



Item: 15

Policy and Resources Committee: 24 September 2024.

Visitor Levy Feasibility.

**Report by Corporate Director for Enterprise and Sustainable
Regeneration.**

1. Overview

- 1.1. The Visitor Levy (Scotland) Act 2024 provides new discretionary power to local authorities to introduce a visitor levy for the purpose of generating revenue to develop, support or sustain facilities and services which are substantially for or used by persons visiting the scheme area for leisure or business purposes (or both).
- 1.2. By enabling local authorities to invest more in tourism facilities and services, the new legislation represents a potentially transformational opportunity to generate benefits for local communities and visitors.
- 1.3. A visitor levy would apply to overnight stays in certain types of accommodation (see Appendix 1) in all or part of a local authority area. Notably, this does not include cruise ships or motorhomes.
- 1.4. Before deciding whether to introduce a visitor levy scheme, best practice prescribes engagement with stakeholders to develop an understanding of related issues and concerns, and to carefully assess risks and potential impacts on the visitor economy. Moreover, stakeholder engagement will help to inform the design of a scheme if progressed, which would include the provisions outlined in section 3.12 of this report.
- 1.5. Before introducing a visitor levy scheme, a local authority is required to:
 - i. prepare and publicise an outline of the proposed scheme, any local exemptions, a statement about the scheme objectives, including how they will be measured and reported, and an assessment of the impacts of the proposal.
 - ii. consult local communities, tourism businesses and organisations and any other stakeholder likely to be affected by a visitor levy scheme.
 - iii. prepare and publicise a report that summarises the consultation responses and states whether a visitor levy scheme will be introduced and sets out the reasons for the decision.

- 1.6. The date on which a visitor levy scheme is to come into force must be at least 18 months after the date on which the local authority publishes the report referenced in section 1.5.iii. Accordingly, the earliest a visitor levy could be applied in Scotland is 2026.
- 1.7. Key provisions of the Visitor Levy (Scotland) Act 2024 are discussed in section 3 of this report.
- 1.8. Officers are investigating opportunities for partnership working, including cost-sharing, with other local authorities on investigating feasibility of a visitor levy and implementing and administering a scheme if progressed.

2. Recommendations

- 2.1. It is recommended that members of the Committee:
 - i. Approve that investigation be undertaken to ascertain the feasibility of introducing a visitor levy scheme in Orkney, including the following activity:
 - o Formal engagement with local communities, tourism businesses and organisations and any other stakeholder likely to be affected by a visitor levy scheme.
 - o A cost-benefit analysis, measuring the benefits of introducing a scheme versus the associated costs.
 - o A seminar for Elected Members to present findings from the formal stakeholder engagement and cost-benefit analysis.
 - ii. Authorise the Corporate Director for Enterprise and Sustainable Regeneration to undertake a procurement exercise in order to engage consultants to complete the feasibility activity set out above.
 - iii. Approve provision of up to £20,000 from the Council's Crown Estate Fund for external consultant fees relating to the feasibility activity outlined above.
 - iv. Request the Corporate Director for Enterprise and Sustainable Regeneration to submit a report, to the Policy and Resources Committee no later than June 2025, detailing the outcome of the formal engagement and setting out proposals for developing a local scheme, if feasible.

3. Visitor Levy (Scotland) Act 2024

Background

- 3.1. Pressures associated with high numbers of visitors in certain areas led some local authorities to call for powers to collect a local visitor levy or tourist tax. In response, the Scottish Government progressed the introduction of new legislation.
- 3.2. The Visitor Levy (Scotland) Bill was passed by the Scottish Parliament on 28 May 2024 and received Royal Assent on 5 July 2024, providing discretionary power to local authorities to introduce a visitor levy.
- 3.3. By enabling local authorities to invest more in tourism facilities and services, the new legislation represents a potentially transformational opportunity to generate benefits for local communities and visitors.

Basis and calculation of levy

- 3.4. A visitor levy would apply to overnight stays in certain types of accommodation (see Appendix 1) in all or part of a local authority area based on a percentage of the accommodation cost.
- 3.5. The legislation does not enable the application of a visitor levy on cruise visitors, but the Scottish Government has committed to conduct a formal consultation on the matter. Accordingly, the Scottish Government has organised a series of roundtable events to discuss a potential cruise ship levy for local government in Scotland, including one in Orkney on 5 September 2024.
- 3.6. A visitor levy would not apply to motorhomes, although the Scottish Government has committed to engage with any proposals brought forward.

Process of introduction and administration of the levy

- 3.7. According to the Scottish Government's Business and Regulatory Impact Assessment of the Visitor Levy (Scotland) Bill, the introduction of a visitor levy would generate additional costs for local authorities, businesses providing commercial accommodation, and visitors purchasing accommodation from these businesses, representing a risk to the local visitor economy.
- 3.8. Before deciding whether to introduce a visitor levy scheme, best practice prescribes engagement with stakeholders to develop an understanding of related issues and concerns, and to carefully assess potential impacts. Moreover, stakeholder engagement would help to inform the design of a scheme if progressed.

- 3.9. Before introducing a visitor levy scheme, a local authority is required to:
- i. prepare and publicise an outline of the proposed scheme, any local exemptions, a statement about the scheme objectives, including how they will be measured and reported, and an assessment of the impacts of the proposal.
 - ii. consult local communities, tourism businesses and organisations and any other stakeholder likely to be affected by a visitor levy scheme.
 - iii. prepare and publicise a report that summarises the consultation responses and states whether a visitor levy scheme will be introduced and sets out the reasons for the decision.
- 3.10. The scheme objectives referenced in section 3.9.i. must relate to developing, supporting or sustaining facilities or services which are substantially for or used by persons visiting the scheme area for leisure or business purposes (or both).
- 3.11. This report recommends approval to investigate the feasibility of a visitor levy scheme in Orkney, including the following activity:
- i. Formal engagement with local communities, tourism businesses and organisations and any other stakeholder likely to be affected by a visitor levy scheme, providing the opportunity to voice opinions on the implications of introducing a visitor levy and on scheme design elements.
 - ii. A cost-benefit analysis, measuring the benefits of introducing a scheme versus the associated costs.
 - iii. A seminar for Elected Members, presenting findings from the formal stakeholder engagement and cost-benefit analysis.
- 3.12. Tailored to local circumstances, a visitor levy scheme must specify:
- i. the scheme area.
 - ii. the date on which the scheme is to come into force.
 - iii. the scheme period.
 - iv. when during the scheme period a visitor levy is to be charged.
 - v. the percentage rate of the levy.
 - vi. the scheme's objectives.
 - vii. arrangements for the review of decisions by the local authority in relation to the scheme.
 - viii. the cases or circumstances in which the levy is not payable or may be reimbursed.
 - ix. that the levy is not payable or is to be reimbursed in the case of visitors who receive disability benefits, payments or allowances.

- x. whether the levy is not payable in relation to accommodation which has an annual turnover below the VAT threshold.
 - xi. arrangements for the administration of the exemption or reimbursement.
 - xii. arrangements for the reimbursement of the levy to a visitor.
 - xiii. the manner in which the local authority intends to make decisions on the use of the net proceeds of the scheme.
- 3.13. The date on which a visitor levy scheme is to come into force must be at least 18 months after the date on which the local authority publishes the report referenced in section 3.9.iii. Therefore, the earliest a visitor levy could be applied in Scotland is 2026. If a scheme for Orkney is progressed, it would be unlikely to commence before summer 2027.
- 3.14. Within 6 months of its decision to introduce a visitor levy scheme, the local authority must establish a Visitor Levy Forum. The Forum is required to meet at least twice a year to:
- i. discuss and advise the local authority and any other person or body consulting the forum on matters having to do with the visitor levy scheme.
 - ii. discuss and respond to each consultation on a modification of the visitor levy scheme and on the use of net proceeds of the scheme.
 - iii. discuss and make appropriate representations in relation to each annual report on the scheme (further detailed in section 3.19 of this report) and 3-year report setting out the findings of a review of the scheme.
- 3.15. Members of the Forum are appointed by the local authority, comprising a reasonable balance of representation by communities, tourism businesses and organisations in its area. The local authority may appoint one or more of its own members to the forum, provided they do not account for a majority of the forum.

Finances

- 3.16. A local authority operating a visitor levy scheme must keep a separate account for the scheme.
- 3.17. Net proceeds of the scheme must be used for the purposes of facilitating the achievement of the scheme's objectives and, so far as not needed for the achievement of the scheme's objectives, otherwise developing, supporting and sustaining facilities and services which are substantially for or used by persons visiting the scheme area for leisure or business purposes (or both).

- 3.18. In using the net proceeds of the visitor levy scheme, a local authority must from time to time, consult representatives of communities, tourism businesses and organisations in its area, the Visitor Levy Forum, and such other persons as the local authority considers appropriate. It must also have regard to the local tourism strategy.

Performance

- 3.19. A local authority operating a visitor levy scheme must prepare an annual report, detailing:
- i. the amount of money collected.
 - ii. how the net proceeds have been used.
 - iii. the performance of the scheme in relation to its objectives.
- 3.20. In introducing and administering a visitor levy scheme, a local authority must have regard to the related guidance prepared and published by VisitScotland (at the time of writing this report, the guidance has not yet been published). In particular, the guidance must provide advice about:
- i. other persons whom a local authority might consider to be affected or appropriate when the authority consults on a visitor levy scheme.
 - ii. the process which a local authority might follow before determining any cases and circumstances in which the levy is not payable or reimbursed.
 - iii. support or assistance which a local authority may provide to liable persons to operate in accordance with a visitor levy scheme.
 - iv. the matters to be considered by a local authority when deciding the objectives of a scheme.
 - v. the matters to be considered by a local authority when deciding the use of the net proceeds of a scheme.

4. Next Steps

- 4.1. Should the recommendations in section 2 be approved, the following next steps, with indicative timetable, are proposed:
- i. October/November 2024 – a procurement process is undertaken to engage external consultants to complete the feasibility activity detailed in section 3.11 of this report.
 - ii. November 2024 to February 2025 – feasibility activity is progressed.
 - iii. March or April 2025 – a seminar for Elected Members takes place to present findings from the formal stakeholder engagement and cost-benefit analysis.

- iv. June 2025 (latest) – Policy and Resources Committee considers a report, detailing the outcome of the formal stakeholder engagement and proposals for developing a local visitor levy scheme if feasible.

For Further Information please contact:

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Implications of Report

1. Financial

The estimated cost to undertake the feasibility activity detailed in section 3.11 of this report is up to £20,000 for external consultant fees. The report recommendation is that this amount should be committed from the Council’s Crown Estate Fund.

Furthermore, officers are investigating opportunities for partnership working, including cost-sharing, with other local authorities on investigating feasibility of a visitor levy and implementing and administering a scheme if progressed.

2. Legal

There is no statutory requirement to introduce a visitor levy. However, should the Council decide to introduce a visitor levy, all related activity must be undertaken in accordance with the Visitor Levy (Scotland) Act 2024.

3. Corporate Governance

There are no corporate governance implications arising directly from this report.

4. Human Resources

Should the recommendations of this report be approved, existing officer resource from the Sustainable Tourism team will oversee progression of the feasibility activity, with support from the Finance team.

5. Equalities

An Equality Impact Assessment is not required at this stage.

6. Island Communities Impact

An Island Communities Impact Assessment is not required at this stage.

7. Links to Council Plan

The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Council Plan Strategic priorities:

- Growing our economy.
- Strengthening our communities.

- Developing our infrastructure.
- Transforming our Council.

8. Links to Local Outcomes Improvement Plan

The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Local Outcomes Improvement Plan priorities:

- Cost of Living.
- Sustainable Development.
- Local Equality.

9. Environmental and Climate Risk

There are no environmental and climate risk implications arising directly from this report.

10. Risk

The recommendations of this report support feasibility activity that will assist the Council in assessing the risk to both the visitor economy and the Council of introducing a visitor levy scheme in Orkney.

11. Procurement

Should the recommendations of this report be approved, a procurement process will be undertaken to secure external consultants to undertake the feasibility activity.

12. Health and Safety

There are no health and safety implications arising directly from this report.

13. Property and Assets

There are no property and assets implications arising directly from this report.

14. Information Technology

There are no information technology implications arising directly from this report.

15. Cost of Living

There are no cost-of-living implications arising directly from this report.

List of Background Papers

[Visitor Levy \(Scotland\) Act 2024.](#)

Visitor Levy Statutory Guidance(to be published)

[Visitor Levy \(Scotland\) Bill: Business and Regulatory Impact Assessment.](#)

[Visitor Levy \(Scotland\) Bill: Island Communities Impact Assessment.](#)

[Orkney Tourism Strategy 2020-2030.](#)

[Orkney Islands Council Plan 2023-2028.](#)

[Orkney Islands Council Delivery Plan 2023-2028.](#)

Appendix

Appendix 1 – Overnight Accommodation.

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The Visitor Levy (Scotland) Act 2024 defines “overnight accommodation” as a room or area provided to a visitor for residential purposes in or at a type of accommodation listed below otherwise than as the visitor's only or usual place of residence.

The types of accommodation include:

- hotels.
- hostels.
- guest houses.
- bed and breakfast accommodation.
- self-catering accommodation.
- camping sites.
- caravan parks.
- 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.

Overnight accommodation does not include:

- a local authority gypsy and traveller site or a registered social landlord gypsy and traveller site.
- accommodation in a vehicle, or on board a vessel, that is undertaking a journey involving one or more overnight stops.