being granted powers to implement a levy as either a percentage rate or a flat rate, noting that across Europe, “many countries operate a

system where municipalities can choose either a percentage or flat rate. In Germany, for example, Berlin and Cologne charge a percentage rate, while Frankfurt charges a flat rate. Going further, in the Netherlands, Amsterdam charges a percentage rate of the total accommodation costs plus a flat rate per person per night”.<sup>41</sup>

121. The ETOA also summarised the position across Europe among its 21 members states as follows—

” “Five member states have introduced a percentage rate. There can be a mix, as in the Netherlands, for instance. Amsterdam has a hybrid rate, but there are other destinations in the Netherlands that have a fixed rate. The key examples are Germany, Hungary, the Netherlands, Romania and Austria.”<sup>10</sup>

122. In COSLA’s view, “there requires to be as much flexibility as possible in the model that will be used. Local councils seek autonomy to implement the levy in the best ways for their particular local areas.”<sup>11</sup> Both Highland Council and Argyll and Bute Council agreed, with Argyll and Bute stating 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.”<sup>42</sup> In its view “there are pros and cons with each of them.” East Lothian Council could also see benefits to either approach.
123. Visit Scotland favoured a percentage rate, stating “on balance, we think that that is more sensitive.” However, Visit Scotland further stated that “it is absolutely fundamental that we have one or the other approach nationally—it should not be a mix.”<sup>9</sup>
124. In respect of businesses and accommodation providers, the majority preferred a flat rate, with the STA arguing that a percentage model “is overly complex and will be excessively burdensome for certain types of accommodation providers and visitors”.<sup>14</sup>
125. Witnesses representing DMOs including Visit Arran and Venture North generally favoured a flat rate whilst Skye Connect stated that “there may be merits to a percentage-based approach but, in general, the feedback from businesses on Skye is that it should be very simple and that a flat rate would be preferable.” However, Festivals Edinburgh disagreed, noting that “having a percentage naturally accounts for variations.” ETAG agreed that a percentage rate “would reflect dynamic pricing and the vagaries of the market.”<sup>9</sup>
126. However, FSB Scotland confirmed that its members had been “pretty much evenly split” on the proposal with some preferring a percentage rate “because it would allow proportionality to be applied” whilst others raised concerns about “the burden of separating out costs.”<sup>12</sup>
127. Several of those advocating a flat rate suggested that a tiered approach could help make the levy less regressive. The BHHPA stated that a percentage rate was “probably not” the right way to go, but instead, “the system should be tiered, because you are comparing the Balmoral hotel with a caravan park, and those are very different markets.”<sup>12</sup> Hostelling Scotland agreed that a tiered approach would

be its preferred option.

128. Highland Council stated, “something that we could do to help is to allow councils in rural areas...to be flexible in how the fee is charged, rather than having a percentage fee...I think that it would help many small businesses if we could give them the option to have the levy as a simple fixed fee, albeit tiered.”<sup>10</sup>
129. However, Edinburgh City Council disagreed and noted that this perhaps highlighted the benefits of local variation, “we have looked at the pros and cons of a flat fee versus a percentage. Broadly, our view is that a percentage is fairer all round, from the point of view of the industry and in terms of the ability to administer...with a simple percentage, I do not think that the calculation is that hard or that the software is hard.”<sup>10</sup> Edinburgh City Council also noted that a percentage rate would naturally account for price fluctuations in different parts of the year as well as longer-term changes arising from inflation.
130. Expedia warned that charging the tourism tax as a percentage rate would “distort the market and undermine competition”<sup>31</sup>, explaining that hotels and B&Bs often use online booking platforms. The price the traveller sees on the booking platform already includes commission, which is generally paid by the accommodation provider rather than the consumer.
131. Edinburgh Chamber of Commerce previously conducted research on behalf of Edinburgh City Council and found that some cities including Berlin and Barcelona considered that a percentage rate had caused difficulties in calculating the tax for online bookings or found a fixed rate much easier to administer in terms of configuration of IT systems. However, Airbnb disagreed, stating that a percentage rate “is the most simple for operators to calculate and is the fairest and most equitable option, with those booking higher priced accommodation paying a greater amount of tax.”<sup>43</sup>
132. Airbnb went on to suggest that councils should have discretion to set a percentage rate within a national scale (for example, between 1% and 5%), which, it suggested would “ensure simplicity and scalability with tax collection and provide a consistent guest user experience”<sup>43</sup>. The UK Short Term Accommodation Association agreed that a percentage of the overall transaction was the best and fairest method, stating that “a flat fee levy runs the risk of being higher than the cost of the accommodation under certain circumstances and also penalises those on lower incomes.”<sup>44</sup>
133. When asked about the Scottish Government’s position on a percentage versus a flat rate, or a combination of the two, the Minister hoped that there would be agreement “that there should probably be uniformity—there should be either a flat rate or a percentage fee” in the interests of consistency. He recognised that there were strong views in support of either approach and wanted to ensure that a levy “applied is fair and progressive and that, equally, is efficient and straightforward to administer, and does not impose undue burdens of compliance, particularly on smaller operators.” He was therefore “open to looking at amendments to change to a flat rate, but that would require further detailed consideration and engagement with industry.”<sup>11</sup>
134. In the Minister’s view, “it would be for Parliament to determine whether a flat-rate model or a percentage-rate model is applied.” Whilst granting local authorities the

ability to determine that themselves could provide a compromise position, he was conscious that “there might well be a view from industry that that would just add further complexity.”<sup>11</sup>

135. The Minister also highlighted the risk of further complexity should there be a move to a tiered flat rate, potentially “as a result of local discretion or the unintended consequences of having a tiered system of flat rates, which could help to address some of the issues to do with it being a less progressive approach than a percentage rate but could also further complicate matters.”<sup>11</sup>

136. **The Committee considers that this is perhaps the most difficult aspect of the Bill in terms of determining what the right approach should be. The Committee recognises that there are strong arguments both for and against either a percentage or flat rate (and indeed, for a tiered flat rate) and appreciates that either approach would inevitably bring its own benefits and challenges.**

137. **The Committee remains mindful that the majority of businesses would prefer a flat rate for ease of administration and notes that, according the ETOA, 16 of the 21 member states to introduce a levy do so on the basis of a flat rate.**

138. **The Committee understands the calls from some local authorities to be permitted the flexibility to introduce either option in a way best suited to local circumstances, in keeping with the principles of the Verity House Agreement, and notes examples in other parts of Europe where a combination of both models is used. The Committee therefore invites the Scottish Government to undertake further work with the tourism sector, local authorities and other key stakeholders before Stage 2 in order to reach an agreed solution.**

## **Lack of upper rate or “cap” and ability to vary schemes within a single local authority area**

139. The Committee also invited views on the absence of any upper limit or “cap” on the percentage rate and the fact that it “may be different for different purposes or different areas within the local authority’s area but may not be different in relation to different types of overnight accommodation.”<sup>37</sup> Essentially, this means that a local authority could introduce different (or no) schemes in different parts of its area and/or set different rates for different events such as arts festivals or conferences.
140. Again, differing views on a cap emerged among local authorities. Both COSLA and SLAED supported the Bill’s approach in the interest of providing maximum flexibility to councils, with SLAED commenting that a nationally set cap would be

“contradictory to the Bill’s original intent...to grant fiscal powers to improve local democracy”. In its view, councils should have freedom to consider seasonal and geographical variations and design a scheme that meets the individual needs and nuances of their visitor economy and communities and “will take a sensible and pragmatic approach and would not act in a manner that would harm their efforts to regenerate their local economies.” <sup>26</sup>

141. Some local authorities including Aberdeen, Edinburgh, Highland and West Lothian agreed that it should be for individual councils to determine an appropriate rate based on local circumstances and market conditions. However, others including Orkney, Glasgow and South Ayrshire councils supported a nationally set upper limit which could provide greater consistency.
142. There was a greater degree of consensus among representatives of businesses and accommodation providers with the vast majority arguing for a national upper limit. FSB Scotland, for example, stated that a national cap “strikes the right balance between allowing for local flexibility and ensuring that punitive rates are not introduced”. <sup>19</sup>
143. The STA “strongly believes” there should be a nationally agreed upper limit and that visitors should not be charged the levy beyond five nights staying in the same accommodation. It stated that the maximum cap level “must take into consideration competitiveness and diluting of secondary spend in the sector, alongside how much net revenue will be raised”. <sup>14</sup> Sykes Family Holiday Cottages would be “highly concerned” if there was no upper limit, as “it would not be appropriate for councils to impose a 100% tax on the cost of accommodation, for instance, and the legislation should state what is appropriate.” <sup>45</sup> UK Hospitality Scotland agreed that a cap would be “incredibly helpful” because “a lot of the nervousness that businesses have about the introduction of a levy is that we could see the levy shoot up and the sky would be the limit.” <sup>9</sup>
144. The SBBA stated in oral evidence that “we feel strongly that the bill should specify an upper limit or the maximum amount that may be levied.” The BHHPA also feared that “local authorities will, of course, set limits as high as possible in order to accrue additional funding. There will also be a ‘domino’ effect as if one Local Authority sets a high percentage, all will follow suit. Or they may start low but rapidly increase it at every review. An upper limit should be set by the Bill.” <sup>11</sup> The ASSC agreed, stating that “it is critical that the bill contains a cap so that local authorities cannot go wild and levy 6 per cent or 7 per cent, because that would be hugely detrimental to the Scottish economy.” <sup>11</sup>
145. However, COSLA was not supportive of any form of national cap, explaining that “it is about the flexibility of the local council, and it should be self-regulating. That way there would be no need for a cap.” <sup>11</sup>
146. In respect of calls for a national cap or upper rate, the Minister expressed concern that such an approach “could be perceived and might well be regarded as an intrusion into the autonomy and decision-making space of local government.” He therefore wanted to trust “democratically accountable elected members in local government to take that decision,” <sup>11</sup> although he recognised the concerns of the industry which he intended to consider further.

147. In respect of a national cap on the maximum percentage rate that could apply, the majority of members of the Committee consider local government would be unlikely to introduce a prohibitive rate that could deter visitors and impact negatively on local economies.<sup>iv</sup>

148. Whilst the Committee acknowledges the strong views of some stakeholders that a national cap should apply, a majority of members of the Committee consider that in keeping with the principles of the Verity House Agreement, maximum rates should also be for local authorities to decide with any impacts being monitored through reporting.<sup>v</sup>

149. However, the Committee acknowledges that, in the event that a local authority did choose to introduce a levy at an excessively high rate, there is the potential for it to deter some visitors. The Committee therefore reiterates the importance of full and effective consultation on rates before a levy is introduced and of robust monitoring arrangements to enable local authorities to react to any undesirable consequences of their chosen rate should they arise.

## Cap on maximum number of nights

150. Festivals Edinburgh expressed concern about potential negative impacts on cultural workers who “enhance the appeal of Scottish destinations with increasingly constrained budgets”. For Edinburgh, this includes the casts and crews who deliver its festivals, “of whom an estimated 17,000 require accommodation”. Festivals Edinburgh therefore advocated a slightly different form of “cap”, not as a maximum percentage, but as a maximum number of nights for which the levy would apply, stating “having a cap would be one way of recognising, in part, the different way that they contribute to the economy and the fact that we might want to incentivise their coming. We would definitely be positive about a cap...but we would want that to be down to flexibility at local level - That was the cap that I had in mind—the number of days for which the levy would be charged.”<sup>9</sup>
151. Edinburgh City Council confirmed that it “would look at a cap of seven nights. We did that specifically with the festivals in mind, so that a performer or whoever who comes to Edinburgh to stay from the last week of July to the first week of September would pay for only seven nights.”<sup>10</sup>

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<sup>iv</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

<sup>v</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

152. **The Committee supports the ability for councils to introduce a cap on the maximum number of consecutive nights in the same accommodation for which the levy would apply should they so choose, following consultation with local stakeholders.**

## Ability to vary schemes within a single local authority area

153. Highland Council highlighted very different circumstances throughout Scotland and noted that what worked for one place might not be appropriate in other areas. In its view, “It is very important to allow the people who are on the ground to decide what is suitable and that includes deciding the rates that are charged, exemptions and so on. To me, it is almost inconceivable that we would not do it in that way.”<sup>10</sup> Edinburgh City Council strongly agreed although it also highlighted the importance of consultation, stating that “local flexibility has to be predicated on strong partnership working...Having that flexibility—if it is founded on strong public-private partnership working—is the right way to go, but I think that it should be a precondition.”<sup>10</sup>
154. However, commenting in oral evidence, Sykes Family Holiday Cottages agreed that “there might be some justification for localism when it comes to seasonality, different parts of a local authority area and different events, but there are elements of localism in the proposals that will create a much greater burden for small businesses.” In its view, the degree of flexibility being given to local authorities amounted to “localism for localism’s sake...rather than reflecting genuine local differences.”<sup>12</sup>
155. Airbnb was also opposed to councils having the ability to charge different rates within their area, “as this would over-complicate administration of the levy and...only creates confusion and extra burden for accommodation providers, tax authorities and guests”.<sup>43</sup> The ASSC supported this position, again pointing towards the experience of short-term lets regulations—
- ” “It would be a burden, on top of a burden, for a certain local authority area to choose to do things in a slightly more difficult regulatory way than another area might choose. It is not working with short-term let licensing. Let us learn from the mistakes of that and get it right. That is crucial. It is so important to reflect that it will be a huge burden on small businesses. That is a fact.”<sup>12</sup>
156. Others, including Hostelling Scotland and the Edinburgh Hotels Association opposed the ability to set differing rates at different times with Hostelling Scotland suggesting that such an approach would “be extremely difficult to administer and seems unfair to guests already paying a premium to stay in Scotland during peak times”.<sup>46</sup>
157. When invited to comment in oral evidence, the Bill Team highlighted the example of Highland Council “which has a great diversity of visitor attractions and degrees of

attractiveness. The bill would give such a council an opportunity to manage and apply the levy as it saw fit within that wide and diverse geography.”<sup>4</sup>

158. The Minister agreed that what was right for one area might not be appropriate for others although he “very much recognised the importance of getting the right balance between ensuring national consistency and avoiding any unnecessary administrative variation.” The Scottish Government was therefore “seeking to provide local flexibility to allow local authorities, through consultation with business and those who are active in the visitor economy in their area, to ensure that...the way in which revenue is raised through the visitor levy scheme is appropriate, responds to those local circumstances and gets the best return on investment for each particular area.”<sup>11</sup>

159. **The Committee agrees that there should be scope for local flexibility to design one or more schemes in keeping with local priorities and circumstances but is mindful of the need to avoid unnecessary complexity for businesses. The Committee therefore reiterates the importance of robust monitoring arrangements to enable local authorities to react to any undesirable unforeseen consequences that arise from variation in approaches within a single local authority area.**

## The “liable person”

160. Although it is the purchaser of overnight accommodation who pays any additional levy, the “liable person” for the purposes of the legislation would be the owner of the accommodation or the occupier of the premises where the accommodation is provided. The purchaser would pay the levy direct to the owner of the accommodation or to a third-party body (such as Booking.com or Airbnb) and it would then be the responsibility of the business owner to ensure all visitor levy fees are transferred to the local authority. This remittance is expected to take place on a quarterly basis unless the local authority opts for a different arrangement.
161. Commenting on the practicalities of this approach and how to make it work effectively, Scottish Land and Estates stated that “the only way that that can be done is through speaking to the people who will be affected by it and who must understand the mechanism of physically collecting the levy and passing it on. I think that there has not been enough work done on that.”<sup>12</sup>
162. Witnesses representing local authorities were clear that they wanted to ensure the lowest possible administrative burden, particularly for smaller businesses. Argyll and Bute Council, for example, explained that “we need to make it as simple as possible and not a burden on businesses to collect it. They are not paying the levy; they will be collecting it from their guests.”<sup>10</sup>
163. However, some respondents representing smaller businesses described this approach as “another tax on business” which would force them to be “unpaid tax collectors.” In oral evidence, the SBBA agreed, explaining that “they are genuinely worried about that. It is a skill they do not have and something they are not used to.”

The SBBA further explained that in its view, “it is really not a visitor levy; it is an accommodation tax and an extra tax on the product”, further noting that payment charges on card transactions (generally around two percent of the total payment) and online travel agent commissions (usually between 15 and 18 percent) would amount to costs to accommodation providers, in addition to an extra administration burden which would add to prices or eat into profit margins.<sup>12</sup> Sykes Family Holiday Cottages expanded on this point stating that “the reason why people do not increase their prices is that prices are already at the optimum level.”<sup>12</sup>

164. The ASSC agreed, stating that “the levy will absolutely be a huge burden, especially on the smaller accommodation providers” who often don’t have point of sale systems that larger hotels do, particularly when it comes to dynamic pricing. In its view, “a hotel will find setting up for the levy relatively easy, as it will have a one-off cost for setting up, but it will be incredibly burdensome specifically for smaller accommodation providers.”<sup>12</sup>
165. When asked how such a burden for small providers could be mitigated, the ASSC confirmed that it had “spent the past four years thinking about this,” but in its view, “there is no simple non-burdensome way to do it, I am afraid.” Other witnesses, including FSB Scotland and Scottish Land and Estates agreed, with FSB Scotland also stating that the additional regulatory burden was the biggest concern of its members, with around ten percent of them already spending more than eight hours a week on regulatory compliance.<sup>12</sup>
166. When invited to respond to these suggestions in oral evidence, the Bill Team explained that the liable person definition was primarily a question about enforcement as “it is much more realistic for a local authority to take enforcement action against, for example, a hotel in Edinburgh than an American tourist who owes £8 and has disappeared back to the USA.”<sup>4</sup> The Bill Team further explained that the proposed approach was analogous to VAT whereby retailers collect the additional charge although it is paid for by the customer rather than the business.
167. The Minister further explained that “there needs to be an efficient and effective way of administering the tax. In this case, just as businesses would collect other taxes, that would be the process by which the levy would operate.” However, the Minister also reiterated that he would continue to engage with businesses “in order to ensure that we have an administrative regime that is as efficient and as light touch as possible and that we find national consistency where we can,” which was why he’d asked Visit Scotland to convene an expert group “to develop best practice and guidance to support local authorities in their implementation of a levy.”<sup>11</sup>

168. **The Committee agrees that it would not be feasible for councils to pursue overseas visitors for relatively small sums and as such, a majority of members of the Committee support the Bill’s definition of the “liable person”.**<sup>vi</sup> However, the Committee also agrees that the administrative burden for providers should be kept to a minimum and looks forward to the reflections of the expert group on how this could best be achieved before stage 2.

## Recouping of administration costs

169. The Bill allows local authorities to recoup their administration costs from levy proceeds and some stakeholders suggested that businesses should be able to do the same before remitting the remainder to the local authority.
170. The Edinburgh Hotels Association, for example, stated that if administrative costs were reimbursed to businesses, “that would make it cost neutral and would satisfy a lot of naysayers on the introduction of a visitor levy.”<sup>12</sup> Hostelling Scotland agreed, stating that “any additional cost to businesses in any way, shape or form is just not affordable. We would need to be assured...that the introduction of such a levy would be cost neutral to the business position.”<sup>9</sup> Similarly, UK Hospitality Scotland agreed that “if local authorities will be able to recover their costs, it is absolutely appropriate for businesses to have their costs fully repaid, too, otherwise the relationship will be completely unbalanced.”<sup>9</sup>
171. The STA also called for accommodation providers to be permitted to keep some of the levy collected up to the point of recouping their start-up costs. Similarly, the SBBA felt that its members “must be able to deduct from levy revenue to cover their set-up costs, admin & IT costs, payment processing costs, OTA commissions etc., before remitting the net levy revenue to their Council”<sup>21</sup>. Comhairle nan Eilean Siar also suggested that consideration should be given to compensating small local businesses for the initial costs of developing and administering a scheme.
172. However, Highland Council disagreed, explaining “I do not see the additional burden being that high, so I do not believe that there is a case for costs to be added on.”<sup>10</sup> COSLA’s view was that collection of the levy would not be particularly onerous for businesses and they should not be able to recoup costs as “its purpose is to bolster and invest in local services.”<sup>11</sup>
173. Edinburgh City Council was “sympathetic to the costs of any scheme being recoupable,” but agreed with Highland Council and COSLA and was “not convinced that the costs in this case will be that high.” However, Edinburgh Council went on to confirm that it “would be sympathetic to the smaller businesses, in particular, if it could be proved that the costs are high.”<sup>10</sup> In Edinburgh Council’s view, this gave local authorities another incentive to keep the scheme as simple as possible although it didn’t rule out the possibility of small and medium-sized enterprises recouping some one-off costs.
174. The Minister also confirmed that he was “not aware of any tax operating within the UK where the costs of compliance can be reclaimed, but there would be nothing preventing a local authority, should it choose to do so...from supporting businesses with or reimbursing them for the cost of compliance. However, that would be a matter for an individual local authority to determine.”<sup>11</sup>

**175. Whilst recognising the strong concerns of many in the sector around the**

**potential for increased administration costs, the majority of members of the Committee are not persuaded that businesses should be able to recoup administration costs from levy proceeds given parallels with other taxes levied at the point of sale where they are unable to do so including VAT.<sup>vii</sup> Moreover, the Committee notes the Minister's comments that he was unaware of any tax in the UK where compliance costs could be reclaimed.**

**176. However, the Committee agrees that local authorities should have the ability to compensate smaller accommodation providers for any one-off implementation costs they might face, should they choose to do so following consultation. The Committee would therefore welcome the Scottish Government's views on whether the Bill's consultation requirements should oblige relevant local authorities to assess costs to businesses in their areas in addition to costs to councils themselves.**

**177. Again, the Committee highlights the importance of robust monitoring and measuring of impact to ensure that administrative costs for businesses are not prohibitive and so any issues can be addressed should they arise.**

## **Exemptions and rebates**

178. The Bill permits councils to make their own local exemptions and the Policy Memorandum states that "these will be informed by national guidance, to be developed with local government and business organisations"<sup>5</sup>. Exemptions may therefore vary between different local authorities although the Bill also grants Scottish Ministers power to make exemptions by regulations "if national-level exemptions are necessary".

179. The Explanatory Notes confirm that future regulations might provide "for the issuing of exemption vouchers to certain categories of persons to allow those persons to demonstrate that they qualify for a particular exemption from the levy"<sup>47</sup>, for example for visitors travelling for medical treatment.

180. Again, although many councils welcomed the opportunity for local flexibility, many accommodation providers focussed on reducing complexity and enabling the implementation of the most straightforward scheme possible.

181. COSLA noted that "there are a number of reasons why local authorities may choose to apply exemptions and rebates. This could be based on seasonal changes to tourist numbers, the occurrence of high-profile events at certain times of the year in specific communities, or even differing needs and circumstances within local authority areas"<sup>41</sup>. Both Edinburgh City Council and COSLA highlighted the

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vii Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

importance of national guidance which will be created by a cross industry group, including guidance on exemptions.

182. Comhairle nan Eilean Siar highlighted the example of people travelling to the islands to attend funerals. Outer Hebrides Tourism was strongly supportive of “having a bespoke model in the islands that reflects the interests of the wider region and the wider country but, with regard to exemptions, is more reflective of the needs of island communities in terms of the differences between the different types of islands.”<sup>9</sup>
183. ETAG supported local authorities having flexibility to introduce exemptions, but suggested, “perhaps there are some categories of exemptions that could be included in a national framework, with a local authority having some flexibility to go further should it so wish.”<sup>9</sup> Festivals Edinburgh again highlighted the importance of festival performers and explained that artists performing at the fringe take a risk by investing their own money in their shows. It suggested that one way to help them would be “to ensure that the provision for exemptions, rebates or reimbursements is in the legislation...We would then want to have that conversation locally about how we can best approach that.”<sup>9</sup>
184. However, some local authorities expressed concern that such exemptions could be difficult to manage, both for accommodation providers and local authorities themselves, with North Ayrshire Council asking whether accommodation providers would have to ask guests why they are staying there. In its view, this “seems like an invasion of privacy” and also “means the scheme is open to potential abuse by visitors claiming their stay is for an exempt purpose, so there would need to be a level of ‘proof’ of exempt purposes, which again increases the administrative burden for all parties.”<sup>33</sup> SLAED suggested that “if exemption criteria differ between areas, this could cause confusion for visitors – particularly those visiting more than one area in a single trip.”<sup>23</sup>
185. West Lothian Council supported a national approach to exemptions “for clarity and consistency” stating that although the levy would be a local decision, “it is unlikely that the individual circumstances where exemptions would apply would vary greatly between different local authorities”<sup>48</sup>. The CIOT agreed that councils introducing a levy “should be subject to the same rules in respect to exemptions and rebates as every other authority to ensure a degree of uniformity and minimal degree of distortion.”<sup>36</sup>
186. Businesses and accommodation providers also favoured the consistency of a national approach, with the STA calling for a nationally agreed set of exemptions, including, for example, people staying in overnight accommodation in their own local authority area, “who already pay a council tax fee and should not face an additional fiscal burden”<sup>14</sup> and for residential school trips. The Scottish Chambers of Commerce was similarly keen for exemptions and rebates to be set nationally, whilst PASC UK described the prospect of differing approaches in different areas as “a postcode lottery”. Witnesses including the BHPA, Hostelling Scotland, and the Edinburgh Hotels Association agreed that “exemptions should be nationally decided but locally administered.”<sup>12</sup> In UK Hospitality Scotland’s view, “the presumption should be that exemptions will be kept to a minimum and should be administered by

the local authority.”<sup>20</sup>

187. The STA agreed that there should be as few exemptions as possible, “but the absolute position of the industry is that that is not for the industry to manage. It needs to be pushed back to the local authority for a number of reasons, not least of which is the general data protection regulation.”<sup>9</sup> It questioned the appropriateness of a visitor being asked to divulge personal information, for example about a health condition or bereavement when checking in. For this reason, the STA was clear that “local authorities should administer that and there should be a reclaim, rather than disbursement at the hotel.” East Lothian Council agreed that “this should not be something that businesses have to police.”<sup>10</sup>
188. Others including Airbnb, the SBBA, SCC and the ASSC also highlighted potential problems if accommodation providers had to check whether or not a guest was travelling for medical reasons with the ASSC suggesting that they “would be almost impossible to enforce. We might find that, suddenly, everybody has a child in hospital...I know that the festivals are seeking exemptions for cast and crew, but everybody could say, “I am an actor.”<sup>12</sup>
189. The Edinburgh Hotels Association also queried what proof would be required and suggested that “everybody should be charged the visitor levy regardless, and then they can claim it back from the council if they are entitled to a rebate.”<sup>12</sup> Aberdeen City and Shire Hotels Association agreed that “any exemptions must be agreed in advance. Somebody should be able to say that they are exempt at the booking stage rather than turn up and say, “that does not apply to me,” because that is when you end up having an argument across the counter.”<sup>12</sup>
190. However, some larger operators did not support exemptions in any form with Expedia stating that “the best tourism taxes seek to apply a single rate across an entire jurisdiction, with no exemptions or variability”<sup>49</sup>. Similarly, Airbnb spoke of challenges where exemptions are based on the type, location or timing of stay and/or the circumstances of the guest, stating that—
- ” “Accommodation providers will have major challenges with exemptions that are based on individual circumstances, and it would be complex and potentially burdensome for them to be responsible for verifying the guest’s eligibility. Exemptions and rebates are also difficult for operators and booking platforms to administer and we advise against them. However, if the intention to provide exemptions is retained, they should be limited in nature, harmonised, set centrally and consistent across all local authorities in Scotland.”<sup>43</sup>
191. When asked why exemptions had not been included on the face of the Bill, the Bill Team explained that the Bill had been carefully designed to ensure that anyone using overnight accommodation as their main place of residence, including “people who are homeless or who are, perhaps, fleeing domestic abuse, or who are refugees”<sup>4</sup> would not be charged a levy. In respect of people travelling for medical treatment, the Bill Team noted that as this scenario would not impact on all local authorities, it was decided that it would be better to deal with it at a local level on the basis of guidance produced by the expert group. The Bill Team was therefore aware that exemptions are likely to vary significantly across different parts of the country.

192. The Minister agreed that for him, it was a matter of “getting the balance right in this respect, I want to ensure that, beyond what is in the bill, business, communities and local government have the opportunity, through working together and engaging through consultation, to determine the best suite of exemptions—if any—for their particular area.”<sup>11</sup>
193. The Minister’s supporting officials further explained that whilst the Bill contained provision for a voucher scheme, this was “just an option for a local authority, if it wants to go down that route. We do not have any set views on how exemptions should be administered.”<sup>11</sup>
194. As a member of the expert group, Visit Scotland confirmed that it had discussed the matter in detail, but “it is fair to say that it was inconclusive and that there is more work to do on the guidance ... we are unclear and uncertain about quite how we will get that to work ... to the satisfaction of the consumer, without disbenefit to the business and without increasing the burden for councils.”<sup>9</sup>

**195. The majority of the Committee recognises that exemptions can be expected to vary across different parts of the country depending on local circumstances and therefore supports a degree of local flexibility following consultation with relevant stakeholders.<sup>viii</sup> However, the Committee believes that it would not be appropriate for accommodation providers to “police” exemptions and would welcome the reflections of the expert group on how best to address this issue in advance of Stage 2.**

**196. The Committee invites the Scottish Government and the expert group to provide clear guidance around how an exemptions scheme would operate for key groups such as school groups, and to consider whether national exemptions should be provided for babies, children and young people.**

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<sup>viii</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

## Part 3: Introduction and administration of the levy

197. If a local authority decides to introduce a visitor levy, Part 3 requires it to do so as part of a visitor levy scheme and sets out rules on what such schemes should include, how they should be developed, and how they should operate. Local authorities may have more than one scheme in place for different parts of their area or for different purposes and also have the option to develop and introduce a joint visitor levy scheme with one or more other local authorities.

### Joint Schemes and National Parks

198. Scotland's two national parks span multiple local authority areas. Loch Lomond and the Trossachs National Park includes parts of Stirling, Perth and Kinross, West Dunbartonshire and Argyll and Bute local authority areas whilst Cairngorms National Park includes parts of Highland, Aberdeenshire, Moray, Angus and Perth and Kinross local authority areas. The Scottish Government has also committed to designating at least one new national park in Scotland by Spring 2026. The two existing parks are clearly impacted by tourism and provide services and infrastructure used substantially by visitors. The submission from Cairngorms National Park Authority (CNPA) asks that due consideration should be given "to the fact that many publicly provided tourism facilities and services are provided by organisations other than local authorities"<sup>50</sup> including outdoor access and ranger services.
199. The STA would like the national parks to "receive a fair share of investment from the revenue raised from the visitor levy"<sup>14</sup>. Luss Estates Company stated that where a national park exists and carries some of the burden of the local council, "then a portion of the funds raised should be passed to the National Park"<sup>51</sup>. Loch Lomond & The Trossachs National Park stated that the Bill is currently silent on how national parks and national park authorities fit into ensuring that the benefits of visitor levies are maximised in "these nationally and internationally important visitor destinations"<sup>52</sup>. CNPA noted that given that "local authorities through their tax raising powers will be the only organisations entitled to raise a levy, the Park Authority would recommend that some formal provision be introduced to ensure a fair distribution of funds raised where a service is not provided by the local authority."<sup>50</sup>
200. Highland Council confirmed that Cairngorm National Park was "quite supportive of the idea of a tourist tax." However, it noted that five different local authorities would be involved "and the difficulty would be in getting those five local authorities to agree to some form of similarity."<sup>10</sup> COSLA confirmed that it "would not support anything that gives automatic direct funding to national parks, because that would be complicated, but they would not be excluded from investment opportunities where they are deemed to be locally appropriate following the consultation."<sup>11</sup> Visit Scotland agreed that it was essential that relevant councils "engage in early discussions with the national parks," but it needed to consider the matter further and

this continued to be a “live discussion.”<sup>9</sup>

201. Speaking of the potential benefits of a shared approach, Highland Council stated that “there are many cases where we will be collaborating with other local authorities. We can draw a line on the map, but tourists do not understand that line—they would like significantly the same facilities on one side of the line as on the other side of it.”<sup>10</sup> Highland Council further stated that an additional benefit of joint working could be that it would help minimise costs. COSLA agreed and highlighted the benefits that a shared digital platform for submitting returns could bring, a suggestion that is considered more fully in paragraphs 305 to 308 below.
202. Some council areas which did not include National Parks also expressed an interest in working jointly with neighbouring local authorities. East Lothian Council, for example, pointed out that it receives large numbers of day visitors from Edinburgh and agreed that “if we were able to act regionally on larger projects that benefit the whole of the area, that would be a quite positive outcome.”<sup>10</sup> Edinburgh City Council also highlighted the benefits of joint working as demonstrated by partnerships around city and growth deals and confirmed that early conversations were taking place. However, it also spoke of the need for flexibility in terms of collaboration as “different councils will move at different paces.”<sup>10</sup>
203. In the view of UK Hospitality Scotland, it is “critical that local authorities work together and it is great that that is also set out within the bill. Encouraging local authorities to interact with one another if they are considering introducing a levy is just good advice. If a local authority wants to introduce a levy, it would be good for it to talk to its neighbouring local authorities.”<sup>9</sup>
204. The Minister confirmed that the Bill had been designed to enable two or more local authorities to work together, something that could apply equally in the context of national parks. He undertook to consider whether “further measures might be required to ensure that the voice of the national parks is appropriately recognised—including in the proposed legislation.” However, he returned to his previous point that “those decisions will ultimately be for individual local authorities to take.”<sup>11</sup>

**205. The Committee welcomes the fact that local authorities would be able to introduce joint schemes under the Bill. However, the Committee questions how this might work in practical terms in a scenario where a local authority wishes to introduce a levy as quickly as possible and is open to the idea of collaboration with its neighbours, but its neighbours are less advanced in their preparations.**

**206. In respect of national parks, the Committee agrees that they should benefit from schemes covering all or parts of their areas. However, the Committee notes the practical challenges that could arise where several local authorities are working at differing paces and with different priorities and would welcome the Scottish Government’s reflections, before Stage 2, on how such challenges could be mitigated.**

## Consultation requirements and 18-month lead-in time

207. Before introducing or modifying a scheme, Part 3 of the Bill also requires local authorities to prepare and publicise a draft scheme, consult relevant persons including representatives of communities, businesses engaged in tourism and tourist organisations in its area, and prepare and publicise a summary of consultation responses. The local authority would then be required to confirm its proposed next steps and the reasons underpinning its decision. Commenting on these requirements in oral evidence, the Bill Team explained that “a lot of consultation is required before a visitor levy is introduced, and there is a requirement for impact assessments to be carried out. We have listened and responded to the views of business on that.”<sup>4</sup>
208. Should a local authority decide to introduce a scheme, the Bill provides that “the date on which a VL scheme is to come into force must be at least 18 months after the date of the local authority's decision to introduce the scheme.” Local authorities would also be required to publicise their decision along with the proposed date on which the scheme would come into force. Section 13 specifies the content that must be included in a scheme, including the scheme area, the date on which it would come in to force, the period for which it would apply (which could be indefinite), whether it would apply in certain periods only or throughout the year, the percentage rate that would apply, how any decisions on the scheme would be reviewed, any circumstances where a levy should not be payable and should be reimbursed and how any reimbursement would take place, and detail of how the local authority intends to decide on the use of net proceeds of a scheme. Scottish Ministers would also have powers to add or remove required content of a scheme by regulation.
209. The BRIA describes the Scottish Government’s reasoning behind the 18-month lead-in time as follows—
- ” “We have heard from stakeholder feedback that due to the complexity of routes to market in the industry (such as the use of online travel agents and other third parties), there may be complications in ensuring that prices inclusive of a visitor levy are shown across all platforms. To mitigate against this risk, the bill sets out an 18-month period in which accommodation providers can ensure that they are fully ready to comply with the requirements of a visitor levy scheme, including that advertised prices accurately reflect the impact of the visitor levy.”  
53
210. In COSLA’s view, the lead-in time “is clearly excessive” and would mean that councils would not be able to implement visitor levies before 2026 at the earliest. COSLA therefore recommends shortening the legally required lead-in time for consultation and publicity, thus “allowing councils to meet the immediate demands placed on local communities by tourism”<sup>41</sup>. Edinburgh City Council agreed, recommending that the implementation period should not be defined in the legislation, but “decided by the local authority in consultation with the providers who would be collecting the levy from visitors.”<sup>16</sup> Other councils, including Highland and Argyll and Bute agreed, whilst West Lothian Council suggested that telling councils how long the process should take “appears to contradict the delegation of powers to

local decision making that this Bill is aiming to achieve”.<sup>48</sup>

211. In oral evidence, Comhairle nan Eilean Siar agreed that this “represents a long lead in time”<sup>10</sup> although it recognised the need for consultation. Argyll and Bute Council was conscious that the industry has requested that delay, “so there is a balance to be struck [but] I have to say that the 18-month delay seems quite excessive.”<sup>10</sup> Both Edinburgh Council and Highland Council agreed, with Highland Council stating that “consultation is really important and we have been discussing this or consulting with tourism bodies and so on since 2019. However, the 18-month delay is far too long and should be significantly shortened. If Parliament decides to go ahead with the levy, we should be allowed to bring it in as quickly as we possibly can.”<sup>10</sup> Festivals Edinburgh agreed that “City of Edinburgh’s discussions with the industry are quite far down the track and we are conscious that they feel that they could do it more quickly than in 18 months.”<sup>9</sup>
212. However, Glasgow City Council, believed that accommodation providers, and the industry more generally, must be given adequate time to properly prepare, and that thorough awareness-raising activities must take place so visitors are well informed.
213. Edinburgh City Council and Highland Council [wrote jointly](#) to the Committee on 28 November setting out in further detail their shared view on the case for reducing or removing the minimum 18-month notice period. Both areas had “carried out extensive public debate and engagement with industry from 2018/19” but they note that the draft legislation currently requires local authorities to first set out the objectives of the scheme, conclude impact assessment work, and then continue with an extensive consultation period.” In their view, “a further 18-month period that starts after the conclusion of consultation and engagement activities seems excessive.”<sup>54</sup>
214. The letter also points out that “international comparisons have told us that the period from agreement and announcement of a scheme by the local authority and introduction appears to be typically between three and 12 months” and provides international examples to illustrate this. In their view, “local areas are best placed to make decisions on the right timing for a levy to be introduced” and they therefore “urge the Committee to either reduce this to 12 months or [ensure] that it is allowed to be determined at a local level, subject to agreeable assurances being met.”<sup>54</sup>
215. However, witnesses representing businesses supported the 18-month lead in time, and FSB Scotland “very much cautioned against speeding up that process” because “although an 18-month implementation period might sound like a long time, we all know that it could go quickly.”<sup>10</sup>
216. In respect of the tourism sector, the STA “strongly welcomes” the legislation placing a clear commitment on local authorities to consult with communities, tourism businesses and tourist organisations before introducing a scheme. In its view, “there must be meaningful and in-depth consultation, with an agreed minimum requirement on the level of engagement undertaken with all relevant parties.”<sup>14</sup> Similar approaches were suggested by others including the BHHPA, Scottish Land and Estates, and Airbnb. UK Hospitality Scotland agreed that “18 months sounds like a long time, but it is not. That period sits very well with the detail that we have been given around the consultation...Consultation cannot be rushed.”<sup>9</sup> ETAG also

supported the lead in time, which it described as “absolutely essential.”<sup>9</sup>

217. The STA also recommended that the Bill should make clear that any decision to introduce a visitor level scheme must take place only after the legislation has passed. The STA stated that “some local authorities will argue that they have already undertaken significant consultation activity. However, some of this was prior to the COVID-19 pandemic and the financial crisis we have since faced. Both tourism businesses and households are in a very different position to 2019, so new consultation is essential before any decision to implement a levy is made”.<sup>14</sup>
218. DMOs including Visit Arran and SkyeConnect agreed that 18 months seemed “realistic” and “fair” and that input from DMOs was essential in order to engage with the local community. However, Outer Hebrides Tourism pointed out that “not all areas in the Highlands have DMOs representing them and part of the issue there would be to look at regional plans.”<sup>9</sup>
219. Visit Scotland spoke of how important it was for “the objectives of any visitor levy scheme to be aligned to the regional economic strategy” and asked whether a local authority introducing a levy should be required to have a local tourism strategy, “so that everybody understands what the levy is being used for and so on.”<sup>9</sup> The STA agreed, stating that “if there was no plan and there was the choice to go off and spend money elsewhere, we would have a big problem with that.” However, it further noted that “if they do not have a plan, we have a national strategy that clearly signposts and signals what the areas of focus should be.”<sup>9</sup>

**220. The Committee emphasises the importance of robust consultation with all relevant stakeholders and agrees that scheme objectives should correspond with the local, regional and national tourism strategies as appropriate.**

**221. The Committee also agrees with the STA’s recommendation that “any decision to introduce a visitor levy scheme must take place only after the legislation has passed” as it would be inappropriate for any body to consult on a scheme based on legislation which has not passed, and therefore has the potential to change significantly during its passage.**

**222. However, a majority of members of the Committee consider that an 18-month lead-in time could be considered excessive when compared to international comparators and invites the Scottish Government to respond to calls from Edinburgh and Highland Councils that it should be reduced to 12 months or determined at a local level.**<sup>ix</sup>

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<sup>ix</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

## How revenues should be spent

223. Another key theme that arose during scrutiny related to how net proceeds of any levy should be invested. Local authorities would be required to maintain separate accounts for any net proceeds of a scheme, meaning such funds should not be incorporated into a council's "general funding pot." The FM provides estimates of how much it might cost local authorities to administer a levy, based on figures provided by councils. With initial set-up costs of approximately £100,000 - £460,000 per local authority, the FM estimates ongoing operating costs of between £190,000 and £500,000 per year. This is based on three to five full time equivalent members of administrative staff plus various non-staff costs. Clearly for any local authority to consider introducing a visitor levy, the total amount raised would have to exceed the total likely costs.
224. Any funds raised from a visitor levy should only be used to support the objectives of a visitor levy scheme, which must "relate to developing, supporting or sustaining facilities or services which are substantially for or used by persons visiting the scheme area for leisure purposes." The Explanatory Notes provide examples of how money could be spent, such as the building of a visitor centre and improvement of transport links to an area popular with visitors. However, it would be for the local authority, in consultation with local stakeholders, to decide how revenues are spent to support the objectives set out in the Bill. The Policy Memorandum therefore acknowledges that "facilities and services which are used by residents as well as visitors could receive funding from a visitor levy, depending on the local authority's assessment of whether the facility or service is substantially used by visitors." <sup>37</sup>
225. The Bill Team explained that some local authorities "see the establishment of a tourist levy as a means of raising funds to help better manage that and provide better facilities where there are high visitor numbers with a high impact" whilst others "see raising additional funds through the levy as a means of further promoting their area as a destination, therefore increasing wider local tax take and generally raising standards and facilities in that area." <sup>4</sup>
226. By requiring funds to be hypothecated, the Bill restricts what local authorities can do with the proceeds raised through a Visitor Levy, something that has been requested by the tourism industry since 2018, with the STA insisting earlier this year that the Bill "must explicitly state that the revenue raised through the levy will be reinvested in tourism priorities". <sup>15</sup> There are many examples around Europe of such hypothecation of funds and the BRIA describes similar schemes in Catalonia, Slovenia, Lithuania, Croatia, Hamburg and France. However, there are other destinations, such as Berlin and Amsterdam, where tourist tax money appears to be added to the general budget and is not ring-fenced for such purposes.

## Views of local government

227. COSLA was confident that the revenue raised by a levy will be used "to the benefit of both tourists and residents, for example through strengthening transport links between remote rural communities or improving the quality of the local built and natural environments". However, like many local authority responses, COSLA cautioned against "overly restrictive regulations on how revenue is utilised...it is

crucial that councils and local communities retain as much freedom as possible.”<sup>41</sup>

228. Highland Council called on the Scottish Government to consider the Verity House Agreement when considering this aspect of the Bill, suggesting that it should be up to local authorities to develop a scheme in collaboration with local stakeholders as “there are many things that we provide that tourists use; therefore, there should be no restriction on our funding them.”<sup>10</sup> Similarly, Inverclyde Council suggested that the Verity House Agreement allows councils “to have full discretion over the use of the proceeds of any levy, although in practice most, if not all, will use at least some of the proceeds to support tourism related activities.”<sup>55</sup>
229. West Lothian Council argued that visitors and residents of areas “use the same wider infrastructure with no discernible separation in benefit”<sup>48</sup> whilst Shetland Council stated that “it should be clear that investments in areas of general purpose (such as road improvements or investments) are in scope as improvements to the [tourism] sector, given the importance of local infrastructure to servicing the visitor market.”<sup>56</sup>
230. In oral evidence, Edinburgh City Council confirmed that it did “not believe ring fencing of specifically tourism-related spending should be tight, but we understand that the money will have been raised by visitors and that therefore visitors need to see the benefit from that spending.” Highlighting the example of graffiti removal in historic parts of the city, it noted that it currently spends £200,000 per year but this was insufficient: “Maybe we could double that, and it could all be funded by the visitor levy. Therefore, the council could make a modest saving while there was an increase in the amount of money being spent on graffiti removal in the city.”<sup>10</sup> Glasgow City Council also suggested that additional funds could be used to help ensure “our city centre is attractive for tourists.”<sup>10</sup>
231. Whilst COSLA would “obviously” prefer no direction on investing levy revenues, it was clear that the Bill did not provide for ring-fencing as such, as “it is additional income to support the services that people rely on when they visit the area.”<sup>11</sup>

## Views of businesses and the tourism sector

232. The tourism sector generally welcomed the Bill’s provisions on the investment of revenues with the STA stating that as businesses will be expected to collect the visitor levy on behalf of local authorities, “it is only fair that the money raised is reinvested in tourism”. However, the STA also called for the definition to be amended to make clear that revenue can be invested in other tourism priorities “such as investment in visitor attractions and heritage sites, cultural programmes, and the promotion and management of destinations”. The STA also supported provisions ensuring that spending decisions would be made at a local level given that “each local authority area will have its own different tourism priorities and needs”. However, the STA was clear that it did not want the visitor levy to become a ‘toilet tax’ or ‘trash tax’ “to fix problems that should come from existing council budgets and pay deals, such as last year’s bin strikes”.<sup>14</sup>
233. The ETOA suggested that “leisure” might be “the tricky word there because it can

be counterproductive to say there is one tribe of people called visitors and another tribe called residents. A good place to live is often a good place to visit and you will want to maximise the mutual benefits.” It noted that “leisure” is undertaken by residents as well as visitors, so a more holistic approach was preferred. UK Hospitality Scotland also pointed out that the experiences of visitors and locals “are not mutually exclusive” and called for ambition in setting “objectives and outcomes that everybody can sign up to.”<sup>10</sup>

234. The ASSC highlighted the importance of “principles of reciprocity and transparency”<sup>57</sup> whereby revenues collected from tourists are spent on services benefitting tourists, noting that in parts of Switzerland, visitors paying a levy receive a guest card entitling them to free public transport, wi-fi access or discounted entry to attractions.
235. FSB Scotland highlighted a recent survey of its members showing majority preference for levy funds to be spent on road maintenance and transport links, facilities such as public toilets, bins, parking spaces and the upkeep of local area and street cleaning. According to the FSB, these results show a desire from SMEs to see any revenue raised used as a force for growth in their local areas, particularly in terms of investing in infrastructure which will make a location more attractive to tourists.
236. However, the BHHPA was particularly against the use of levy revenues to fund overnight parking for motor homes, stating “if the money raised from the visitor levy was spent on further overnight parking areas, that would be a major negative for the business owners and the levy payers – effectively directly decreasing holiday park income by encouraging wild camping”.<sup>58</sup>
237. The SBBA “very much welcomed the fact that the bill says that the proceeds should be spent on tourism-related issues, but our big worry and probably that of the sector as a whole is that it could simply be used as a way of replacing existing local government spend.”<sup>12</sup> Scottish Land and Estates agreed that this was “the crux of it” and called for “some kind of additionality test...people must see that the levy results in a tangible benefit.”<sup>12</sup>
238. FSB Scotland supported this position, stating that “it absolutely cannot be because local authorities cannot afford to invest in those services as part of their routine budget. I completely appreciate the fiscal situation that they are in, but it is not fair to ask small businesses to take on that burden just because there are gaps in local authority funding.”<sup>12</sup> The ASSC agreed, pointing out that “there could be huge benefits to the levy...if things are set up that are clearly advantageous to both the community and tourism infrastructure.” The ASSC warned, however, that “if the money just goes into core services, you will not get the support of the tourism sector.”<sup>12</sup>
239. Aberdeen City and Shire Hotels Association concurred, stating that in the context of stretched budgets, levy funds “cannot be used to replace core services.” It called for “a longer-term plan from local authorities for how the money will be spent. It cannot fall into the annual budget decision-making cycle.”<sup>12</sup> Hostelling Scotland also agreed on the importance of local authorities “saying how the money will be spent in the next financial year and, perhaps, over a three-year plan, so that everyone is

clear that there is a way forward and there is a road map.”<sup>12</sup> Aberdeen City and Shire Hotels Association also highlighted challenges faced by DMOs due to the lack of multi-year budgets forcing them to make short-term decisions, something that it hoped the Bill might help resolve.

240. Witnesses representing DMOs including Skye Connect, Visit Arran and Venture North agreed that levy funds could be used to strengthen DMOs which represent the community voice and “desperately need resource.”<sup>9</sup>
241. However, others including trade unions, suggested that funds should be invested in training and education for those working in the tourism sector, which would also help to improve the visitor experience over the longer term. Unite the Union called for investment in a wide range of areas including employability projects, street cleaning and refuse collection during peak periods, improving transport infrastructure and providing affordable housing in tourism hotspots.<sup>59</sup>
242. The Bill Team acknowledged diverging views on how revenues should be invested, stating that the Bill takes “a middle way.” In its view, “we think that that strikes the right balance between making sure that the money that is raised from visitors goes towards things that visitors use or that are for visitors, without being overly prescriptive about what exactly the funding can be used for.”<sup>4</sup> The Bill Team further confirmed that guidance and best practice developed by the expert group would also address the mechanisms that a local authority could put in place to decide how the funding is used.
243. When asked whether any revenues generated as a result of the Bill would be considered in future calculations for the general revenue grant allocation, the Bill Team confirmed that this was not the case, explaining that this was part of the reason for the requirement for separate accounts to be held. Were such funds not ring-fenced and simply absorbed into general budgets, the Bill Team stated that it would be “fundamentally unfair that, for example, schooling in Edinburgh could be better funded simply because there is a castle on a volcanic rock in the middle of the city compared with schooling in other parts of the country that do not have that attribute.”<sup>4</sup>
244. The Minister explained that the Scottish Government has sought to be “very clear” that “revenue raised through a visitor levy is not intended to substitute for any other revenue. The revenue that will be raised is to be hypothecated for spend on facilities and services that help and support the visitor economy” following consultation with local stakeholders, something that would “ensure transparency and clarity.” Whilst he acknowledged that “there could be a temptation to get into a prescriptive list of what is in or out of scope,” such an approach “would clearly be counter to the bill’s intention, which is about fiscal empowerment of local government.”<sup>11</sup>
245. The Minister continued: “I am not saying that we have necessarily nailed it and got into the Goldilocks zone, where the definition is perfect, but we have got pretty close to it.”<sup>11</sup>

246. **The Committee agrees that any funds raised through a levy should be kept**

**in separate accounts and should be considered as being additional to existing funding streams. The Committee also supports decisions on spend being taken at a local level and agrees that the definition is broad enough to allow real flexibility in spending priorities following consultation with local stakeholders, whilst ensuring that investment also corresponds to the priorities of local tourism and accommodation businesses and DMOs where applicable. The Committee further agrees that there are many examples where spend could benefit visitors and locals alike and welcomes this approach.**

247. **As noted above, the Committee emphasises the importance of robust consultation and transparency in reaching agreement with relevant stakeholders on spending priorities and agrees that scheme objectives should correspond with the local, regional and national tourism strategies as appropriate.**

## **Where funds should be invested**

248. The Bill does not specify where within a local authority area funds should be spent. Some stakeholders supported this on a redistributive basis, whilst others supported funds being invested in the locality in which they were raised. SkyeConnect stated that “there is huge public support for the idea of reinvesting money in the area where it is generated,” something that 90% of respondents to its survey supported.<sup>9</sup> Visit Arran confirmed that it too felt that funds generated locally should be invested locally whereas Venture North disagreed, stating that instead, “a cross-sectional, private-public sector, full management plan over a 10-year period with regard to how the funds would be managed” was needed.<sup>9</sup>
249. As a community owned island, the Isle of Gigha Heritage Trust stated that Argyll and Bute Council has less to do with facilities provided for visitors than in some other areas. The Heritage Trust was therefore concerned that the island may be unlikely to see any benefit from funds collected under a local authority-wide levy and suggested that the Bill should be amended to include “a requirement for the council to work with community groups and Trusts to determine how the funds collected in that locale are spent, then this would ringfence funding to benefit the places where it is collected”.<sup>60</sup>
250. Comhairle nan Eilean Siar agreed that “there should be flexibility for local authorities to use the money where it is needed, but there should also be no stipulation about areas that should not be included...it is important that anywhere that the local authority and community deem support is needed should be included.”<sup>10</sup> Scottish Land and Estates also called for levy revenues to be fairly distributed within council areas on the basis of need and merit, arguing that “rural mainland and island community projects should be able to draw upon VL funds that have also been paid by visitors to inner city locations within that authority area.”<sup>61</sup>

251. When invited to comment in oral evidence, Highland Council explained that it favoured “a rather more blended approach, whereby a percentage of the money would be spent directly locally for the benefit of the businesses that raise the fee, but a proportion of it would be spent strategically. For example, if you go to a hotel in Skye, you have to drive there; you have to drive on some other area’s roads to get there.”<sup>10</sup> Edinburgh City Council, however, stated that “local authorities should have flexibility in spending the money, but that spending should be reflective of where the revenue was generated.”<sup>10</sup>
252. In Visit Scotland’s view, “it would be wrong to hypothecate the tax in that way. If it is a Highland Council tax, I do not think that the money should be hypothecated directly to any single destination.” To illustrate its thinking, it explained that “Skye might want significant sums of investment to deliver something new, different or better and Skye would then recognise that Sutherland or Caithness, in two or three years’ time, might have equal ambition. Hypothecating the money to individual destinations is detrimental to being ambitious.”<sup>9</sup> The STA acknowledged that this could be a particularly emotive topic in the Highlands, but in its view, “the aim is to spread the tourism pound and to try to ensure that the visitor experience of Scotland as a whole is absolutely world class. That will require working together strategically over time.”<sup>9</sup>
253. ETAG also spoke of the importance of the Edinburgh Tourism Strategy for 2030 which included “strategic goals to deliver around people, place, environment, partnership and reputation”, each of which underpin the delivery of the strategy as a whole. It confirmed that it “absolutely endorsed the legislation saying that the money should be ring fenced for the support of a visitor strategy.”<sup>9</sup>
254. When asked about circumstances in which a council applied a levy in part of its area but not in others, and whether there would be a case for any revenue that is raised to be spent in that same geographical area, the Bill Team confirmed that “that it is for local authorities to determine; we are not prescriptive about that.”<sup>4</sup>

**255. The Committee understands the views of some stakeholders that funds should be invested in the specific geographical area in which they were generated but considers that this would fail to provide for ambitious, strategic, long-term investment for the reasons set out by witnesses including the STA and Visit Scotland. The Committee therefore supports the level of flexibility around specific geographical areas in which levy funds should be invested as set out in the Bill.**

## Business visitors

256. Several stakeholders highlighted the view that this part of the Bill failed to recognise the importance of business visitors, with the City of Edinburgh Council noting that they accounted for 12% of overnight stays in 2021. In its view, “as business visitors would be paying a visitor levy, it would not be right to be unable to spend the revenue raised on activities specifically aimed at them.”<sup>16</sup>

257. Edinburgh Hotels Association reinforced this point in oral evidence, explaining that “the business corporate associations and sporting events need to be included, in addition to leisure. Business events alone are worth £2 billion to Scotland’s economy, and Edinburgh specifically relies really heavily on that.”<sup>12</sup> UK Hospitality Scotland pointed out that “business events have not bounced back in terms of numbers in quite the same way that leisure tourism has. Perhaps there are opportunities to help some destinations in Scotland to get ahead of their international competitors in that area, as well.”<sup>9</sup> ETAG also supported the inclusion of business visitors which was “a vital ingredient in the whole economic strategy for the visitor economy”<sup>9</sup> and something that it felt was currently missing from the legislation. This view was also expressed by COSLA in oral evidence when it explained that it would not want to exclude business visitors “because there are places where they might have different needs and priorities.”<sup>11</sup>
258. On this basis, East Lothian Council suggested that the Bill should be amended to permit funds to be invested in facilities and services substantially used by visitors travelling for business purposes as well as for leisure. This suggestion was supported by FSB Scotland in oral evidence. However, in terms of the investment of revenues, it confirmed that when consulting its members, “Overwhelmingly— up to two thirds—said road maintenance, transport links, public toilets, bins and parking spaces. In other words, all those things that are crucial to attract people to an area. Business support was further down the list than those things.”<sup>12</sup>

259. **The Committee agrees that business visitors should also benefit from funds raised by a levy given that they would also have to contribute to it, although it recognises that there will be many occasions where both business and leisure visitors (and indeed, local residents) use the same services, facilities and infrastructure. The Committee therefore invites the Scottish Government to respond to calls for the Bill to be amended so funds can be invested in services or facilities used by visitors travelling for business purposes as well as by those doing so for leisure.**

## Reporting

260. Local authorities will have to report annually on any scheme introduced, with information published on the amount of money raised, how funds have been spent and progress towards the objectives of the scheme. Reviews of schemes would also need to be conducted every three years. Some local authorities agreed that these requirements were reasonable and appropriate with many already having similar arrangements in place for other revenue streams. COSLA understood the need for record keeping, reporting and reviewing, but wanted these requirements to be implemented in a way that did not “add to the already onerous reporting requirements faced by Local Government”.<sup>41</sup>
261. Glasgow City Council welcomed the requirement for local authorities to keep a separate account of the scheme and report annually on monies collected and how net proceeds had been used, suggesting that this transparency will be “integral to

the success of the VL scheme and the delivery of its objectives”.<sup>40</sup> Some local authorities stressed the importance of clarity on exactly what should be reported on in the national guidance which will be produced later by the expert group.

262. Whilst some councils agreed with the requirement for three-yearly reviews, West Lothian Council suggested that this was “inconsistent with standard review timescales therefore it...should be reviewed every administrative term (i.e., every five years). Retention of the ability to review and change the scheme at any point will enable more regular reviews dependent on local circumstances.”<sup>48</sup> Inverclyde Council agreed, highlighting the Verity House Agreement and suggesting that councils should have discretion to keep records and report regularly without further legislative requirements.
263. The STA believes that accountability and transparency are key to ensuring that the net proceeds of any levy are used for the purposes set out in the Bill. It therefore welcomed the three-year review period and reporting duties, as this would provide an “important opportunity” to review how the scheme is working and whether it was having a detrimental or beneficial impact on tourism and hospitality businesses<sup>14</sup>. The UK Short Term Accommodation Association agreed that local authorities should be obliged to assess the impact of the levy as part of their reviews, including an assessment of any negative impacts.
264. The Scottish Chambers of Commerce supported the provisions around annual reports which should “include a full and transparent breakdown of the costs associated in administering a VL scheme for the local authority”<sup>18</sup>. According to Edinburgh Chamber of Commerce this would help ensure that revenues are treated as a supplementary revenue stream, rather than an opportunity to fund existing council services and facilities. UKHospitality Scotland suggested that reporting should also include progress against KPIs agreed with business to show the difference the levy is making in supporting destination development.
265. Sykes Family Holiday Cottages suggested that “the annual report that is mentioned in section 18 should include an analysis of the number of overnight stays compared with the year before. You should look at the year prior to the levy coming in and, when the levy is in, report on the impact on the tourism sector and tax receipts.”<sup>12</sup>

**266. The Committee agrees that it is fundamentally important that local authorities report regularly on the operation of a scheme in the interests of accountability and transparency. It therefore supports suggestions that reports should contain an analysis of any negative or positive impacts on visitor numbers and spend in addition to costs for councils, revenues generated, how they were invested, and what the benefits were for the tourism sector, businesses and communities.**

**267. The Committee also agrees with the Bill’s provisions in respect of annual reports and three-yearly reviews which, it considers, strike the right balance in terms of ensuring transparency and accountability whilst not being overly onerous for local authorities.**

## Part 4: Returns and payment

268. Part 4 of the Bill relates to returns and payments, with money raised through a levy being remitted to the local authority on a regular basis. The Bill requires the “liable person” - i.e., accommodation providers in a visitor levy scheme area - to make payments to the local authority every quarter, and the Bill allows a local authority to determine the form and content of such returns. The Policy Memorandum explains that—
- ” “Remittance of a visitor levy on a quarterly basis strikes the right balance between such payments being remitted in a timely fashion after the taxable event (purchase of the overnight accommodations) has taken place, without placing too high an administrative burden on an accommodation provider.” <sup>37</sup>
269. A duty is also placed on accommodation providers to keep and preserve relevant records for five years (or any such period specified by a local authority), including “details of any chargeable transactions entered into by the liable person and any associated records of payments, receipts and financial arrangements.” Section 21 enables a local authority to allow a third party to handle the collection and enforcement functions associated with a levy, through similar arrangements to those currently in place for council tax and non-domestic rates.
270. Local authorities were generally in favour of these provisions although Orkney Islands Council recognised that they “could impose an administrative and related financial burden on accommodation providers, particularly small and micro businesses” <sup>62</sup>. Edinburgh City Council considered that “simplicity would suggest that submissions should be made electronically into an agreed system that has parity across Scotland.” <sup>16</sup> Whilst sympathetic to the added administrative burden for accommodation providers, Edinburgh City Council felt that these provisions were necessary for it to “effectively perform its role in overseeing the implementation and to validate returns” <sup>16</sup>.
271. Argyll and Bute Council suggested that existing local tax administration systems could be adapted to provide back-office functionality for the council to automate the issuing of bills and debt recovery processes. SLAED noted that most businesses already have systems in place to record visitor details which could be adapted whilst noting that smaller businesses were less likely to have such adaptable systems in place.
272. As noted above, the STA believes the percentage model set out in the Bill is particularly burdensome on smaller accommodation providers and will increase the risk of mistakes being made. The STA also suggested that accommodation providers should pay levy funds collected and submit returns to local authorities twice a year rather than on a quarterly basis which would be “too onerous and burdensome on businesses” <sup>14</sup>. The FSB agreed, expressing concern that the Bill’s requirement for accommodation providers to identify the chargeable part of their overnight rates, keep records, make returns, and make payments to relevant local authorities could increase administrative burdens on small businesses. It therefore recommends simplifying this process further to alleviate these pressures. In its view, this should include reducing the number of returns per year and ensuring a “digital

first” approach for accommodation providers to submit returns.

273. The BHHPA agreed with this suggestion, stating “we would like a twice-yearly payment rather than a monthly or quarterly payment—quarterly is mentioned in the bill. Payment every six months in a way that ties in with tax years would be beneficial.”<sup>12</sup>
274. NFU Scotland opposed any proposal which would increase administrative costs or burdens on accommodation providers, suggesting that instead, “provisions should be put in place to ensure that the administrative efforts and record keeping is carried out by Local Authorities and not accommodation providers”<sup>63</sup>.
275. The CIOT believes that quarterly returns would “seem the best option for making returns, especially if they can be tied into businesses’ VAT and/or MTD for ITSA (Making Tax Digital for Income Tax Self-Assessment) reporting obligations”<sup>36</sup>. Scottish Chambers of Commerce suggested that accommodation providers should be allowed the option to make monthly, quarterly, or half yearly payments depending on the spread of their cashflow.

- 276. The Committee agrees that the administrative burden for accommodation providers should be kept to a minimum, but the majority of the Committee agrees that it is appropriate for local authorities to decide on the frequency of returns best suited to local circumstances following consultation with relevant stakeholders.**<sup>x</sup>

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<sup>x</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

## Part 5: Enforcement and penalties, reviews, and appeals

277. According to the Policy Memorandum, the Bill seeks to provide “a robust regime” to allow local authorities to investigate and enforce compliance. Part 5 provides considerable detail on powers for local authorities to obtain information, inspect business premises, impose penalties and recover unpaid amounts. The Policy Memorandum explains that the overall policy intention is to provide local authorities with powers that are in line with those they already possess in respect of council tax and non-domestic rates enforcement, and with which they are therefore already familiar, in order to enable councils “to deal with non-compliance, rather than needing involvement from the police.”<sup>37</sup>
278. The Bill also provides for local authorities to reduce, suspend or waive a visitor levy penalty if a liable person (i.e., an accommodation provider) has a “reasonable excuse”. Examples of scenarios which may qualify as a “reasonable excuse” include serious unexpected illness, an unforeseen collapse of a third party’s IT system (meaning that a return could not be sent), or the liable person’s office being destroyed by fire.
279. Part 5 of the Bill sets out the levels and reasons for penalties, with an initial £100 fine being issued for failure to make a return. Further penalties apply if failure to pay continues for three months, six months or 12 months. Regulations may be made in future to change the penalty amounts and the procedures for issuing and enforcing penalties. In circumstances where a local authority seeks to pursue unpaid amounts, the Bill provides them with the option of applying to the sheriff for a summary warrant. Again, this is a procedure local authorities will be familiar with in relation to council tax.
280. Sections 67 and 68 provide “liable persons” with the ability to challenge a range of decisions made by local authorities in respect of a visitor levy scheme. The Policy Memorandum states that the policy intention is to enable accommodation providers to seek an internal review of decisions made by the local authority and then be able to appeal decisions to the First-tier Tribunal for Scotland (which currently deals with council tax, council tax reduction, water charges and non-domestic rates appeals). The Bill does not include details of the review and appeals processes, stating that these will be set out in subsequent regulations; however, sections 67 and 68 set out what should be covered by these regulations.
281. Witnesses representing local authorities including Edinburgh, Glasgow and Highland Councils all agreed that penalties should be consistent and should therefore be decided upon nationally.
282. South Lanarkshire Council believed that appropriate enforcement tools were “essential” to enable the implementation of a levy in its area whilst West Lothian Council agreed that penalties need to be sufficient to prevent avoidance but cannot be disproportionate to the scheme itself. Highland Council made similar points in oral evidence, explaining that “we need to be careful that the penalty suits the crime. We could get to a stage where it is cheaper to pay the penalty than it is to pay the tax.”<sup>10</sup>

283. Edinburgh City Council agreed that some of the penalties were too small to act as a deterrent, stating “in some instances, businesses could be better off paying the fine over submitting the levy collection. It is suggested that fines at the level indicated are unlikely to deter non-compliance...The size of the charge should be proportionate based on the business size.”<sup>10</sup> Highland Council suggested that “as a final resort and in exceptional cases, other options should be considered (such as the power to seek court orders to restrict trading or to comply with a notice served under the Act).”<sup>17</sup>
284. However, North Ayrshire Council, suggested that the powers to enter premises and seize documents “seem very heavy-handed and there is potential for human rights/ privacy issues with enforcement”<sup>33</sup>. This view was also adopted by the STA which stated that the enforcement and penalties tools in the Bill “are draconian and are far too harsh on businesses”<sup>14</sup>. The BHPA described the enforcement section as “like using a sledgehammer to crack a nut: it is very excessive.”<sup>12</sup> The ASSC agreed, believing instead that the Bill “ought to be expressing the means by which local councils could support and assist businesses to comply, not policing and penalising them”<sup>57</sup>.
285. The SBBA pointed out in oral evidence that “the Bill contains 11 pages on operation of a levy and 16 pages on what will happen to people if they get it wrong. That is genuinely terrifying for small business owners.”<sup>12</sup> Others, including Outer Hebrides Tourism called for businesses to have an initial period of grace from penalties for late returns and return errors “to allow for business adjusting to the new regime and payment return periods should be set to ensure minimum additional burden to existing business reporting”<sup>64</sup>.

**286. A majority of members of the Committee were persuaded that penalties are an important part of the Bill that should not be left to local discretion and therefore supports a nationally consistent approach as currently provided for by the Bill.**<sup>xi</sup>

**287. A minority of members of the Committee, whilst supporting a national approach to penalties, questioned why this national approach was not applied more broadly to the rest of the Bill’s provisions.**

**288. The Committee acknowledges that some smaller accommodation providers in particular could be alarmed by some of the penalties and invites the Scottish Government to respond to suggestions that there should be an initial “grace period” to allow businesses to adjust to the levy in areas where it is introduced.**

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<sup>xi</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

## Parts 6 and 7: Registers of liable persons and information sharing, and final provisions

289. For a visitor levy to work, the local authority should have a record of all accommodation providers in its area. Part 6 allows a local authority to create and maintain such a register of “liable persons”, should it choose to do so. The Bill's Data Protection Impact Assessment <sup>65</sup> states that a register will likely include personal data of accommodation providers such as names, addresses, postcodes and phone numbers.

290. **The Committee is content with Parts 6 and 7 given that no significant issues arose in evidence in relation to them.**

# Delegated Powers Provisions

291. The Bill confers 17 powers to make subordinate legislation on the Scottish Ministers, and one power to make subordinate legislation on the Lord President of the Court of Session.
292. The Delegated Powers and Law Reform Committee [reported on the Bill's delegated powers provisions on 31 October](#). The DPLR Committee was content with 14 of the 17 delegated powers contained in the Bill but had queries in relation to the remaining three delegated powers.
293. The DPLR Committee's report confirms that the Scottish Government has agreed to amend the Bill to—
- add a requirement to consult local authorities and tourist organisations before amending the lists of accommodation types by adding or removing a type of accommodation or varying the description of a type of accommodation under section 4;
  - add a requirement to consult local authorities and tourist organisations before specifying any exemptions or rebates under section 10; and
  - amend section 36 so that the exercise of powers to categorise “involved third parties” in relation to the inspection of business premises will be subject to the affirmative procedure.
294. The DPLR Committee welcomed the Scottish Government’s commitment to amend these three provisions.
295. COSLA supports as much flexibility for local government as possible, and a number of individual local authority responses stated that it was sensible to put in place regulations which could be used flexibly to deal with circumstances which may arise following enactment of the legislation. The delegated powers listed mean that changes can be made without the need for new primary legislation. However, this also means that any proposed changes may not be given the full scrutiny usually afforded to primary legislation and Glasgow City Council suggested that local authorities should be consulted on any planned regulations to ensure there is “an opportunity for implications, particularly financial implications, to be considered by the Scottish Government before changes are made”.<sup>40</sup>
296. The CIOT suggested that all fundamental, overarching, ‘structural’ and procedural rules should be contained within the Bill itself “to ensure a uniform, universal and consistent parameters for local authorities to work within” and that “subordinate legislation should be reserved to those matters which require flexibility, updating and ‘tweaking’ to ensure efficient application of the rules, rather than of the rules themselves, important examples being: the setting of the rates’ levels (and potentially minimum/maximum bands), as well as setting of interest rates and ancillary provisions.”<sup>36</sup>
297. However, Highland Council contended that the Bill should allow for the future inclusion of cruise ship visitors, ‘wild campers’ and motorhomes not using paid-for

sites in order to “future proof the legislation”. Similar views were expressed from accommodation providers including the Aberdeen City & Shire Hotels Association, the Edinburgh Hotels Association and the ASSC.

**298. The Committee supports the Delegated Powers and Law Reform Committee’s recommendations and welcomes the Scottish Government’s commitment to amending the provisions set out above.**

**299. The Committee notes suggestions to include a power in the Bill to extend its application to cover other types of accommodation, such as cruise ships and motor homes. The Committee would welcome an indication from the Scottish Government as to whether it would intend to amend the Bill to include such a power. This would be a very significant power for Parliament to give to Ministers and one which the Committee would wish to give very careful consideration to before agreeing to such a delegation.**

# Financial Memorandum and BRIA

300. The Finance and Public Administration Committee invited written submissions on the Bill's Financial Memorandum. [Five responses](#) were received and the FPA Committee agreed to forward them to the lead committee as part of its consideration of the Bill and to take no further action.
301. As the lead committee, the LGHP Committee also invited views on the accuracy of cost estimates contained in the FM and the BRIA. In respect of local authorities, the FM confirms that they would have to meet all costs associated with introducing a levy scheme in their areas and that the Scottish Government will not provide additional funding to help with start-up or operating costs. It is expected that initial costs will be financed from existing budgets, with the FM stating that these will likely be "offset against future revenues raised through a visitor levy". For businesses, the FM acknowledges there are likely to be various costs that accommodation providers will face if their local authority decides to introduce a visitor levy scheme.
302. COSLA agreed that the financial implications for local government as set out in the FM were "fairly accurate" and that the largest costs for local authorities on the implementation of a levy would be associated with administrative changes, consultation costs and changes to staffing.<sup>41</sup> South Ayrshire Council suggested that estimated costs should be adjusted for inflation to show what they might be for local authorities and businesses by the time the scheme is operational in 2026. Similarly, South Lanarkshire Council agreed that the cost estimates in the FM "provide a useful framework"<sup>66</sup> although it suggested that they may be out of date by the time of implementation due to inflation and rising salary costs. Aberdeen City Council suggested that the administration costs set out in the FM "feel too high and if so, [it] would be prohibitively expensive for most local authorities to implement a visitor levy."<sup>67</sup>
303. Edinburgh City Council estimated that its total running costs for a scheme would amount to around £500,000 a year although it was "looking at that again at the moment to see whether we can drive that number down further."<sup>10</sup>
304. East Lothian Council was also "reasonably happy" with the FM's estimates, although it noted that "the bands are a bit broad, so it will probably be quite catch-all." It fully intended to consider costs carefully when "considering a business case to bring in a levy locally to ask what the balance is between the revenue that can be potentially raised and reinvested as opposed to the cost of running a scheme."<sup>10</sup>
305. Commenting in oral evidence, Glasgow City Council confirmed that it had not done any specific work on set-up costs but what was contained in the FM "seemed reasonable."<sup>10</sup> The biggest uncertainty in its view related to systems that would be needed to collect the levy and it reiterated the importance of collaboration to ensure that any solution adopted could also be used by other local authorities.
306. COSLA agreed that some implementation costs could be minimised through collaboration between local authorities, highlighting the potential to use shared platforms and services—

” “We are aware that a variety of different IT systems and software programmes are currently employed across Scotland’s thirty-two councils, often due to lengthy contracts with IT providers. As such, the Local Government Digital Office has the potential to play a key role in this, working with councils to provide a shared collaborative service for Local Government which builds upon the digital services councils already employ, consequently reducing individual set-up costs for councils wishing to introduce a Levy.” <sup>41</sup>

307. COSLA explained in oral evidence that a further benefit of a shared platform would be that “there is a single experience for businesses as opposed to, as might be suggested, businesses having to log in individually to different systems in different councils.” <sup>11</sup>
308. Whilst the Minister was not aware of specific discussions taking place on a shared IT platform in the expert group, he highlighted the importance of the digitisation of public services. However, the Government “would have to consider the timelines for when such a system would become operational, and we would need to consider its scope.” There was also “a question about whether a new platform would be developed and operational” by the point at which a levy could be introduced in 2026. <sup>10</sup>
309. In respect of the tourism industry, the STA pointed out that only twenty accommodation providers had taken part in the Scottish Government’s engagement exercises (twelve hotels, five self-catering businesses, one inn, one hostel and one campsite). The BHPA highlighted that its members “certainly felt overlooked and not included” in consultation on the BRIA. <sup>12</sup>
310. FSB Scotland pointed out that the BRIA considered “the potential impact of the VAT issue on only two small businesses. That is not a sufficient analysis of the impact on small businesses.” <sup>12</sup> FSB Scotland further stated that “this is a really big test of the new deal [for business] that we have agreed. If we get this wrong, it will be catastrophic for small businesses.” <sup>12</sup> The STA also expressed disappointment that further engagement had not been undertaken “to present a more current picture of the existing financial pressures facing business.” <sup>14</sup>
311. UK Hospitality Scotland stated that one thing that was lacking from the BRIA was that it failed to consider “costs that businesses will face in terms of potentially paying commission on credit card transactions, for example, which can range from 1.5 per cent to 3.5 per cent.” It therefore called for clarity in any future consultations including “a very clear economic determination” of the costs for businesses and local authorities, suggesting that “only then will elected members be able to make a call on whether there will be a gain or we will be moving the same money around.” <sup>9</sup>
312. The ASSC also pointed towards what it saw as a lack of clarity in respect of short-term lets in the BRIA, noting that “Edinburgh produced a figure for how much it accrues from the self-catering sector based on 12,000 short-term lets in the city. That was always going to be a flawed number, as there have only been 3,200 applications [for short-term lets licenses]. That means that either the modelling is incorrect, people are operating under the radar or they have closed their doors. Until we know those numbers, it is really important that we understand what the

impact will be on the modelling for a levy.”<sup>12</sup>

313. FSB Scotland noted in oral evidence that the BRIA stated that “almost 3,000 accommodation services businesses are registered for VAT in Scotland, meaning that their annual turnover is above the threshold of £85,000. There are a further 2,000 to 3,000 smaller operators who are not VAT registered. That accounts for between two fifths and a half of all Scotland’s accommodation providers.”<sup>12</sup> However, the ASSC expressed surprise at these figures, stating that “the BRIA is completely flawed”. In its view, “the position in 2019 is, frankly, meaningless right now. It is now 2023 and the world has completely changed.”<sup>12</sup>
314. However, whilst COSLA agreed that the financial estimates “may be a little out of date, in its view, “the key thing will be that any further impact assessments will be done within the local council area that is going to implement the levy. We have been very clear that continual consultation before implementation, with a very robust impact assessment, will be absolutely necessary in each local authority area.”<sup>11</sup>
315. When invited to respond to suggestions that the figures in the FM and BRIA were out-of-date, the Bill Team confirmed that further engagement with stakeholders had taken place, including face-to-face interviews and a follow-up survey. It went on to “slightly question whether we are in a very different world for the tourism industry”, which “has bounced back very strongly and is now close to pre-pandemic levels.”<sup>4</sup>

**316. The Committee considers it helpful that the FM provides estimated costs for local authorities and businesses but recognises that some of the content of the FM and BRIA was collated several years ago and has therefore not accounted for increased prices as a result of various factors including inflation and the impact of Covid-19. The Committee also notes the STA’s point that only 20 accommodation providers took part in the Scottish Government’s original engagement exercise and that certain parts of the sector felt “overlooked.”**

**317. The Committee therefore reiterates the importance of detailed monitoring and annual reporting to enable analysis of the cost estimates to take place along with an assessment of any unanticipated costs should they arise.**

## Value Added Tax (VAT) implications

318. As a tax on a purchase, the levy has parallels with VAT (which already applies to the purchase of overnight accommodation). The levy would be a percentage of the purchase value and, like VAT, it would be collected on behalf of the tax authority by the seller. Purchasers of overnight accommodation in an area where a levy applies would continue to pay VAT (currently 20% if the provider operates above the VAT threshold) plus whatever rate the local authority sets its visitor levy at. It is worth noting that as VAT is a reserved matter, the Scottish Government has no powers over its application.
319. The tourism sector has highlighted the fact that tourists pay 20% VAT when staying in most overnight accommodation in the UK. According to the annexe to the BRIA, this is higher than most European countries (see Table B2, pages 17 to 22). The STA noted that tourists coming to the UK are therefore already highly taxed in relative terms, stating that “Scotland and the UK are already less competitive in terms of other fiscal measures. When tourists visit these other destinations, they can spend more and stay longer because they are ultimately taxed less.”<sup>15</sup>
320. When asked about this in June 2023, the Bill Team confirmed that—
- ” “It is true that the 20 per cent VAT rate in Scotland and the UK is one of the highest in Europe, but, of course, it is just one in the basket of taxes that is paid by the industry. I will point out that, in comparative countries, the turnover threshold for paying VAT is much lower. In Spain, for example, there is no registration threshold, so even the smallest businesses will pay VAT, and that is not the case here. Comparisons of that kind are therefore very hard to make.”<sup>4</sup>
321. The BRIA states that there are approximately 2,000 to 3,000 smaller operators who are not eligible for VAT registration, roughly a third to a half of Scotland's accommodation providers. The FM explains that the Scottish Government recognises that “should a visitor levy be considered liable for VAT, this would increase the total price for the accommodation and potentially incur further costs to accommodation providers.” The FM further acknowledged that “the application of VAT [to visitor levy payments] may also have additional financial implications for accommodation providers that operate just below the thresholds for VAT registration or the VAT flat rate scheme.”<sup>68</sup>
322. The BRIA therefore states that—
- ” “The addition of a visitor levy to the accommodation sales price may mean some businesses will either need to register for VAT or take some action to reduce their turnover to remain below the £85,000 threshold. Registering for VAT would incur an increased tax liability and lead to some additional compliance costs for such business, whilst reducing their turnover would have a limiting effect on the supply of accommodation.”<sup>69</sup>
323. The Scottish Government wrote to the Chief Secretary to the Treasury in May seeking clarification on whether VAT would apply to a visitor levy. The Minister then [wrote to the Committee](#) on 1 September to inform it that the Financial Secretary to the Treasury had confirmed that a fundamental principle of VAT law is that VAT is

charged on the price paid on the supply of taxable goods or services, including other taxes, levies and charges. Therefore, if an accommodation provider includes an amount equivalent to a visitor levy in the charge for the overnight accommodation, this would have the same VAT liability as the accommodation. The Financial Secretary also confirmed that any amount charged by an accommodation provider relating to the visitor levy will also form part of the turnover of accommodation providers for VAT registration purposes.

324. The Minister's letter went on to confirm that, whilst he recognised that this would be disappointing for some accommodation providers, "the Scottish Government's position is that any local authority thinking of introducing a visitor levy will need to consider the potential VAT implications that it would have for relevant businesses in their area." <sup>70</sup>
325. Commenting in oral evidence, the SBBA explained that "lots of businesses in our sector deliberately trade below, or up to, the VAT threshold... there is a massive cliff edge when you get to £85,000. You suddenly have to charge 20 per cent more for the same service." Others in the sector close for part of the year to avoid breaching the threshold. The SBBA explained that "anecdotally, I have heard that, once you hit the £85,000 threshold, you need to reach a turnover of about £120,000 before things even out and it is worth breaching the £85,000 figure ... It is a considerable and onerous burden when you hit the threshold." <sup>12</sup>
326. Skye Connect agreed, pointing towards its survey results which found that "64 per cent of businesses said they would take fewer bookings were that to happen to them." <sup>9</sup> In its view, lots of questions remained for businesses that could be taken above the VAT threshold. The ASSC reiterated its view that the FM "urgently needs to be revisited" given that it does not include the impact of VAT being payable in its cost estimates. <sup>12</sup>
327. When invited to comment on potential implications for businesses operating just beneath the VAT threshold, the Minister agreed that this was "a fair and legitimate point" but it would be for local authorities to consider how "flexibilities can be applied to address a range of aspects of how a levy should be administered and applied in a local area," again highlighting the importance of consultation and engagement. <sup>11</sup>

**328. The Committee regrets that a levy included in the total price would be liable for VAT and that this could have significant implications for businesses operating just beneath the £85,000 threshold.**

**329. The Committee notes the Minister's comments that it would be for local authorities to consider how flexibilities can be applied in respect of the VAT threshold and would welcome further information from the Scottish Government on the sorts of flexibilities he has in mind.**

## Alternative approaches – Manchester Business Improvement District (BID)

330. The Policy Memorandum states that “the most appropriate non-regulatory alternative the Scottish Government has identified to using the powers in the Bill would be for local authorities to work in partnership with accommodation businesses in their area and, with the consent of the majority of relevant businesses in an area, establish a Tourism or Accommodation focussed Business Improvement District (BID).”<sup>37</sup>
331. The Policy Memorandum explains that “a BID is a geographically defined area where businesses come together and agree to invest collectively in projects and services that the businesses believe will improve their trading environment. Those improvement projects are funded by revenues collected through an investment levy agreed to be paid by businesses (ratepayers) in the BID area.”<sup>37</sup> There are around 40 such BIDs in Scotland.
332. The Policy Memorandum notes the example of the specialist Manchester Accommodation Business Improvement District which was announced in 2022. A majority of relevant local businesses supported its creation and it is expected to result in “certain city centre hotelier businesses and serviced apartments with a Rateable Value over £75,000 paying an additional levy from 2023 to 2028 to raise additional revenue to be invested in the local visitor economy.”<sup>37</sup>
333. However, the Scottish Government decided not to pursue such an approach as it “would not fiscally empower local authorities in the way that giving them the power to introduce a visitor levy scheme would do.” Any revenues raised would be retained by the BID board, meaning there would be only “a limited role for elected councillors to exercise influence over priorities for investment in their local areas (although local authorities may exercise a veto in some circumstances).” Such an approach would also “be a far blunter tool than a visitor levy scheme, as a local authority would not be able to decide to introduce exemptions for particular types of accommodation, would not be able to set or change the percentage rate, and would not have to consult local communities, businesses engaged in tourism, or tourist organisations in its area.”<sup>37</sup> The Policy Memorandum further states that the BRIA considers the BID option in greater detail.
334. The Committee raised the issue of a BID model with witnesses and they agreed that it would constitute a very different approach. UK Hospitality Scotland for example, explained that “it is business led, it is an optional levy, and it is cash at the point of exiting the hotel—I think that it is still just £1. It is very different from what we are looking at here.” Whilst UK Hospitality saw it as a positive step for Manchester which “is estimated to generate a few million pounds,” the model “is very different from the one that we are contemplating in Scotland.”<sup>9</sup>
335. The STA described the BID model as an example “of businesses doing what they can in good ways, but they are not the same as what we are talking about today.” Visit Scotland agreed that it was “a good business response to a desire among businesses to do something in that area, and they have used the business

improvement district model to voluntarily arrive at that position” but was “nervous” about comparing it to the Bill. As primary legislation, “offering every local authority in Scotland the opportunity to establish something that is much more substantial and long term,”<sup>9</sup> Visit Scotland was clear that “we are talking about something that does not bear immediate comparison and is a much longer-term proposition.”<sup>9</sup>

336. The Bill Team also reiterated that “one of the Bill’s objectives is to fiscally empower local authorities. BIDs do not do that. They have useful purposes and have their place, but they do not really do that.” The Minister agreed that whilst “there are various ways in which the BID model could be considered to meet the policy objectives, it was not deemed capable of doing so. Hence, we have taken forward the visitor levy approach for local authorities, as set out in the bill.”<sup>4</sup>

337. **A majority of members of the Committee believe that the BID model provides an interesting comparison but is clear that such an approach would not meet the Bill’s policy objectives, particularly in terms of fostering a long-term, sustainable solution whilst fiscally empowering local government.<sup>xii</sup> A minority of members of the Committee believe that there would have been merit in further exploring alternative schemes and approaches.**

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<sup>xii</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

# Future Post-Legislative Scrutiny

338. A final issue that the Committee explored with stakeholders related to how the effectiveness of the Bill, if passed, might be measured in the future. Scottish Parliament committees periodically undertake “post-legislative scrutiny” to assess whether Acts of the Parliament succeeded in achieving their stated aims. In order to do so effectively, it is imperative that accurate data, including on financial implications, is retained by local authorities and other relevant bodies. It appears to the Committee that the Bill’s reporting requirements should result in adequate financial data being retained and published, but the Committee also invited stakeholders to comment on how they would measure the Bill’s effectiveness in the future.
339. Visit Scotland agreed that it saw “the introduction of the levy and the data that it will generate as being very helpful...by giving us better, stronger and more empirical data on tourism in Scotland.” If we get the implementation of the levy right, it continued, “we should look back on something that is genuinely successful and impactful on our local area, because of the enabling nature of the legislation and the empowerment that we are giving to local authorities and local communities to make decisions about how it is used.”<sup>9</sup>
340. UK Hospitality Scotland stated that “it comes down to thriving destinations and communities...Civic pride is critical, but we must also have a flourishing economy that delivers jobs in hospitality for people who are living and working in destinations.”<sup>9</sup> DMOs including Visit Arran and Venture North made similar statements in oral evidence whilst the STA spoke of the importance of making clear where funding for new projects came from through signage, explaining that “it is important that we communicate how a visitor has contributed to Scotland, so that they feel part of it, by making it clear that their levy has not just gone down the plughole to empty a bin. It has helped us to invest in creating the destination that they have chosen to visit again.”<sup>9</sup> The STA highlighted the example of Tuscany, where “part of its marketing includes signage communicating to visitors and locals how the charge has been spent on improving local services and facilities.”<sup>9</sup>
341. In ETAG’s view, “we want to be able to look back in 10 years’ time and say that all of the money that has been invested has made a difference and that the resident in Edinburgh notices it just as much as the visitor does.” ETAG also cautioned against investing money in smaller schemes “which are invisible” and would be less likely to bring the same benefits as larger, more ambitious schemes.<sup>9</sup>
342. COSLA hoped that levy funds would bring a “tangible difference” but acknowledged that it had yet to develop a formal position on how to measure outcomes whilst noting that there would be “significant reporting and monitoring of local government spend through the local government finance returns.”<sup>11</sup> It therefore undertook to consider the matter further with its expert group and leaders.
343. When asked how he would like to measure the Bill’s impact in 10 years’ time, the Minister also pointed towards reporting requirements and the provision of “data that can be interrogated and analysed to understand how the visitor levy is operating in particular areas.” Whilst he expected the implementation of a levy to be a learning

process for councils, in his view, “through the review and reporting and the on-going dialogue that takes place between business, local government, Parliament and the Scottish Government, there will be ample opportunity to evaluate and measure the impact of the legislation.” <sup>11</sup>

344. When specifically asked what quantitative or qualitative data might be key to measuring the Bill’s efficacy, the Minister stated that “the important thing is to set out clearly, through consultation, what the scheme’s objectives are. Reporting on that will give important data to evaluate and measure specific objectives. Clearly, in addition, over the medium to longer term, further work can be undertaken on the economic impact and analysis can be done of whether those interventions and objectives have proven successful in enhancing the performance of the visitor economy in a particular area.” In his view, “the requirement for transparency—which will include separate accounting, reporting on consultation and a review—will ensure fair and thorough evaluation of how the scheme is operating.” <sup>11</sup>

345. **The Committee emphasises the importance of the publication of adequate data to support future post-legislative scrutiny and welcomes the Bill’s provisions in respect of reporting, monitoring and evaluation which, it considers, should be extremely useful for future committees undertaking such an exercise.**

346. **However, the Committee notes that some of the examples provided of ways in which to measure longer-term benefits for visitors and communities were perhaps less tangible and would welcome the views of the Scottish Government on how best to assess the Bill’s longer-term outcomes in this respect.**

# Conclusion

347. The majority of members of the Committee consider that, on balance, the introduction of a levy at a modest rate in certain local authority areas, would be unlikely to have a significant deterrent effect on visitor numbers and therefore on the visitor economy in Scotland.<sup>xiii</sup>

348. The majority of members of the Committee agree with the comments from several stakeholders that the introduction of a levy has the potential to bring significant benefits to visitors, the tourism sector and local residents alike whilst recognising that not all of Scotland's local authorities can be expected to benefit from the Bill.<sup>xiv</sup>

349. In keeping with the principles set out in the Verity House Agreement, the majority of members of the Committee welcome the degree of flexibility the Bill grants to local authorities to choose whether to introduce a levy and if so, to design and implement it in a way that suits local circumstances.<sup>xv</sup>

350. The Committee recognises concerns around the timing of the legislation in light of significant recent challenges arising from Covid-19 and the increased costs of doing business, along with concerns around the implementation of short-term lets licensing. However, the Committee notes that the soonest a levy could come into force would be 2026 and the majority of members of the Committee consider that this provides sufficient time for outstanding issues to be resolved through engagement and consultation.<sup>xvi</sup>

351. However, the Committee remains mindful of the concerns of accommodation providers that the introduction of a levy could result in an additional administrative burden for them and therefore welcomes the Bill's requirements in respect of monitoring and reporting, including of any unforeseen consequences.

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<sup>xiii</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

<sup>xiv</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

<sup>xv</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

<sup>xvi</sup> Miles Briggs MSP and Pam Gosal MSP dissented from this recommendation.

352. **The Committee therefore reiterates the importance of meaningful consultation with the tourism and accommodation sector to create a genuine sense of partnership working, for example through the expert group. The Committee considers that this should help alleviate the concerns of many in the sector and demonstrate that a levy should bring long-term benefits by improving the experience of visitors to areas where a levy applies. The Committee awaits the outputs of the working group with interest.**

353. **The Committee supports the general principles of the Bill.** <sup>xvii</sup>

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<sup>xvii</sup> Miles Briggs MSP and Pam Gosal MSP dissented from supporting the general principles of the Bill.

# Annexe A: Official Reports of relevant meetings of the Local Government, Housing and Planning Committee

[20 June 2023](#): Scottish Government Bill Team

[24 October 2023](#): Association of Scotland's Self Caterers, Federation of Small Businesses Scotland, Scottish Bed & Breakfast Association, Scottish Land & Estates and Sykes Family Cottages Ltd followed by Aberdeen City and Shire Hotels Association, The Camping and Caravanning Club Ltd, Edinburgh Hotels Association and Hostelling Scotland.

[31 October 2023](#): Argyll and Bute Council, City of Edinburgh Council, Comhairle nan Eilean Siar, East Lothian Council and Glasgow City Council followed by the European Tourism Association.

[7 November 2023](#): Scottish Tourism Alliance, UKHospitality Scotland and Visit Scotland, followed by Edinburgh Tourism Action Group, Festivals Edinburgh, Outer Hebrides Tourism, SkyeConnect and VisitArran and The Arran Trust.

[14 November 2023](#): COSLA followed by the Minister for Public Finance, Planning and Community Wealth

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