

# **Visitor Levy (Scotland) Bill: equality impact assessment**

**May 2023**

# Visitor Levy (Scotland) Bill: equality impact assessment

## Summary of aims and desired outcomes of Policy

The Visitor Levy Bill will give local authorities a discretionary power to apply a visitor levy on overnight visitor stays in accommodation in all or parts of their area. This will be a discretionary power, for a local authority to use if it chooses to do so for all or part of their area. The proceeds raised from a VL will be able to be used for developing, supporting and sustaining facilities and services which are substantially for or used by those visiting the area for leisure purposes.

Directorate: Local Government and Housing

Division: Local Government and Analytical Services

Team: Visitor Levy Bill Team

## Executive summary

The Bill's core aims are to:

- provide local authorities with a discretionary power to introduce a visitor levy on overnight accommodation in all or part of their area, should they wish to do so;
- create a legislative framework for the establishment of visitor levies by local authorities, including the basis of the charge, extent, and enforcement procedures and powers.

This Bill will contribute to the following of Scotland's National Outcomes:

- **Communities:** we live in communities that are inclusive, empowered, resilient and safe
- **Economy:** we have a globally competitive, entrepreneurial, inclusive and sustainable economy
- **Environment:** we value, enjoy, protect and enhance our environment
- **Fair Work and Business:** we have thriving and innovative businesses, with quality jobs and fair work for everyone

The Bill also supports the advancement of a number of other overarching policies and objectives, set out in the Policy Memorandum, which this impact assessment should be read alongside.

This EQIA has considered the potential impacts of the Bill on people with protected characteristics. Our findings are based on evidence and information from a variety of sources.

Our assessment identified that the provisions in the Bill are unlikely to impact people with protected characteristics. Where negative impacts have been identified, efforts have been made to mitigate or minimise these.

## Background

As part of the agreement of the 2019-20 Draft Budget the Scottish Government committed to consulting on the principles of a visitor levy (VL), and to introducing legislation this parliamentary term to provide the power for local authorities to implement such a levy if they consider it appropriate. This commitment was part of a package of measures focussing on local tax reforms and local fiscal empowerment.

### National Discussion

The Scottish Government engaged with a range of stakeholders from the tourism industry, local authorities and the wider business community in Scotland in a National Discussion on a VL. This engagement sought to bring partners together to ensure a full range of voices were heard and to participate in discussions on this complex national issue. It aimed to build a common and shared understanding of the opportunities and challenges in this area.

The National Discussion, which included six roundtable events across Scotland, each chaired by a Scottish Government Minister, ran between 23 November 2018 and 25 January 2019, and supporting evidence was published in a discussion document. Following its conclusion, the Scottish Government published a summary of the messages heard and readouts of the individual roundtables, along with the written contributions received from individuals, tourism sector representatives, business organisations, local authorities, and others .

The National Discussion provided a substantial evidence base, illustrating potential opportunities and challenges associated with tourist taxes and drawing out a number of important issues and concerns. This evidence has informed the development of the Scottish Government's proposals around a discretionary visitor levy.

In particular, the consultation sought views to ensure that the legislation:

- supports the continuing success of the tourism industry in Scotland;
- provides the powers that are needed for local authorities to respond to local pressures;
- minimises the administrative and compliance burdens for those affected.

### Public Consultation

The formal public consultation was conducted for 12 weeks between September and December 2019, encouraging engagement with members of the public, local authorities, tourism businesses and national organisations in the realms of taxation. In addition to this engagement we reached out to stakeholders in Europe to learn about the variety of tourist tax approaches taken in other locations.

Throughout the consultation period views on demographic groups who may be detrimentally affected by a VL were collected and considered. The key concern that we heard was around which, if any, groups should be exempted from paying a VL.

Upon resumption of work on the Bill following the COVID-19 pandemic, Scottish Government contacted 33 stakeholder organisations, representing the 9 protected characteristics under the Equality Act 2010.

## The Scope of the EQIA

A variety of sources have been used to help understand the likely impact of the proposed VL policy in relation to each of the 9 protected characteristics. In addition to ongoing engagement with a wide range of stakeholders, the sources of information that the EQIA has drawn on include:

- the 'National Discussion' on the merits of introducing a tourist tax in Scotland, which took place between November 2018 and January 2019.
- the formal public consultation on policy proposals for the Bill which ran from September to December 2019. This was complemented by engagement with key stakeholders representing the 9 protected characteristics.
- Refreshed engagement with stakeholders following resumption of policy work on the Bill following easing of the COVID-19 pandemic.
- Survey data from various agencies, and Scottish Government data.

In developing this Bill, the Scottish Government is mindful of the 3 needs of the Public Sector Equality Duty – to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between such people. Where any negative impacts have been identified, we have sought to mitigate/minimise these, whilst being mindful of our positive duty to promote equality.

In considering all 9 protected characteristics, the Scottish Government note that the protected characteristics listed along with other considerations are not independent of each other, and some people may have to deal with complex and interconnected issues related to disadvantage at any one time.

It is clear that the Visitor Levy Bill will affect local authorities, visitors, and local residents and businesses where a levy is implemented, either directly or indirectly.

The EQIA has been informed by detailed analysis of existing evidence and data (both qualitative and quantitative) in order to draw out the potential impacts of the policy for the nine protected characteristics: Age, Disability, Sex, Pregnancy and maternity, Gender reassignment, Sexual Orientation, Race, Marriage and Civil Partnership, and Religion and Belief.

## Key Findings

### Age

The most recent sample data from the International Passenger survey (Q2 2022<sup>1</sup>) noted that the largest age group of international visitors to the UK was 25-34 year olds (19.9% of arrivals). Persons over 65 made up 10.5% of international arrivals in Q2 2022, while children under 16 made up just 3.4%.

The 2020 Scottish Household Survey<sup>2</sup> noted that younger age groups had notably higher rates of attending a cultural event or visiting places of culture than older age groups.

In examining other tourist levies in use overseas, one exemption that is often applied is for children and young people. In Barcelona, children under 16 are exempt from the levy. Other authorities such as Berlin offer a specific exemption for children staying as part of a study trip by an authorised school.<sup>3</sup> Further analysis of our assessment of a VL on children and young people can be found in the accompanying Child Rights and Wellbeing Impact Assessment.

We recognise the need for local authorities to take the needs of children and young people into account when devising a VL scheme. The Bill will therefore allow local authorities to design and apply an exemption to their VL based on age, should they feel it appropriate.

### Disability

The provisions in the Bill apply to all visitors staying in bookable overnight accommodation that is not their usual place of residence, and do not make any distinction based on disability.

### Sex

The provisions in the Bill apply to all visitors staying in bookable overnight accommodation that is not their usual place of residence, and do not make any distinction based on sex.

There is little data on use of overnight accommodation broken down by sex. The most recent sample data from the International Passenger survey noted that 45% of international visitors in Q2 2022 were female, 55% male. The 2020 Scottish Households Survey noted that attendance at a cultural event or place in the last 12 months was broadly similar between women (45%) and men (43%).

### Pregnancy and maternity

The provisions in the Bill apply to all visitors staying in bookable overnight accommodation that is not their usual place of residence, and do not make any

---

<sup>1</sup> [Office for National Statistics – Travepac data from the International Passenger Survey 2022](#)

<sup>2</sup> [Scottish Household Survey 2020 - telephone survey: culture and heritage report](#)

<sup>3</sup> [City of Berlin website – information on the Accommodation Tax](#)

distinction based on pregnancy and maternity. Consideration has been given on the impact on those who are pregnant or parents, in terms of any need to secure overnight accommodation for the purposes of seeking medical treatment.

Local authorities will have the power to designate local exemptions for a VL scheme in their area. In using this power, local authorities will be supported by national guidance, developed in partnership with local government and the tourist industry. The Bill will also provide Scottish Ministers with powers to create national exemptions through subordinate legislation.

### Gender reassignment

The provisions in the Bill apply to all visitors staying in bookable overnight accommodation that is not their usual place of residence, and do not make any distinction based on gender reassignment.

Consideration has been given for those who require medical treatment as part of a person's gender reassignment process. Local authorities will have the power to designate local exemptions for a VL scheme in their area, which could include an exemption on for those accessing medical treatment, if they so wish. In using this power, local authorities will be supported by national guidance, developed in partnership with local government and the tourist industry. The Bill will also provide Scottish Ministers with powers to create national exemptions through subordinate legislation.

### Sexual orientation

The provisions in the Bill apply to all visitors staying in bookable overnight accommodation that is not their usual place of residence, and do not make any distinction based on sexual orientation. There is no data available that suggests visitors with the sexual orientation characteristic will be disadvantaged through the provisions in the Bill.

### Race

The provisions in the Bill apply to all visitors staying in bookable overnight accommodation that is not their usual place of residence, and do not make any distinction based on race. One specific group was identified to be impacted by the introduction of a VL.

There is limited data available on the racial and ethnic makeup of visitors to Scotland, as survey work is usually undertaken on the basis of country of origin for overseas tourists. In 2021, 73% of visitors from abroad came from the Europe region.<sup>4</sup>

Through consultation and engagement with stakeholders, one specific group was identified as being potentially impacted by the Bill – Gypsy/Traveller communities. We understand that Gypsy/Travellers use a number of public and private sites

---

<sup>4</sup> [VisitScotland – International tourism performance in 2021](#)

across Scotland, including seasonal sites and land suitable for negotiated stopping. We also understand that Gypsy/Travellers use mainstream holiday sites for seasonal travel.

The Bill has been written to ensure that those who are booking overnight accommodation (including campsite or motorhome pitches) which is their main or usual place of residence will not be liable for the levy. Gypsy/Traveller sites that are provided by a local authority or registered social landlord are also excluded in the types of overnight accommodation to which a VL can be applied. This reflects that such sites are where Gypsy/Travellers live, for at least part of the year, or visit as part of their culture and traditions, and it is important to protect this distinctive aspect of one of Scotland's important minority communities.

Members of the Gypsy and Traveller community may also use commercial sites for overnight accommodation other than for their main or usual place of residence. Where local authorities consider this event should be exempt for a VL, they will have the power to designate this as a local exemption. In using this power, local authorities will be supported by national guidance and best practice on designing exemptions for a VL scheme. This guidance will be developed in partnership with local government, community and equality stakeholders, and the tourist industry.

In addition, the Bill will also provide Scottish Ministers with powers to create national exemptions through subordinate legislation.

#### Marriage and civil partnership

The provisions in the Bill are not expected to have any impact on the marriage and civil partnership characteristic. Overnight accommodation relating to weddings and civil partnership ceremonies would be subject to a visitor levy, provided it met the qualifying criteria. As a VL will be a discretionary local power, local authorities could if they so wish choose to apply an exemption to the levy for such events.

#### Religion or belief

We are aware that a small minority of people will visit Scotland for religious purposes. In 2021 there were 23,000 international visits (4.8% of the total) where the purpose of the trip was designated as miscellaneous, which includes for religious reasons, as well as other reasons such as health, or to study. As these visits will likely be in respect to a specific place or institution, we believe it would be appropriate for local authorities to decide on whether to consider an exemption to the levy on the basis of religious grounds.

Analysis has confirmed the need for due consideration and understanding of local users of overnight accommodation and the landscape of equalities and vulnerable groups in the area. Local authorities have a duty of care to those in its local authority area under the Public Sector Equality Duty included in the Equality Act 2010. We are confident that this ensures any inequalities which may result from an implementation of a VL will be recognised, considered and addressed through both local authority decision making and the statutory EQIA consultation.

## National Consultation results - exemptions

The consultation document asked about where responsibility for exemptions should lie (either national or local) and provided suggestions of what vulnerable groups might be covered by national exemptions. A following question asked respondents to consider if exemptions what any additional exemptions might be, and provided suggestions for this based on European examples. From the results, 78% of respondents thought exemptions should be on a national basis, with local authority respondents evenly divided on whether the exemptions should be set out in the national legislation, or whether local authorities should have scope to select some exemptions. A small majority (52%) of respondents supported exemptions for children and young people, while a large minority (46%) supported exemptions for disabled people, those registered blind and deaf, and their carers.

There is great variety in the exemptions that are used in different overseas jurisdictions that have a tourism tax. Most commonly, exemptions are given to people with disabilities and their carers, children under a certain age and homeless people. It is evident that the more exemptions offered the more complicated a VL scheme becomes to operate.

Efficient and effective operation of exemptions for vulnerable groups also requires a means of determining eligibility. In some cases this is difficult to establish and may be perceived as an invasion of privacy. For example, some members of the population do not own identification documents (such as passport or driving licence).

## Recommendations and Conclusion

Scottish Government is of the opinion that there are some groups of people that should not have to pay a VL. These groups are:

- People who are homeless or at risk of homelessness
- People whose main residence is unfit for habitation
- Asylum seekers and refugees
- Individuals who have arrived in the UK through other Home Office schemes, such as the Afghan resettlement scheme and the Homes for Ukraine scheme
- members of the Gypsy/Traveller community staying on dedicated sites.

The Bill has been written in such a way that these groups should not be liable to pay a VL if a local authority introduces one. This is because the Bill defines overnight accommodation as a room, space or other accommodation at a type of premises that is provided for residential purposes otherwise than as the individual's only or usual place of residence. This wording means that in most cases it will exclude individuals who are homeless or at risk of homelessness, refugees and asylum seekers and Gypsy/Traveller communities from being liable to pay the levy. We have also excluded local authority and registered social landlord Gypsy/Traveller sites from the list of eligible accommodation types.



As the decision to introduce a VL will be for a local authority the Scottish Government is committed to ensuring that councils have a suitable level of flexibility over the design of their VL scheme within the legislative framework created by the Bill. Therefore, the Bill will provide local authorities with the discretionary power to establish exemptions which they consider appropriate for local circumstances. This ensures that local authorities, as the developers and administrators of a VL scheme, can design a system of local exemptions that is both suitable to their communities and practicable to administer and enforce. To support local authorities, we are committed to developing guidance on the implementation of a VL with local government and industry stakeholders, including on exemptions.

There will be a statutory requirement on local authorities to assess the impact of any VL before it is introduced, and it is anticipated that this will provide an opportunity to identify the appropriate local exemptions.

Should the need arise for specific national exemptions during the implementation of the Act, the Bill also contains a delegated power for Scottish Ministers to introduce national exemptions via secondary legislation.

## Conclusion

The EQIA process has helped to consider the potential positive and negative impacts of the Bill on those with protected characteristics.

It concluded there is potential that a VL could potentially have a direct or indirect negative affect on some of the protected characteristic groups covered in the Equality Act 2010, and led to these impacts being addressed. These impacts are set out in brief below, together with the steps that we have taken to mitigate these impacts.

- **Design of Levy – Percentage charge on overnight accommodation;** The rate of a VL will be a percentage charge, making it proportionate to the price of the accommodation. This ensures that visitors booking budget accommodation will not be unfairly penalised (as would be the case with a flat fee charge). Importantly a VL will only be charged on overnight accommodation which is not a person's usual or main place of residence. This means that people who are using overnight accommodation as their usual or main place of residence will not have to pay a VL if a local authority introduces one. Gypsy/Traveller sites provided by a local authority or Registered Social Landlord will also not be covered by any VL.

- **Local Exemptions;** the Bill will provide Local Authorities with powers to designate local exemptions for their visitor levy. This allows a local authority to tailor the levy to their specific circumstances.
- **National Guidance;** working with local government and the tourist industry, we will develop national implementation guidance to support local authorities in establishing VL schemes. This will include guidance and best practice on local exemptions.
- **National Exemptions;** the Bill will provide Scottish Ministers with a power to create national exemptions through secondary legislation, if necessary.



© Crown copyright 2023

**OGL**

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.scot](http://www.gov.scot)

Any enquiries regarding this publication should be sent to us at

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-80525-845-2 (web only)

Published by The Scottish Government, May 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS1237882 (05/23)

**W W W . g o v . s c o t**