SCOTTISH TOURISM ALLIANCE
Your voice in tourism matters

Finance and Public Administration Committee – Call for Views on Visitor Levy (Scotland) Bill Financial Memorandum

The Scottish Tourism Alliance Submission

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

The Scottish Tourism Alliance (STA) was in conversation with the Scottish Government's Local Taxation Team ahead of the Bill's publication, although we were not involved in the Financial Memorandum or Business Regulatory Impact Assessment (BRIA). We also did not have sight of the BRIA ahead of the Bill's introduction.

We were not consulted with about which tourism and hospitality businesses could be engaged with as part of the exercise and it was not shared with us which businesses were taking part in the exercise, which sub-sectors they represented and how many of them were approached.

When the Financial Memorandum and BRIA were published, only 20 accommodation providers had taken part in the 20 semi-structured interviews for the BRIA exercise, with over half of these being hotels (12). Only 5 self-catering businesses, 1 inn, 1 hostel and 1 campsite were interviewed.

For example, British Marine Scotland recently expressed disappointment that they were not invited to participate in any engagement exercises concerning the Financial Memorandum and BRIA, given that boat moorings and berthings have been included in the Bill under 'overnight accommodation'. They are not aware of any marinas and mooring providers being engaged with. These businesses would face considerable costs and inconvenience, as they do not currently charge for accommodation as part of their transactional charge.

Additionally, only two businesses that indicated annual turnovers of less than £85,000 were consulted as part of the BRIA interviews, which brings into question how accurate the cost estimates are for micro and small businesses. They will be particularly impacted by collecting a levy, as many will not have the necessary infrastructure in place to collect a levy and will not currently remit other taxes such as VAT.

'A Consultation on the Principles of a Local Discretionary Transient Visitor Levy' published in September 2019 had just 49 responses from hotels and 67 responses from other accommodation providers (including B&Bs, guest houses, caravan parks and campsites), which represents a small proportion of the accommodation sector. Out of the 1,701 responses received, 1,202 were based on a Living Rent-related campaign.

Given that since the consultation took place there has been the COVID-19 pandemic, the impact of the Short-Term Lets Licensing Scheme, energy costs and the ongoing financial crisis, it is disappointing that further consultation and in-person information sessions were not conducted to present a more current picture of the existing financial pressures facing business. This was a concern we raised with Scottish Government colleagues during our conversations with them.

Given the breadth of Scotland's accommodation sector, we remain concerned how comprehensive and up-to-date the level of engagement with businesses has been to inform the estimated costs provided.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

n/a

3. Did you have sufficient time to contribute to the consultation exercise?

It is our understanding that accommodation businesses interviewed before the COVID-19 pandemic were approached again, but we are not aware that any further consultation was undertaken with other accommodation providers as part of the latest exercise.

4. If the Bill has any financial implications for you or your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

At the start of the year, the STA published a Local Visitor Levy Manifesto with Recommendations which was closely developed with the tourism and hospitality sector.
https://scottishtourismalliance.co.uk/wp-content/uploads/2023/01/Scottish-Tourism-Alliance-Local-Visitor-Levy-Manifesto-Published-13.01.2023.pdf

In the manifesto, we raised concerns that urgent work needed to be undertaken by the Scottish Government to ensure that the visitor levy does not have unintended consequences on VAT thresholds, business rate valuations and any other inadvertent costs for businesses who will need to collect the levy.

Although we welcome that these issues are acknowledged in the Financial Memorandum and BRIA, we remain concerned that it fails to estimate the cost to business of these unintended consequences.

There is also the cost of processing a levy charge, which will include credit card processing charges and commission rates charged by Online Travel Agents (OTAs).

Although the Financial Memorandum acknowledges that some accommodation providers will need to "re-negotiate or review existing contracts and arrangements with OTAs", it fails to properly estimate the time and financial cost of doing this. It is unclear if the consultation exercise properly assessed the impact on accommodation providers that have contracts with OTAs and third-party booking platforms.

For accommodation providers that have these contracts in place, there is the added complexity that a percentage commission is charged on the sale of accommodation, usually based on the consumer price and inclusive of taxes like VAT. The Bill sets out that a visitor levy will need to be calculated after any commission payable to a booking service is deducted, which places another additional burden on businesses that will need to renegotiate or review these contracts.

In addition, we seek urgent clarity from the Scottish Government about whether accommodation prices on websites can be displayed excluding the proposed visitor levy. Under the Price Marking Order 2004, hotel prices must be inclusive of all tax and mandatory charges, which would include any local visitor levy.

The BRIA states that it is the intention that the advertised price of commercial accommodation in areas where a visitor levy is applied will clearly show any levy charge, while the Policy Memorandum includes giving Scottish Ministers the power to require other elements of a transaction to be broken down in billing information.

Any commissions claimed by Booking.com, Expedia, travel agents, etc is applied to the published cost, so if accommodation providers must include the levy charge, then they will pay commission on that charge too. This presents another unintended additional cost to businesses.

The Financial Memorandum acknowledges that a visitor levy could be considered liable for VAT, with implications for accommodation providers that operate just below VAT thresholds or potentially lifts others out of the Flat Rate Scheme.

A significant number of accommodation providers are unregistered businesses and currently do not need to register for VAT or use PAYE. The BRIA estimates that there are potentially around 2,000-3,000 accommodation businesses unregistered for VAT currently across Scotland.

Worryingly, due to it being a reserved matter, the Scottish Government has said that it cannot receive clarity on this issue from the UK Government until the Bill passes through Parliament. It is our strong preference that a visitor levy is VAT exempt, or the tax threshold is raised and that conversations start on this as early as possible.

Many businesses already work hard to keep themselves below the VAT threshold, especially in rural and island areas where demand fluctuates during the winter period. There is a risk some businesses might choose to close during the off-peak season to keep their thresholds intact or reduce the number of nights they are available to visitors, reducing accommodation availability and choice for visitors coming to Scotland.

As a matter of urgency, the STA seeks assurances that the Scottish Government has a plan in place to help businesses mitigate the consequences of VAT being applied to the levy if this does end up being the case.

At present, the Financial Memorandum fails to estimate the financial impact on businesses if VAT is applied to a visitor levy and, as a result, they risk being financially penalised for collecting the levy.

It also fails to acknowledge that there is a potential impact on commercial rates for licensed hospitality that provide visitor accommodation. As a result, we recommend that the Scottish Government urgently seek Scottish Assessors' opinion on how the visitor levy will be viewed in respect of turnover for licensed hospitality businesses where 'turnover' is an element of rates assessment.

Scottish accommodation providers are already facing higher property business rates, in comparison to England, with the estimated number of properties subject to the higher property rate in 2022-23 including 570 hotels and 520 leisure, entertainment, and caravan properties (source: Scottish Assessors' Valuation Roll as of 1 October 2021).

It also remains unclear how assessors would consider a visitor levy as part of the next revaluation in 2026, e.g. OTA payments are currently disregarded from turnover figures adopted for business rate valuations. Urgent decision making is needed on this from the Scottish Government before the Bill potentially passes.

Clarity on VAT, website pricing, commercial business rates and the potential cost burden on business must be sought to give businesses and local authorities the full financial picture of the potential implications of introducing a visitor levy, along with properly informing MSPs scrutinising the Bill. Unfortunately, the Financial Memorandum currently fails to address these concerns.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

Given the limited level of engagement with accommodation providers of different types and size as part of the consultation exercise, it is difficult to respond whether the estimated costs and savings set out in the Financial Memorandum are reasonable and accurate.

As set out in our answer to the previous answer, the potential impact on VAT thresholds, website pricing and OTA contracts, commercial business rates, etc make it difficult to assess how accurate the final cost to business will actually be.

The financial implications should also be considered alongside the ongoing cost pressures facing businesses, including how the levy sits with other costs facing businesses such as the Short-Term Lets Licensing Scheme and other planned regulatory measures.

What is clear is that the cost burden is considerable for businesses of all sizes.

6. **If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?**

As set out in our Local Visitor Levy Manifesto, as the visitor levy will be applied to accommodation providers of all shapes and sizes, potentially across all localities including rural and island areas, there is a risk that businesses will face an additional time and financial burden that they cannot afford.

The BRIA concedes that "there is potential that some smaller accommodation providers (particularly in the self-catering sector and providers offering accommodation through collaborative sharing platforms) could exit the sector if administration and compliance costs associated with the levy are perceived as significant."

The Financial Memorandum clearly sets out that there will be a substantial financial burden placed on these businesses in paying for set-up costs and ongoing costs to collect and remit a visitor levy on behalf of local authorities.

This is particularly the case for microbusinesses and small businesses, who do not have the necessary infrastructure in place to collect a levy and do not currently remit other taxes such as VAT. The Financial Memorandum acknowledges that "the collection of new data and new record-keeping may be a more significant burden to smaller hotels, self-caterers or B&Bs."

In the early years of a visitor levy scheme, the STA believes every effort should be made to ensure it is as cost neutral for business as possible, particularly for micro and small businesses when cost pressures will be disproportionately felt. The Financial Memorandum highlights that accommodation providers may not be able to pass on costs to visitors and that visitor behaviour may be impacted by the levy, including displacement of visitor activity to other areas that do not charge a visitor levy.

At the same time, it will take time for tourism and hospitality businesses to see any benefit from the levy's net proceeds being used to benefit the visitor economy and destination.

One option is that accommodation providers keep all levy fees collected up to the point of recouping their start-up costs, as estimated in the Financial Memorandum.

This should include promoting awareness of the introduction of a levy and developing customer communication and marketing plans, which is currently not estimated in the Financial Memorandum.

Alongside the Scottish Government and local authorities promoting awareness of the introduction of a levy, accommodation providers must be also supported and receive any necessary financial reimbursement to develop customer communication plans and marketing activity to inform their overnight visitors up to a year in advance of a levy scheme being introduced that they will face an additional charge on their bills.

As things currently stand, the potential loss of bookings resulting from the introduction of a visitor levy and the associated costs of implementing it means there may be no net benefit for tourism and hospitality businesses, and instead they will be left worse off.

In this scenario, the country may be left unable to meet the ambitions of the national tourism strategy, Scotland Outlook 2030, if there is a mass exodus of accommodation providers that leave the sector who cannot afford to collect and remit a visitor levy. The closure of accommodation businesses would in turn have multiple unintended knock-on impacts to other associated tourist businesses and visitor attractions, potentially damaging the Scottish economy further and threatening more jobs.

For accommodation providers who have in recent years been impacted by the COVID-19 pandemic, rising energy bills, the financial crisis and introduction of the Short-Term Lets Licensing Scheme, it could be the final straw.

7. **Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?**

The Financial Memorandum states that the direct financial implications for Scottish Government will be minimal, while local authorities will be able offset costs through future levy revenue collected.

In addition, there are concerns among the sector about how much of the money collected from the levy may be held in reserve by local authorities. For example, Edinburgh City Council has reportedly held around £350,000 in reserve from Liquor Licensing Fees, despite the system being considered as cost neutral.

However, businesses will not be able to recover these costs and the Financial Memorandum cites the potential negative impact the levy will have on the competitiveness and profitability of accommodation providers.

As set out in our previous answers, although the Financial Memorandum and BRIA acknowledge the remaining uncertainty around VAT, commercial rates, etc it fails to estimate the potential cost implications of this for business.

About the Scottish Tourism Alliance (STA):

The STA is the overarching trade body for the tourism and hospitality industry in Scotland. It comprises over 250 trade associations, businesses, destination groups and other organisations with an interest in tourism. Its membership is spread across all regions and destinations in Scotland.

The organisation is governed by a Board with representation from across Scotland's tourism industry and supply sectors, who together with STA's member Council and Destination Forum shape the organisation's policy agenda for government(s) and other key stakeholders.

The STA led and co-ordinated the development and launch of Scotland's tourism strategy, Scotland Outlook 2030, in collaboration with the Scottish Government and its agencies. The STA remains driven by this strategy, growing the value and positively enhancing the benefits of tourism across Scotland by delivering the very best for visitors, businesses, people, communities and environment.

The STA's Chief Executive, Marc Crothall MBE, co-chairs the Tourism and Hospitality Industry Leadership Group, alongside Richard Lochhead, the Minister for Small Business, Innovation, Tourism and Trade. The group is helping drive recovery and sustainable growth across both tourism and hospitality in the long-term, building on the partnership approach of the Scottish Tourism Emergency Response Group (STERG), which led the industry's response to the COVID-19 pandemic.

In January 2023, the STA published the Local Visitor Levy Manifesto with Recommendations, which was developed with industry to help inform national and local government about the key considerations needing taken into account should the Scottish Government introduce visitor levy legislation and local authorities then elect to implement a scheme. A number of the sector's recommendations were adopted in the Bill.

The STA has since been invited by the Minister for Community Wealth and Public Finance, Tom Arthur, to sit alongside other industry organisations and COSLA representatives on an Expert Advisory Group to form guidance and best practice for local authorities that decide to introduce a visitor levy, which will be chaired by VisitScotland.