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VAB101 Airbnb

Senedd Cymru | Welsh Parliament

Y Pwyllgor Cyllid | Finance Committee

Bil Llety Ymwelwyr (Cofrestr ac Ardoll) Etc. (Cymru) | Visitor Accommodation (Register and Levy) Etc. (Wales) Bill

Ymateb gan Airbnb | Evidence from Airbnb

General principles

1. What are your views on the general principles of the Bill and the need for legislation to deliver the Welsh Government's stated policy objective, which is to:

- **ensure a more even share of costs to fund local services and infrastructure that benefit visitors between resident populations and visitors;**
 - **provide local authorities with the ability to generate additional revenue that can be invested back into local services and infrastructure to support tourism;**
 - **support the Welsh Government's ambitions for sustainable tourism?**
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(We would be grateful if you could keep your answer to around 500 words).

We believe that the general principles are broadly correct for a bill whose primary aim is to introduce a visitor levy, although we would highlight significant concern that the introduction of a levy may negatively impact the vitality and competitiveness of tourism in Wales. Visitor levies can help councils fund the infrastructure that guests enjoy and residents rely on. They can also ensure that the benefits of tourism are more evenly distributed and assist in managing the impacts of over-tourism. However, they also have the potential to make destinations less affordable and attractive and can thus discourage guests from staying overnight (a considerable source of tourist spend), thereby harming local hospitality businesses.

It should also be noted that there have been a number of recent tax changes in Wales with regards to short-term lets, which will have the likely impact of inflating accommodation costs for visitors. This includes: a change in the criteria for short-term let properties to qualify for business rates; the ability for local councils to charge premiums on second homes by up to 300% from April 2023; and the forthcoming

abolition of Furnished Holiday Lets Relief. Similar measures, accompanied with bureaucratic licensing requirements, have seen accommodation prices surge in Edinburgh. There is a real danger that even before the introduction of visitor levy powers, these changes will all adversely affect the margins of hosts and self-catering operators, who in many cases are small and micro-businesses, and will no doubt translate into higher costs for guests.

We would therefore suggest that the policy objectives for the bill should be amended or expanded to better align with ambitions to grow tourism in Wales. In particular, they should reflect the aim to harness the potential for tourism to improve the wider economic wellbeing of Wales, and to develop the tourism sector in a way that delivers benefits for everyday people and places, including environmental sustainability, social and cultural enrichment. This expanded scope of the bill's objectives should take into account other recent policy interventions and the broader health of the visitor economy, helping to ensure the right balance is struck between generating additional revenues via local levies and preserving the benefits that tourism brings to communities in Wales.

On the other elements of the bill, we strongly welcome the proposal to introduce a registration scheme for visitor accommodation providers (VAPs). A simple, light-touch registration scheme would ensure that there is a single set of clear rules and an implementation timeline that would apply to all VAPs in Wales. Tying the reference number from the registration scheme to the VAP will help with the administration of the levy. Data from the registration scheme will also help create a proper evidence base through which councils can assess whether short-term lets are contributing to local issues in a way that justifies the use of an Article 4 direction as part of the planning use class system introduced in 2022. It will provide the Welsh Government and Destination Management Organisations (DMOs) with a greater understanding of tourist flows, and help inform the development of national and local tourism strategies and support planning for major events. A mandatory, national scheme can also act as a mechanism through which hosts and operators can learn about their existing obligations around health and safety and other regulatory requirements, thus reducing the need for other, more complex and bureaucratic interventions such as licensing. It can also give enforcement bodies access to individualised data where necessary, and provide important information about short-term lets and the location of listings to the police and fire safety and rescue. This will be a crucial tool to help manage rare cases of anti-social behaviour or non-compliance with health and safety regulations.

The Bill's implementation

The Regulatory Impact Assessment is set out in Part 2 of the Explanatory Memorandum (<https://senedd.wales/media/g5ipwvwh/pri-ld16812-em-e.pdf>). This includes the Welsh Government's assessments of the financial and other impacts of the Bill and its implementation.

2. Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and accompanying Explanatory Memorandum and Regulatory Impact Assessment?

(We would be grateful if you could keep your answer to around 500 words).

There are a number of potential barriers to the implementation of the bill's provisions. Depending on future policy decisions about how both the levy and registration scheme will work in practice, there may be implementation and administration costs for VAPs and platforms which could be significant, and the impact assessment does not fully take this into account. More information about how the registration scheme in particular will work is essential. At present the bill and accompanying impact assessments do not fully capture the full range of potential costs and barriers, nor does it give full consideration to how different policy decisions on matters delegated to subordinate legislation or ministerial decision may translate into greater bureaucratic obligations and costs for VAPs, platforms, local authorities and enforcement bodies. We have set out elsewhere in this response our views on what further design elements of the registration scheme should be captured in the text of the bill, or where the Welsh Government should provide more information about its policy intention at an early stage.

In addition, we would like to stress the importance that local authorities should be required by law to take into account data from the registration scheme when making relevant decisions, especially those relating to whether to introduce an Article 4 direction to impose a requirement to obtain planning permission for new short-term lets. Since Article 4 directions represent a major interference in people's use of their own property, it is right that they are only introduced where evidence shows that they are essential to manage local impacts. The provision of data to inform these decisions is a key benefit of the registration scheme, and so it is of pivotal importance that this use be established in legislation.

3. Are any unintended consequences likely to arise from the Bill?

(We would be grateful if you could keep your answer to around 500 words).

The tourism recovery is still fragile, and there are issues with the competitiveness of Wales compared to other destinations in the UK. Searches for trips to Wales, and the number of nights actually booked, on Airbnb have been growing at a slower rate than in England. Prices for accommodation have also increased significantly. This has been driven by inflation and the high cost of living, and this is translating into higher costs which may affect a decision to book an overnight stay in Wales. The introduction of a levy may adversely reinforce these trends, especially when combined with other recent regulatory interventions which will create further upward pressure on prices.

With regards to the registration scheme, the bill only gives minimal details about how the system will work, and grants ministers wide powers to decide what additional information should be required from VAPs in order to register. It is therefore difficult to assess what the impacts might be, as much will depend on what is actually required to register. Our experience with supporting registration systems around the world is that user drop-off often directly correlates with the complexity of the scheme and any barriers or friction for registrants (for example, requiring the upload of documents, or high fees to register). An overly-complicated and restrictive scheme that makes it difficult for established operators to complete the process could have significant impacts in terms of their inability to register and a subsequent loss of businesses or economic activity (as has been seen in Scotland with their licensing regime). Based on the limited available information on how the Welsh Government intends the scheme to operate, we do not believe these risks and potential consequences are fully considered in the accompanying impact assessment documents.

We are encouraged that as part of the registration scheme, it appears the Welsh Government's intention is to collect only a small amount of information about each premises. While it is important that the registration scheme does not create excessive administration burdens on VAPs, we also believe that certain additional data would be a pivotal resource for policymakers and enforcement bodies at both local and national levels. We therefore suggest that in addition to the information set out in the legislation, the registration scheme should also capture details about the accommodation being registered, including number of units, number of bedspaces, and accessibility. Further, we wish to stress the importance of collecting information regarding whether the visitor accommodation is within the VAP's primary residence, which will enable local authorities to assess whether registered properties could have an impact on housing stock. We also believe that as part of the registration process, VAPs should be informed of existing health and safety obligations, and attest that they adhere to them. This will help ensure that hosts have the necessary information, are aware of their obligations, and will reduce the need for further interventions around health and safety and quality after the scheme has been established.

Section 4(3) allows for the registration scheme to contain any other information that Ministers consider appropriate and we would welcome clarification early on in the legislative process as to what information will be required, and to define more clearly other aspects of the registration scheme in law. Alongside this consultation, we recommend that the Welsh Government follow the approach adopted by DCMS with regards to the development of a registration scheme for England, and undertake regular and ongoing dialogue with industry, encompassing stakeholders from accommodation providers, trade associations, hospitality businesses and booking platforms, to ensure the industry is able to flag up any unintended consequences with regards to the design of the scheme.

4. What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill?

(We would be grateful if you could keep your answer to around 500 words).

We believe the Welsh Government's assessments may underestimate the financial impact the bill will have on the short-term let sector, and on tourism and hospitality in Wales more broadly. The published regulatory impact assessment acknowledges the uncertainty of its estimates regarding the costs that visitor accommodation providers would incur, while the range of costs provided is so large that it is unhelpful for operators who may wish to rely on it when setting prices and forecasting demand. We reiterate the concerns outlined earlier in this response, in which we explain that it is difficult to understand the cost impacts of the bill without more information about how the registration scheme will work in practice.

There will also be a financial impact on hosts and guests stemming from the cost of registration. The scale of this will be affected by how much it costs to register as a VAP, whether there will be additional fees for each property registered, and the frequency of re-registration. We believe that registration should be free, or kept to a minimum, to avoid adding more costs onto operators. This is particularly the case for short-term lets and those hosting in their own home, since the typical Airbnb host in the UK shares their home for just three days a month, earning on average £5,500 in 2023. With four in ten hosts saying this income helps them afford to stay in their homes, the extra money is in many cases a lifeline and we would encourage the Welsh Government to be mindful of this when setting fees for the registration scheme.

Subordinate legislation

The powers to make subordinate legislation are set out in Part 1: Chapter 5 of the Explanatory Memorandum (<https://senedd.wales/media/g5ipwvwh/pri-ld16812-em-e.pdf>).

The Welsh Government has also set out its statement of policy intent for subordinate legislation

(<https://business.senedd.wales/documents/s155951/Statement%20of%20Policy%20Intent.pdf>).

5. What are your views on the balance between the information contained on the face of the Bill and what is left to subordinate legislation? Are the powers for Welsh Ministers to make subordinate legislation appropriate?

(We would be grateful if you could keep your answer to around 500 words).

To ensure the launch of the registration scheme progresses as smoothly as possible, we believe that more should be done at this stage to set out the Welsh Government's expectations for how ministers will make subordinate legislation to support the scheme. In particular, the legislation should define the other types of information that the Welsh Government anticipates collecting via the register in the future, how VAPs will be able to update the register with relevant changes to information which is initially submitted, and in what circumstances information from the register will be made public.

We also recommend that, where the bill gives powers to ministers to make future changes to elements of the visitor levy framework or the scope of the registration scheme, that the limits of this be clearly defined within the legislation. For example, under Section 14(3), which gives ministers the power to specify the maximum amount that can be applied as a premium to either the upper or lower rate of the levy, we suggest that the bill specifically state the highest possible amount that can be applied as a premium. This will address concerns that the amount of the levy could continue to rise via a premium on a year-by-year basis, and undermine a key benefit of the proposed levy design, which is its simplicity by virtue of being a flat rate.

Likewise, in Section 9(5), which allows ministers to make regulations to add, remove or change descriptions of circumstances when the levy does not apply, we believe the legislation should include a list of situations which cannot be amended by ministers - this should include clarifying that local authorities can not apply seasonal or geographical variation to the levy (i.e., only apply the levy at certain times of the year, or only apply the levy in certain places within their boundaries).

Other considerations

6. Do you have any views on matters related to the quality of the legislation?

(We would be grateful if you could keep your answer to around 500 words).

There are a number of drafting issues in the bill where we believe the Welsh Government needs to clarify aspects of the legislation, or to set out their policy intention. These relate to both the introduction of the registration scheme, and issues relating to the introduction of visitor levy powers. We would encourage the Committee to look at these in detail as part of this consultation and during the scrutiny stages of the bill.

We have set out our views in a more detailed letter to the Committee.

7. On 26 November, the Cabinet Secretary wrote to the Finance Committee with some indicative additional registration and enforcement provisions

(<https://business.senedd.wales/documents/s155952/Letter%20from%20the%20Cabinet%20Secretary%20for%20Finance%20and%20Welsh%20Language%20Indicative%20Stage%202%20amendments%20that%20.pdf>) he intends to bring forward at Stage 2 of the legislative process

(https://senedd.wales/NAfW%20Documents/Assembly%20Business%20section%20documents/Guide%20to%20the%20Legislative%20Process/Guide_to_the_Legislative_Process-eng.pdf).

Do you have any views on the indicative additional registration and enforcement provisions the Welsh Government intends to bring forward at Stage 2?

(We would be grateful if you could keep your answer to around 500 words).

The proposed penalty of £300 multiplied by the number of properties for those who have failed to register as a VAP, or the £300 penalty for failing to provide the correct information on the register, is broadly in line with penalties or failure to comply with similar schemes internationally, though it is on the higher end of the scale. The fact that penalties can be multiplied by the number of infractions makes it all the more important that the legislation clearly specifies whether registration is per property and street address, or per unit available for individual let.

We would encourage the Welsh Government to look at a sliding scale of penalties proportionate to any offence, with lower amounts for where any breach is administrative, or the result of honest error (for example, starting with a warning or a cease and desist letter, and escalating depending on a failure to cure the breach within

a set timeframe). This is because a failure to register may be inadvertent, due to a lack of knowledge, be caused by things such as a change in staff or some other oversight, or even the result of an inputting or typing error. Such breaches can usually be quickly and easily resolved once brought to the VAP's attention, and it is disproportionate to expect penalties in such light-touch cases to be challenged through a first-tier tribunal. Rather than immediately apply a financial penalty in the event of a breach, we believe that in the first instance the VAP should be issued with an information notice, requiring them to resolve the issue within a set period (for example, 30 days). Only if such a notice is not acted upon, or the breach not resolved, should the process set out these amendments take effect.

With regards to Section 7C, the Welsh Government should in due course publish a non-exhaustive list of the scenarios that would meet the definition of a "reasonable excuse", as well as a similar list for what would constitute "special circumstances" under Section 7D.

8. Are there any other issues that you would like to raise about the Bill, the accompanying Explanatory Memorandum and Regulatory Impact Assessment, or any related matters?

(We would be grateful if you could keep your answer to around 500 words).

We would draw attention to concerns about the proposal whereby a local authority may be able to increase the rate of a levy through the application of a premium. This measure seems to undermine the Welsh Government's intention that the levy is a scheme that follows nationally set standards and is easy for accommodation providers to understand and comply with. In our experience, the best levy schemes are those which are simple, avoid variation (either seasonal or geographical), and minimise exemptions. Allowing for different levies to be charged at different points, and across different local authority areas will result in regulatory fragmentation, with some hosts and operators having to comply with several different rates for different properties. This will greatly increase administrative costs (which is not reflected in the accompanying impact assessment documentation) for VAPs who run multiple accommodation units across different local authorities. We therefore recommend that the power to apply a premium should be removed from the bill.

With regards to the registration scheme, the Welsh Government has previously sought to understand how it could ensure that any unregistered listings are able to take bookings through online platforms. We believe that a notice and action process, as used in other jurisdictions, is the best way to manage this, and have set out in a separate letter to the Committee an outline of how this could work in practice.

It would be helpful to understand how the current bill will interact with the Welsh Government's intention to bring forward further legislation related to the licensing of short-term lets. We have not seen any evidence which suggests that there is an issue with standards or the safety of visitors who stay in short-term lets in Wales which warrants further measures such as a bureaucratic, costly and onerous licensing scheme. In contrast, visitors booking through our platform consistently rate the quality of accommodation very highly. In the 2024 Visit Wales consumer survey, four out of five guests to Wales rated their trip as excellent. Our data (as of December 2023) tells us that guest reviews in Wales are some of the highest in the country, with an average rating of 4.9 out of 5. We therefore believe that the introduction of a mandatory registration scheme to provide better data on the visitor accommodation sector, and ensure that all VAPs are aware of their obligations, is the right approach. Before deciding whether to introduce a licensing regime requiring operators to adhere to new conditions, obtain a licence and undergo onerous checks to continue their businesses, we believe that the Welsh Government should first allow the registration scheme to be fully established. It should then only consider further regulatory interventions such as licensing following further consultation, and when there is clear and unambiguous evidence which demonstrates that it is needed.

Finally, we suggest that the Welsh Government commits to a business impact review of the legislation eighteen months after the registration scheme has come into operation, and one year after at least one visitor levy has been brought into effect. This should consider progress to date in terms of ensuring that all VAPs are appropriately registered, whether there have been any negative impacts on the tourism sector, and, if necessary, establish a framework for updated subordinate legislation or guidance to address any deficiencies which the assessment may identify.