



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government, Housing and Planning Committee

**Tuesday 20 June 2023**

**Session 6**



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**LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE**  
**18<sup>th</sup> Meeting 2023, Session 6**

**CONVENER**

\*Ariane Burgess (Highlands and Islands) (Green)

**DEPUTY CONVENER**

\*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

**COMMITTEE MEMBERS**

\*Miles Briggs (Lothian) (Con)

\*Mark Griffin (Central Scotland) (Lab)

\*Ivan McKee (Glasgow Provan) (SNP)

\*Marie McNair (Clydebank and Milngavie) (SNP)

\*Annie Wells (Glasgow) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Philip Duffy (Scottish Government)

Ben Haynes (Scottish Government)

Robin Haynes (Scottish Government)

John St Clair (Scottish Government)

**CLERK TO THE COMMITTEE**

Euan Donald

**LOCATION**

The David Livingstone Room (CR6)



**Scottish Parliament**  
**Local Government, Housing and  
Planning Committee**

*Tuesday 20 June 2023*

*[The Convener opened the meeting at 09:30]*

**Decision on Taking Business in  
Private**

**The Convener (Ariane Burgess):** Good morning, and welcome to the 18th meeting in 2023 of the Local Government, Housing and Planning Committee. I remind all members and witnesses to ensure that their devices are on silent and that all other notifications are turned off during the meeting.

The first item on our agenda is to decide whether to take items 3, 4 and 5 in private. Are members agreed?

**Members indicated agreement.**

**Visitor Levy (Scotland) Bill:  
Consideration of Stage 1  
Approach**

09:30

**The Convener:** Agenda item 2 is evidence from the Scottish Government bill team on the Visitor Levy (Scotland) Bill. We are joined by Ben Haynes, who is the bill manager; Robin Haynes, who is the head of council tax and alternative tax policy; Philip Duffy, who is the economic adviser; Ninian Christie, who is a solicitor; and John St Clair, who is also a solicitor. I welcome you all to the meeting. I invite Ben Haynes to make a short opening statement before I open the meeting to questions from members.

**Ben Haynes (Scottish Government):** Thank you, convener. We are grateful for the opportunity to be here today. We thought that it would be helpful to the committee for us to begin with a brief description of how the bill's provisions would work in practice if a local authority were to seek to use the discretionary power that is provided by the bill.

First, a local authority would have to publicise an outline of its proposed visitor levy scheme. Section 12 requires that the outline sets out the objectives for the scheme and an assessment of its impact. The scheme's objectives must be related to developing, supporting or sustaining facilities or services that are substantially for or used by those visiting the scheme's area for leisure purposes. In assessing the impact of a visitor levy scheme, the local authority must cover the likely effects of the scheme on those living in the area and anyone else who, it believes, will be affected by the scheme.

The local authority must then consult on the scheme. It has to consult representatives of communities, any businesses in its area that are engaged in tourism and local tourism organisations. It is also required to consult anyone else who, it believes, will be affected by its proposed scheme. The exact form and manner of that consultation is for the local authority to determine.

Once the consultation is finished, a local authority is required to publicise a report. The report must summarise the consultation responses that have been received and set out the local authority's decision on whether it will proceed with its proposed visitor levy. It must also set out the local authority's reasons for proceeding or not proceeding with introducing the visitor levy.

Any visitor levy scheme that is introduced must set out a number of elements, which are in the bill. They include the geographical areas in which the

visitor levy would apply; the percentage rate to be applied; the date on which the levy would come into force; and the times of year during which it would apply. If, after the consultation, a local authority decides to introduce a visitor levy scheme, it cannot come into force until at least 18 months after the decision. The reason for that is to give the local authority and accommodation providers time to put in place suitable systems to collect, remit and enforce a visitor levy.

Once a visitor levy scheme comes into force, accommodation providers will need to make returns on the level of visitor levy collected along with payments of the visitor levy to the local authority every quarter. Under the bill, the returns and payments of visitor levy can be made by a third party such as a booking platform.

There are also a number of enforcement powers that the local authority can use if necessary, reflecting common practice with other local taxes. Lastly, two or more local authorities can work together to create a visitor levy that applies in all or parts of their areas.

I hope that briefly setting out the process that would have to be followed under the bill is helpful to the committee. We are happy to go into any other areas in more detail.

**The Convener:** Thanks very much. It is helpful to have that overview of the steps required.

I will start by asking why the legislation is required. What is preventing councils from introducing such a tax now? Does anything in previous legislation expressly forbid local authorities from raising their own income? Additionally, why did the Scottish Government decide to introduce enabling legislation with, potentially, 32 local levies rather than introducing a national tourist tax?

**Ben Haynes:** There are a few elements to that. There are no existing powers that local authorities can use to introduce this measure. Byelaws do not work for this kind of thing, so an act is needed to give them that power. It is enabling legislation. The overriding drive behind it is to fiscally empower local authorities, giving them a new tool to use, if they wish to do so, in their areas. There is also the question of competence. It is clear that the Scottish Parliament can create local tax to fund local authority expenditure.

I do not know whether there is anything that you want to add, Robin.

**Robin Haynes (Scottish Government):** The only thing that I would add is that our engagement with local authorities suggests that it is clear that a tourist tax may not be considered appropriate in some parts of the country, whereas specific local authorities in other parts of the country have made

us aware that they are keen on it and see a lot of benefit in being able to apply such a levy and use those funds appropriately.

**The Convener:** Thanks very much for that.

I come back to the question on clarification of why you chose to introduce what could be 32 local levies, rather than just a national tourist tax.

**Ben Haynes:** The overriding purpose is to give local authorities that tool, rather than to create a new national tax. The bill would put in place an appropriate national framework within which local authorities can introduce a visitor levy, if, after consultation, they think that it is the right thing for their area.

**The Convener:** That is great, thanks. It gives them that flexibility.

Some local authorities might see the bill as being of benefit to a select few—you have already indicated that some might choose to use it and some might not—with no obvious benefits to councils that decide not to introduce a levy. From the Scottish Government's analysis, how many local authorities are likely to introduce and benefit from a local visitor levy, and why should other local authorities and their communities support the legislation?

**Ben Haynes:** The first thing that I would say is that, under the forthcoming new deal for local government and the fiscal framework, the Scottish Government is very open to looking at proposals for other local taxes, and it may be that this is the first in the queue, so to speak. 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. Clearly, however, the bill would create a power that, if Parliament agrees to it, will be on the statute book for decades to come, so, although there may not be a large number of local authorities using it at this point, others may do so in the future.

**Robin Haynes:** The bill places certain requirements on what the funds raised can and cannot be used for. We know that—this partly answers your question—some local authorities with a high level of tourism in their area 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. We are aware of other local authorities that 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.

**The Convener:** That is a good point. There is potential for more.

Related to that question, we are aware that there might be, for example, high numbers of day-trippers who stay in Edinburgh and travel out but do not stay overnight. Could it be that those other areas continue to shoulder the cost of delivering and maintaining the services used by tourists but do not receive any benefit from the legislation? Have you given any thought to that?

**Robin Haynes:** You raise a good point. That was covered in our 2019 consultation. The legislation is drawn around the levy applying to a particular event of staying overnight in paid accommodation. The corollary of that is to consider what event would happen for day-trippers. Initially, one might think that a tour bus or some visitors might cross a local authority boundary, but the practical impact of that for everyone else would be significant. For example, how do you distinguish a visitor from a local? Are there any purposes that you might want to exclude from a levy? You could end up with a really difficult situation if you were seeking to apply a charge and visitor levies. For example, I would have had to show my council tax bill at the top of the Royal Mile in order to walk down to this building. As we began to think about that, we found that there are strong practical implications.

**The Convener:** Okay. We will get into that in a bit more detail as we go on.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** Good morning, everyone.

Ben Haynes mentioned the new deal. Can you say a bit more about how the Government sees the bill in the context of the new deal and, perhaps, other measures that might come along? Is the principle of enabling 32 localised solutions something that the Government sees happening in future in other provisions that may come in as part of the new deal?

**Ben Haynes:** I am slightly constrained in what I can say, because I am aware that the new deal for local government has not been signed or published yet. Certainly, however, it is no secret that the Scottish Government is keen to provide a new deal for local government and to fiscally empower local government, and that it is open to looking at a range of levers that local authorities could use. Potentially, the visitor levy is the first in a series of measures. It is the one on which most policy development has been carried out, along with a formal consultation. I think that the new deal is likely to include discussions on a process by which local government and the Scottish Government could talk about potential future levies or new taxes. Certainly, the thrust of that is to allow local authorities the flexibility to come up with solutions and tools that will work in their area.

**Willie Coffey:** Thank you for that careful response.

The response from the tourism sector has not been exactly positive towards the proposal, has it? Quite a number of comments that came in were about adding to business costs and so forth. Can you offer some reflections and views on that?

**Ben Haynes:** I would say that it has probably been a mixed bag. Certainly, we have listened hard to the points that have been raised by the industry, which is very much seeking to have the funding circumscribed in some way for certain purposes, and the bill takes that into account. 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.

The response from the tourism organisations is a bit more nuanced than it sometimes comes across as being. There is a range of views from the tourism industry: some are not so keen on the levy, and others are. We have always been clear that, if a visitor levy is introduced, it will have a cost impact on tourism businesses and accommodation providers. We have sought to minimise that in every way that we can, and it is something that we would very much expect local authorities to take into account.

Philip, do you want to add anything on the work around business costs?

**Philip Duffy (Scottish Government):** Yes. As part of the exercise, we consulted a number of businesses on the potential compliance challenges around a visitor levy. Those were reflected in the business and regulatory impact assessment, so we have captured and recognised that there are implementation and on-going costs associated with the collection process. Nevertheless, as Ben Haynes said, the aim of that consultation period is to minimise those costs where possible.

09:45

**Willie Coffey:** If the bill proceeds and is enacted, at some future point will the Government look at the cost impact that businesses are concerned about if we review the effectiveness of the policy and the scheme?

**Ben Haynes:** We would be open to doing that, but I am very aware that those would be local authority schemes. A three-yearly review is built into the bill, so we would want to tread carefully and not look over the shoulder of local authorities when they are making those decisions.

**Robin Haynes:** It is also worth highlighting that Mr Arthur, as lead minister for the bill on the day that it was published, wrote to VisitScotland, the

Scottish Tourism Alliance and the Convention of Scottish Local Authorities 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. We very much imagine that group being the forum for ensuring that a local authority, using some of the compliance and collection measures that are set out in the bill, approaches that with its eyes wide open and a thorough understanding of how those burdens can be minimised.

I also think that that expert group provides a forum for ensuring that there is an understanding among local authorities that the burden will be different for different sorts of accommodation providers. The business and regulatory impact assessment already distinguishes between different sides of the business. You can imagine that, for a microbusiness whose booking sheet is a calendar beside the phone, the compliance might look like drawing another column on that, whereas, for other accommodation providers using accommodation management systems, the functionality already exists, because the systems are sold overseas. There is a range of things beneath the provisions of the bill that it would be essential for local authorities and businesses to get together to understand and identify how they might be best implemented.

**Willie Coffey:** Thank you very much. I hope to come back in later, if I may, convener.

**The Convener:** It was good to get that detail about the extra column on the balance book. That has been brought up with me, as a Highlands and Islands MSP, as quite a lot of people there provide accommodation.

**Miles Briggs (Lothian) (Con):** Good morning, panel, and thank you for joining us today. I want to ask a couple of detailed questions, the first of which relates to where funding is being allocated. At the moment, council tax and non-domestic rates are taken into account when general funding allocations by the Scottish Government are decided. As an Edinburgh MSP, I know that we receive one of the lowest levels of funding per head of population—the committee is aware of that, as I raise it at every meeting. Will what is proposed in the bill be considered in future calculations for the general revenue grant allocation? Are discussions going on in Government about that?

**Ben Haynes:** No, the intention is that it will not be taken into account when deciding on those.

**Robin Haynes:** That is in part why the bill's provisions state that the receipts raised from a local authority applying the levy should be, in effect, ring fenced—which is a delicate term in

local government finance—segregated and accounted for separately. They will not be part of the wider local government funding arrangements allocation.

**Miles Briggs:** Thanks for that. As we have heard, the tourism sector, especially here in Edinburgh, is significant to our economy, particularly given the Edinburgh festival. The Scottish Government has had a number of concerns put to it around the fact that VAT is applied to accommodation in the UK, and it is among the highest in Europe. The majority of EU companies operating tourist tax have notably lower rates on accommodation than the UK VAT rate. How have you responded to those concerns from the sector?

**Ben Haynes:** General taxation is a very complicated picture. The VAT regime varies quite a lot. Philip, do you want to pick up on some of the examples?

**Philip Duffy:** It is true that the 20 per cent VAT rate in Scotland and the United Kingdom 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. You can pick one particular business and compare among countries, but to generalise is very difficult. However, we recognise that VAT is higher in Scotland than it is in other countries.

**John St Clair (Scottish Government):** VAT catches everybody on the chain, whereas this catches only—[Inaudible].

**Miles Briggs:** Did you want to come in as well, John St Clair?

**Robin Haynes:** If I may come in, the BRIA also highlights research by others that recognises 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. This may sound like a flippant aside, for which I ask you to forgive me, but I remember from my undergraduate economics lectures that price is the lowest form of competition, and that is reflected in the research that states that the UK's competitiveness as a visitor destination comes from the whole offer rather than purely from price.

**Miles Briggs:** The main concern was about what percentage rate the visitor levy would be set at, given that councils will have flexibility to set it at up to 100 per cent. That could make us uncompetitive, depending on where councils



decide to set it. The consultation, which a few of you have mentioned, was conducted in 2019, before the pandemic and the cost of living crisis. What further consultation does the Scottish Government intend to undertake? The Scottish Tourism Alliance has called for the committee to undertake some work on that. Given that we are operating in a very different climate after the pandemic, has the Scottish Government revisited that consultation or does it intend to?

**Ben Haynes:** Work on the visitor levy was paused in spring 2020 for obvious reasons. Since the bill came out of deep freeze, we have had a series of engagements with stakeholders, and ministers have been meeting relevant parties as well.

On business specifically, we went back to businesses with which we had conducted face-to-face interviews with a follow-up survey to see what had changed since they had completed those interviews. I would slightly question whether we are in a very different world for the tourism industry. It has bounced back very strongly and is now close to pre-pandemic levels. Philip—have you got the relevant figures?

**Philip Duffy:** Yes. We are seeing a strong recovery with our international visitor numbers. Overall numbers are still slightly below where we were in 2019, although spend seems to be up. We are still waiting for the picture for domestic visitors, as that statistic has yet to be compiled. The early indication, however, is that there has been a recovery to where we were before the pandemic.

**Ben Haynes:** There are certainly challenges, but tourism does seem to be in a pretty robust position.

**Miles Briggs:** Thanks for that. If we have time, I hope that I can come back in with other questions later.

**Annie Wells (Glasgow) (Con):** Good morning. In 2018, COSLA called for a tax on visitors, not businesses. Given that, in the bill, the liable person is the owner of the premises, can the Government say that it is not a tax on business?

**Ben Haynes:** I will answer on the technical aspect, as Robin Haynes is keen to come in. First, the bill is constructed in such a way that the accommodation provider is the person who has to collect and remit the tax, and liability focuses on that person. Primarily, that is a question about enforcement. 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. I say that on the technical side, and Robin looks as though he is ready to come in.

**Robin Haynes:** I was just going to endorse that exact point. I suppose it is analogous to a retailer charging VAT: if you or I buy a product on which VAT is charged, that is not a tax on business because we have to pay for it. The issue is the compliance burden, which we recognise and have already talked about this morning. That does indeed fall on the business, but the person who pays it is the one who consumes the product.

**Annie Wells:** I have another question. The bill's business and regulatory impact assessment and policy memorandum discuss a range of other options that could be considered, including the Manchester business improvement district and the Slovenian example. Will you describe the various other options that were considered and why the Government chose to pursue this tax?

**Ben Haynes:** I will touch on the BID example. 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 because, effectively, they are very much controlled by the businesses that are involved in them. The local authority collects that money but it does not control how it is used and is not involved in that decision making. So, BIDs do not really meet that objective, although I know that there are BIDs in other places.

With regard to the Slovenian example, I will hand across to Philip Duffy, who has had a look at it.

**Philip Duffy:** Yes. The tax in Slovenia functions much like it does in other parts of Europe, where most of the tax is raised in the city and used within the city budget. However, there is an additional supplement that raises funds for its visitor agency. I understand that the agency is centrally funded by Government, but that there is a sort of top up to that. The tax works in a very similar way to the visitor levy that is being proposed here, but the tax that is raised there is used in a slightly different way, given that part of it is used to fund the national visitor agency.

**Marie McNair (Clydebank and Milngavie) (SNP):** Good morning, panellists. The percentage rate would be for the different councils to decide on, and the bill places no restrictions on what the rate might be. Has the Scottish Government modelled the behavioural impact of different percentage rates? At what point might the rate start to become a deterrent?

**Ben Haynes:** I will hand across to Philip because we have carried out quite a lot of work on that aspect.

**Philip Duffy:** We have looked into what revenues could be raised if the visitor levy ranged from 1 to 7 per cent, which you can see in the BRIA. We have looked into what evidence there is

of behavioural effects on price increases, and there is very limited Scotland-specific evidence of how visitors might respond to price increases. In the literature, you can find a range of estimates around price sensitivity, but there are a lot of context-specific factors. A lot of the literature says that, for beach resort destinations in the Mediterranean, which are easily substitutable, price differentiation might be a factor and visitors might be more price sensitive. For locations that are more unique and not substitutable, that is, perhaps, less of a factor.

The other thing that we have looked at, in practical terms, is cities in Europe that have introduced those taxes recently. Generally, they have not seen a negative impact on visitor demand, with the number of overnight visits increasing in the years after those taxes were introduced. Clearly, the interaction between what the rate is and the potential negative impact on visitor behaviour will have to be considered by each local authority as they assess the impact of the measures.

10:00

**Marie McNair:** Does anyone else want to come in?

**Ben Haynes:** I echo Robin Haynes's earlier point: there are many things that attract people to visit Scotland and the UK more widely. Cost is probably not one of the top factors. That plays into this point, as well.

**Robin Haynes:** I also point out that it plays into the Scottish Government's wider tourism strategy. We have many unique offerings. People come to play golf at St Andrews. People come to see Edinburgh castle. People come to put their toe in the fairy pools in Skye or to try to spot the Loch Ness monster. None of those are substitutable experiences for which there are alternatives elsewhere.

**Marie McNair:** The bill would permit the percentage rate to be different for different purposes or different areas in the local authority area but not for different types of accommodation. Will you outline some of the different purposes that councils might apply different rates to and why?

**Ben Haynes:** Probably the easiest example is Edinburgh festival fringe performers. The local authority in Edinburgh might want to create a lower rate for them. Some local authorities have said in the past that, when they hosted events such as the 26th United Nations climate change conference of the parties—COP26—they would have liked the ability to increase rates for accommodation that is booked for those purposes. There is a large degree of flexibility for local authorities in the bill. They can make all sorts of

adaptations and use the flexibilities to work for their particular circumstances.

You touched on one option that local authorities do not have under the bill, which is a different percentage rate for different accommodation types. Given all the other flexibilities that a local authority has, I think that it was felt that that would introduce a degree of complexity that was not necessary. The feeling is that there are enough other tools to make adaptations without having to go down that route.

**Robin Haynes:** Geography offers two examples. One might be Edinburgh, when comparing the old town with the wider city. There might be a justification there. Contrast that with a large local authority, such as 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.

**Philip Duffy:** Other countries have different rates for different types of accommodation. Usually, where there is a flat rate, it reflects the quality of the accommodation. In effect, with a percentage rate, different qualities of accommodation obviously vary by price and the tax burden varies without needing to set different rates for different types of accommodation.

**Marie McNair:** Thank you. I appreciate your responses.

**The Convener:** On the back of that—Robin, you might have covered this in your response—I would be interested to hear whether, if a council decided to apply a levy in part of its area but not in others, there would be a case for any revenue that is raised to be spent in that same geographical area?

**Robin Haynes:** There could be. We are not prescriptive about that in the bill. A common theme of some of the things that we have discussed is that the bill is very much about giving local authorities power and discretion. One could imagine that, if a revenue were to apply at a particular rate in a small geographical area, it might be a bit questionable whether the sums ultimately raised would make a difference to that area. The key point, however, is that it is for local authorities to determine; we are not prescriptive about that.

**The Convener:** Yes, so it is something that they might draw out in a consultation. That is great.

**Ivan McKee (Glasgow Provan) (SNP):** Good morning. We have talked about the bill's proposals in the context of the new deal for local government but, of course, there is also a new deal for businesses running alongside that. You mentioned

that the STA and others have made a lot of input to the proposals. The first issue that I want to explore a wee bit more relates to something that you have kind of mentioned already. I do not want to use the words, but it is the ring fencing of the funds for specific uses. Clearly, the STA and others are keen that the funds are seen to be used to support and benefit the visitor economy directly. I want to unpick and explore what the proposals are in that regard and what the options might be.

**Ben Haynes:** Certainly. The bill tries to—and does—chart a middle way. Some stakeholders would very much like the money to be funnelled into specific tourism projects, ideally with little involvement from local authorities. Other stakeholders make an argument that it should be for general local authority expenditure and that visitors have an impact on all sorts of services, so there should not be any restrictions on it.

The bill takes a middle way, which will mean that the money has to be accounted for separately; the scheme has to be transparent; there have to be set objectives for what the scheme will do; it has to be reported on every year; and a sort of boundary is created around the use of the funding, which, as I have mentioned, is for developing, supporting and sustaining facilities and services that are substantially for or used by people visiting the area where the visitor levy applies. 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.

**Ivan McKee:** Will you give examples of the things that might or might not be included in that definition? It sounds like a great definition, but the devil is in the detail, and we need to figure out what exactly might or might not be included.

**Robin Haynes:** Examples might include facilities that do not exist currently in rural areas to accommodate visitors. There is already a car park at the fairy pools in Skye, but car parks around such attractions might be one example. Another very different example might be to use funds to better promote a particular destination. A common strand in those examples is that, ultimately, if a meaningful sum of money is raised and both things are done right, the attractiveness of the area to visitors will be enhanced, which will potentially benefit the tourism and hospitality businesses in that area.

**Ivan McKee:** Absolutely, and, as a consequence, there could be increased revenue for the local authorities and others from the increase in visitor numbers.

Has any thought been given to the proposals from the STA about the mechanism for deciding what money is spent on? You talked about a group in each local authority that has the tax in place involving the local authority and businesses, which might make the decisions about or at least oversee what the money is spent on.

**Ben Haynes:** We would not want to define in the bill structures that have to be followed, but as Robin has mentioned, we are creating an expert group. Ministers have invited STA, COSLA and others to sit on that. It will develop guidance and best practice. We anticipate that the guidance and best practice will talk about the mechanisms that a local authority could put in place to decide how the funding is used.

**Ivan McKee:** So it is on the agenda but not prescriptive.

**Robin Haynes:** Fundamentally, the important point to emphasise on that is that councils are democratically elected entities that are accountable to their electorate. Therefore, if a decision is made in a council, supported by the provisions in the bill and the best practice that the expert group is tasked with developing, one could argue that that is a good thing for all.

**Ivan McKee:** If I understood you correctly, you said that the fact that the funds are ring fenced is, to some extent, an advantage for local authorities, because it means that that money is not washed into the general calculation around the block grant. Therefore, there are advantages for local authorities as well as for tourism businesses in the money being ring fenced to some extent.

**Robin Haynes:** Very much so. I suppose the corollary of what you have just described is that, if revenues raised were to be part of general local authority funding, 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.

**Ivan McKee:** Okay.

I have a last question. Clearly, one of the key issues regarding the relationship with business and regulation in general is the cumulative impact. Has there been any consideration of how the proposal would interact with everything else that is impacting on business, or has been proposed for business? What is the mechanism for assessing all the regulatory proposals that are in play?

**Ben Haynes:** We are quite engaged with our colleagues who lead on the new deal for business. They have that wider overview, so they are certainly aware of the work. Some of the people who are involved in the new deal for business are

familiar with the visitor levy. Bodies more widely that are involved in the new deal for business will look at cumulative impact. We play our part in making sure that they are aware of the work that we are undertaking.

**Ivan McKee:** Sure—but that works in both directions. They could come back and say that there are six other things hitting business that you need to have another look at, so that they are considered.

**Ben Haynes:** Yes.

**Ivan McKee:** Thank you.

**Willie Coffey:** On the point that Ivan McKee raised about the purposes to which the levy can be put and who decides, I will give you an example. If the City of Edinburgh Council wanted to improve the wee section of cobblestone road at the top of the Royal Mile, which is like driving on the moon, I am sure that that would be welcomed by everybody—tourists and locals alike. If the council were to decide to use the visitor levy money to repair that, would that be okay? Would the council have to get permission from the Government to do that? To whom would it account for having done that? Tourists can use that section of the road just as much as we can. What view would be taken of that?

**Ben Haynes:** There is no requirement for a local authority to get permission from the Scottish Government on what it uses the funding for. Obviously, it will have to abide by the provisions in the bill. There might well be a case for such work. I am familiar with the north coast 500 route, which has an impact on the condition of the roads in the area. The local authority would have to consult on such repairs and include it as part of its scheme. The road that you mention represents a facility and service that is used by visitors, so such things could be funded.

**Robin Haynes:** The obverse of that would be much plainer in that there are many streets in the capital that are far removed from the tourist landscape, in respect of which it would be wholly legitimate to contest use of a visitor levy for their maintenance.

**Willie Coffey:** The Royal Mile might be an exception because it is full of tourists.

**Robin Haynes:** One can imagine a case being made, but I would not wish to prejudge such decisions.

**Willie Coffey:** Okay. I thought I would probe that. Thanks very much for your answers on that.

**The Convener:** I have a follow-up question. I totally take the point that it is up to the local authority to run a consultation on scheme design. Ben Haynes mentioned the north coast 500: I

wonder about hospitality issues in the Highland Council area, for example. In your work to develop the bill, did you come across any thinking around using some of the money to train people into the hospitality sector, as is much needed at the moment?

10:15

**Ben Haynes:** I do not recall that coming up in consultation. I am looking to my colleagues—again, I think that a case could be made for that under the bill, although I do not recall that being raised with us directly.

**The Convener:** Okay—that is something that a local authority could look into in its consultation.

**Ben Haynes:** Yes, a local authority could certainly look into that in its consultation.

**The Convener:** Great—thanks very much.

**Mark Griffin (Central Scotland) (Lab):** I want to touch on cruise ship stays, which have been omitted from the bill. I know that the Government is considering that in further discussions about the new deal. Why have cruise ship stays specifically been omitted, considering that the Convention of Scottish Local Authorities called for their inclusion, which is commonplace in other European cities?

**Ben Haynes:** A cruise ship is a very different animal from a hotel that is fixed in one local authority area and where people book overnight accommodation. Obviously, cruise ships are moveable assets and go to a variety of places. 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.

**Robin Haynes:** Mark Griffin said that the matter is being considered in other fora. Potentially, under the new deal for local government there will be a fiscal framework for local government, which will include measures on how an alternative new local tax might be assessed. We see cruise ships as potential candidates for inclusion. To expand on what Ben said about the taxable event being different, it is not as though we said, “No, we’re not doing that.” We engaged with stakeholders and realised that that is not a reason for not including them, but many questions would need to be addressed and understood. For example, 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?

In introducing those questions, I hope that I am demonstrating that it is not as though we made a blanket statement that we are not doing that; rather, there has been a realisation that there is a lot that needs to be understood. Given that cruise ships would represent a different taxable event, we see that as being a separate exercise to the one that is before the committee.

**Mark Griffin:** I can see the attraction in the inclusion of cruise ships, because clearly some local authorities would benefit to a much greater extent from a cruise ship levy than they ever would from a levy on overnight stays on land. Barcelona has answered such questions. I appreciate that you are talking about different questions, but other areas have answered them. Has there been any work done with other places that have introduced a similar levy? As I said, areas of this country could benefit massively from it.

**Robin Haynes:** The best answer that I can give is that, as I have indicated, we have given the matter consideration. Unfortunately, however, we must do one thing at a time. As I said, given the resources that are available, the suggestion has strong potential to be one of the earlier candidates for consideration under the fiscal framework arrangements for local government that I mentioned.

However, 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—not because it is all too difficult, and all the rest of it, but because the levy is a tax and there are reputational concerns for the Parliament and Scottish Government in terms of protecting their integrity as a taxing jurisdiction. We want to ensure—as officials, we advise them to ensure this—that ministers do everything as correctly as possible in taking the bill forward.

**Mark Griffin:** Thanks.

Mr St Clair—did I hear correctly from the convener that you are COSLA's solicitor?

**John St Clair:** No.

**Mark Griffin:** I am sorry. That is fine. I misheard that at the start. I was going to ask whether there is a view on the matter from COSLA.

Before my second question, which is about exemptions, I declare an interest as convener of the cross-party group on carers.

Under the bill, local authorities would be able to provide exemptions, and there is also provision for national exemptions. Why was it not considered appropriate to include at the outset an exemption

for people who travel for hospital care or to provide care? I am thinking in particular about parents who stay in hotels to be close to their sick kids in hospital.

**Ben Haynes:** On the general question about exemptions, the bill is carefully constructed to prevent various groups of people from falling into the visitor levy. Anyone who uses overnight accommodation as their main or usual place of residence will not be liable for the levy. That deals with people who are homeless or who are, perhaps, fleeing domestic abuse, or who are refugees in the widest lay person's sense of that term.

We expect the expert group to pick up exemptions and to produce guidance on them for local authorities. We are aware that exemptions will vary a lot. For some local authorities, consideration of inclusion of travel for medical treatment might be a valid. For others, that will not have to be taken into account. Ministers decided that it was best not to include that in the bill but to pick it up in guidance, with the backstop of introducing regulations if necessary, depending on how things turn out with the guidance, and on what practice looks like in different local authorities.

**Robin Haynes:** Part of the thinking is that, under the common heading of exemptions, some things would be of concern to all—carers and support for medical treatment being an example—but other exemptions would be specific to a local authority. Ben Haynes has mentioned that we received representations about exempting Edinburgh fringe festival performers, for example. That is a completely different circumstance from the one that you described, but it nonetheless comes under the heading of exemptions, which informed ministers' views as to why it would be more appropriate to deal with it at the local level.

**Mark Griffin:** Okay. Thank you.

**The Convener:** We have a little bit of time in hand.

**Miles Briggs:** The exemptions question is important. It was decided to exempt cruise ships from the bill, but we need to pursue the detail on allowing councils to decide. For example, would the council tax of people who live in Edinburgh who have family members come to stay allow those family members to be exempt? Has that been looked at? In that situation, friends and family members might be coming to provide care. You said earlier—did I hear this right?—that you had not looked at the definition of "tourist" for the bill, which will lead to a lot of definitions being needed for exemptions.

**Ben Haynes:** I have a couple of points to make on that. I do not think that we touched on that, but

we have not defined “tourist” in the bill. Both your questions relate to the practicalities of running an exemption and how it might work. It could be complicated, and we are aware that local authorities will administer the schemes, working with overnight accommodation providers in their area. The bill makes some provision for that, such as exemption vouchers, but ministers felt that it was important that those who will be involved in administering this—local authorities and overnight accommodation providers—discuss in detail how exemptions might work at a practical level, which will inform decisions on which exemptions are put in place. We are aware, and the evidence shows, that the more complicated you make a scheme, the more expensive and difficult it is to administer. Your question therefore points to the slightly complex practical implications that one can get into with exemptions. That is why we really felt that it would be best addressed through the industry and local government discussing what might work on a practical level.

**Miles Briggs:** There is nothing in the bill that would prevent a council such as the City of Edinburgh Council from saying, “If you have a family member to stay, that can be an exemption.” A booking system could include that.

**Ben Haynes:** I look to my lawyers, but I do not think that there is anything in the bill that would prevent a local authority from doing that.

**John St Clair:** Yes, that is correct.

**Miles Briggs:** I am sure that a lot of Edinburgh residents will be keen for that to be included.

To go back to what you said earlier, it is a sad situation that a lot of hotels and guesthouses in Edinburgh are currently being used as temporary or emergency accommodation. Am I right in saying that that is not captured under the tax? You touched on the situation of Ukrainian refugees and people fleeing domestic abuse who might, in an emergency, be housed in a hotel or a guesthouse.

**Ben Haynes:** That is right. People who are using overnight accommodation as their main or usual place of residence will not be liable for the levy. We felt that constructing the provision in that way was the best way to avoid including the groups to which you have referred.

**Miles Briggs:** I wonder what the legal definition is. I know from casework that people often move between hotels or guesthouses, depending on availability, especially during the festival, when hotels want to empty the property and keep it purely for tourists’ use. Is there a legal definition of “main emergency accommodation”?

**Ben Haynes:** John—do you want to handle that?

**John St Clair:** We think that the expression “usual place of residence” is well understood. There is probably also an implication—no more than that—in the bill, when it is read as a whole, that commercial transactions rather than non-commercial transactions will be taxed. Most of the cases that Ben Haynes has mentioned as candidates for exemption, including housing Ukrainians, would not fall under the “commercial” heading.

**Miles Briggs:** Okay. One would imagine, in that case, that the council would want to have that defined before it took forward a levy, given its responsibilities.

**John St Clair:** Yes.

**Miles Briggs:** The point about different periods was touched on earlier. The Edinburgh festival is a one-off. I used to work, however, in the tourism industry in Perthshire, which is very seasonal. Do you expect exemptions and flexibility to be for winter months only, and that the tax will not necessarily be applied then in order to ensure that, for example, the Highlands are not discouraging people during quiet periods?

**Ben Haynes:** There are a couple of points to make on that. The tax is levied at a percentage rate so, naturally, the level of the visitor levy falls when accommodation costs less. There are provisions in the bill to allow a visitor levy scheme to apply only between certain dates, and that can be fairly broad. It can, for example, run from Easter to the last Sunday in September. It does not have to be just specific dates; it can also be times of the year.

**Miles Briggs:** That is helpful.

**Robin Haynes:** To return to your previous question, section 4(1) will apply where the accommodation is not somebody’s “usual place of residence” so, by definition, if people do not have another usual place of residence, they would be beyond the scope of the bill.

**Miles Briggs:** That is helpful. Thank you.

**The Convener:** I will pick up on something that you might have said in your opening remarks, Ben, but that you also mentioned when you were talking to Ivan McKee about local authorities. You said that the system would be reported on every year. Will it be reported on to the Scottish Government?

**Ben Haynes:** No. In line with the Chartered Institute of Public Finance and Accountancy accounting rules, local authorities must publish the amount of money that has been collected, the amount of money that has been used for administration every year and the performance of the scheme by reference to its objectives. They must do that every year.

**The Convener:** Okay. That is great: it sounds very straightforward. One of the other things that come up with us in conversations about the new deal is the onerous reporting that local authorities often end up having to do for national schemes, but that sounds pretty straightforward. I just wanted to check that.

Thank you so much for coming this morning—it has been really helpful. We got all our burning questions answered and we have a lot more clarity on the bill, which I really appreciate.

Because we agreed at the start of today's meeting to take the next items in private, that was the last public item for today. Thank you.

10:30

*Meeting continued in private until 11:01.*





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