



Department for
Communities and
Local Government

APPENDIX A

Business Improvement Districts

Technical Guide for Local Authorities



BritishBIDs™



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Introduction

This Technical Guide focuses on the core roles and responsibilities that a local authority is required to undertake in relation to a ratepayer-based Business Improvement District (BID) development, management and termination. BIDs are business-led partnerships focused on improving and enhancing commercial areas. These areas are typically within town and city centres, commercial locations and industrial estates, but can also cover tourist areas. Despite the business-led approach there are still a series of critical roles that a local authority is required to perform to facilitate the establishment, smooth running and termination as required.

It is the responsibility of both the local authority and the BID proposer to thoroughly read and understand the BID legislation to ensure the processes are executed appropriately.

The key legislation can be found at

<http://www.legislation.gov.uk/all?title=Business%20Improvement%20Districts%20>

At the commencement of the BID development process, the local authority should agree a full timeline to ballot with the BID proposer to ensure all processes are covered and appropriate lead-in times have been considered and agreed. The responsibilities for a local authority in enabling the establishment and successful operation of a BID are set out below and described in detail in this paper:

1. Being familiar with the BID Regulations

2. Rating List Holder
3. Service Provider - for provision of statement of existing baseline services
4. Collection of the BID Levy
5. Ballot Holder - for provision of Ballot Services
6. Notification of Ballot Outcome
7. Declaring a Ballot Void
8. Termination Procedures

1. Being familiar with the BID Regulations

The local authority will wish to satisfy itself that the responsibilities explained in this Guide have been completed in accordance with the BID legislation.

The local authority should ensure it has complied with the regulations, either through a formal committee process and/or through a delegated approval to a lead member or officer but this should be fully documented. In practice, local authorities with areas who are establishing a BID have decided to fulfil their responsibilities via a committee paper, which usually includes a formal approval for the respective

local authority to cast their vote on their own hereditaments and to make the financial provision for the levy costs assuming a successful ballot.

The local authority has specific responsibilities in the following areas:

1a. Veto of BID Proposals

The local authority should satisfy itself that the BID proposal does not conflict with any existing local authority policy nor propose a disproportionate burden on particular businesses by way of an unfair levy charge on a certain 'class' of levy payers, for example by an inappropriate manipulation of the BID boundary. It is sensible to do this prior to allowing the ballot to take place so as to minimise the risk of having to veto the proposals following the ballot. An unfair charge may be a disproportionately higher rate for one sector/group of businesses that isn't reflected in the scope of the BID proposals or perhaps a disproportionately low rate for one sector/group of businesses that in effect means their services are being heavily subsidised by others. An inappropriate manipulation would involve examples such as capturing a high rateable value property, which in geographical terms appears outside the scope of the BID.

Veto of BID proposals (Reg 12)

12. (1) *For the purposes of section 51(2) of the Act, the prescribed circumstances are that the relevant billing authority is of the opinion the BID arrangements are likely—*

(a) to conflict to a material extent with any policy formally adopted by and contained in a document published by the authority (whether or not the authority is under a statutory duty to prepare such document); or

(b) to be a significantly disproportionate financial burden on any person or class of persons (as compared to the other non-domestic ratepayers in the geographical area of the BID) and —

(i) that burden is caused by the manipulation of the geographical area of the BID or by the structure of the BID levy; and

(ii) that burden is inequitable

1b. Submission of the BID Proposals

The local authority should be satisfied that the submission from the BID proposer includes a copy of the BID proposal; details of the consultation undertaken; details of the finances and financial management of the BID (all of which are likely to be contained in the single Business Plan document that businesses will vote on); and a demonstration that finances are available to cover the cost of the ballot in the event that it fails and the number of persons voting in favour was less than 20% of the number of persons entitled to vote.

The local authority must be notified that the BID proposer wishes to put proposals for a BID to a ballot, and the BID proposer needs to ask the billing authority (the

local authority) to instruct the local authority's returning officer (the ballot holder) to hold a ballot.

BID Proposals (Reg 4)

(2) Where a BID proposer decides to seek approval of BID proposals in a BID ballot or the BID body decides to seek approval of alteration proposals in an alteration ballot or renewal proposals in a renewal ballot, it shall—

(a) send to the relevant billing authority—

(i) a copy of the BID proposals, alteration proposals or renewal proposals, as the case may be, together with a summary of—

(aa) the consultation it has undertaken with those persons who are to be liable for the proposed BID levy;

(bb) the proposed business plan (including the estimated cash flow, an estimate of the predicted revenue to be generated and the predicted expenditure to be spent under the BID arrangements, the predicted budget over the duration of the BID arrangements and the contingency margin included in the budget); and

(cc) the financial management arrangements for the BID body, and the arrangements for periodically providing the relevant billing authority with information on the finances of the BID body; and

(ii) a notice in writing requesting the relevant billing authority to instruct the ballot holder to hold a BID ballot in relation to the BID proposals, an alteration ballot in relation to the alteration proposals or a renewal ballot in relation to the renewal proposals, as the case may be; and

(b) provide the relevant billing authority with such information as it shall reasonably require to satisfy itself that the BID proposer or, as the case may be, the BID body, has sufficient funds to meet the costs of the BID ballot, the renewal ballot, or the re-ballot in relation to the BID ballot, or the renewal ballot, as the case may be, should it be required to do so under regulation 10.

1c. Content of the BID Proposals

The local authority will need to check that the final BID proposals include all of the details stated within Schedule 1 to the BID Regulations (the Business Improvement Districts (England) Regulations 2004) prior to proceeding to ballot. It should satisfy itself that all of these elements have been included in the BID proposals prior to giving the go ahead to the commencement of the ballot process.

Schedule 1

1. (1) Subject to sub-paragraphs (2) and (3), the matters which shall be included in BID proposals are—

(a) a statement of the works or services to be provided, the name of who will provide them (the name of the BID body or local authority BID body) and the type of body the provider is (whether a local authority, a company under the control of the authority, a limited company or a partnership);

(b) a statement of the existing baseline services (if any) provided by the relevant billing authority or other public authority;

- (c) a description of the geographical area (including a map showing that area) in which the proposed BID arrangements are to have effect;*
- (d) a statement of whether all non-domestic ratepayers in the geographical area or a specified class of them are to be liable to the BID levy, an explanation of how the amount of the BID levy to be levied is to be calculated and an explanation of whether any of the costs incurred in developing the BID proposals, holding of the ballot or implementing the BID are to be recovered through the BID levy;*
- (e) a statement of the specified class of non-domestic ratepayer (if any) for which and the level at which any relief from the BID levy is to apply;*
- (f) a statement of whether the BID arrangements may be altered without an alteration ballot and, if so, which aspects of the BID arrangements may be altered in this way;*
- (g) a statement of the duration of the BID arrangements; and*
- (h) a statement of the commencement date of the BID arrangements*

2. Rating List Holder for provision of Rating List data

On receipt of a valid request from the BID Proposer, the Local Authority is required to prepare a document (from its business rates records) showing the name of each business ratepayer within the boundary of the proposed BID, together with the address and rateable value of each relevant business property occupied or (if unoccupied) owned by the ratepayer, and provide this to the BID proposer.

Due to the nature of the rating list, the entries on this list can be out of date by virtue of for example vacancies or changes of occupation. The data from this source only guarantees the legally eligible hereditaments that are registered on the rating list at that point. The BID proposer will need to ensure the final voter list contains the appropriate updated information – please see details set out in ‘Creating the Voter List’

When the Valuation Office Agency updates the ratings list, it is good practice to ensure that any changes that have occurred during the consultation period are forwarded to the BID proposer so that it can be reflected in the voter list where appropriate. The final update should be the last Valuation Office Agency update before the Notice of Ballot.

Obtaining information from billing authority for the purpose of developing BID proposals (Reg 2)

2. (1) On receiving a request (made in accordance with paragraph 2) from any person who is developing BID proposals, the relevant billing authority shall–

(a) prepare a document showing (as far as the relevant billing authority is able to ascertain from its non-domestic rates billing records at that time) the name of each non-domestic ratepayer and the address and rateable value of each hereditament which is occupied, or (if unoccupied) owned, by him in the geographical area of the BID proposals to be developed; and

(b) supply a copy of the information in the document to the person concerned in data form.

Obtaining information from billing authority for the purpose of canvassing (Reg 11)

11. (1) As soon as practicable after instructing the ballot holder to hold a ballot (under regulation 5(1)), the relevant billing authority shall—

(a) prepare a document showing (as far as the relevant billing authority is able to ascertain from its non-domestic rates billing records at that time) the name of each non-domestic ratepayer and the address and rateable value of each hereditament which is occupied, or (if unoccupied) owned, by him in the geographical area to which any BID proposals, alteration proposals or renewal proposals, as the case may be, relate;

(b) provide a copy of the document referred to in paragraph (1)(a) to the ballot holder as soon after instructing as practicable; and

(c) make available for inspection by any person a copy of the information in the document referred to in sub-paragraph (a) at its principal office during normal working hours.

3. Service Provider for provision of statement of existing baseline services

It is a requirement under Schedule 1, paragraph 1(1) (b) to the BID Regulations that the BID proposals include a statement of the existing baseline services provided by the local authority or any other public authority in the proposed BID area. The statement will form part of the BID proposals which demonstrate to businesses voting for the BID that the proposed BID services are additional to the baseline services provided by the public authorities.

It is best practice for a baseline agreement to be approved at the start of a BID's term which sets out baseline services the local authority is going to provide (that reflects the statement of existing baseline services) and services to be provided by the BID. It is unrealistic for local authorities to commit to specific service levels for the full five year term of the BID. The BID proposer and local authority need to agree a process for reviewing the baseline agreement and best practice suggests the baseline agreement includes an annual commitment for review and if necessary update service levels, to reflect the services each will provide the following year.

Where a change in the baseline services provided by the local authority results in the BID having to alter the BID arrangements, it may need to hold an alteration ballot before it can do so. Changes can be made to the arrangements without a ballot, but only where the original arrangements contain provision to this effect and only where the change would not alter the geographical boundary of the BID, increase the levy or cause anyone to pay the levy who had not previously been liable.

Schedule 1

(b) a statement of the existing baseline services (if any) provided by the relevant billing authority or other public authority;

Alteration of BID arrangements without an alteration ballot (regulation 16)

(1) Subject to paragraphs (2) to (4), BID arrangements may be altered without an alteration ballot where the arrangements include a provision to that effect.

(2) No provision mentioned in paragraph (1) may alter—

(a) the geographical area of the BID; or

(b) the BID levy in such a way that would—(i) cause any person to be liable to pay the BID levy who was not previously liable to pay; or

(ii) increase the BID levy for any person.

(3) Where paragraph (1) applies, the BID arrangements must include a provision describing the procedure to make the alteration.

(4) The procedure referred to in paragraph (3) must include—

(a) where there is a BID body, a consultation between the BID body and the relevant billing authority; and

(b) where a local authority BID body is responsible for implementing the BID arrangements, a consultation between the relevant billing authority and such representatives of the business community for the geographical area of the BID as the authority considers appropriate.

(5) Where the BID arrangements are altered pursuant to this regulation—

(a) the billing authority shall ensure the BID arrangements (as altered) are made by the time those BID arrangements (as altered) are to come into force and shall send a notice in writing explaining the reason for and the effect of the alteration to each person liable for the BID levy; and

(b) sections 44 to 47 of the Act, regulations 14 to 18 and Schedules 3 and 4 shall have effect from the date the BID arrangements (as altered) come into force as if a reference in each of those provisions to “BID arrangements” were a reference to the BID arrangements (as altered).

Alterations of the BID arrangements following a ballot (regulation 17)

(1) Where there is a proposal to alter—

(a) BID arrangements and those arrangements do not include a provision allowing for the arrangements to be altered without a ballot;

(b) the geographical area of the BID; or

(c) the BID levy in such a way that would—

(i) cause any person to be liable to pay the BID levy who was not previously liable to pay; or

(ii) increase the BID levy for any person,

the BID body or, where a local authority BID body is responsible for implementing the BID arrangements, the relevant billing authority may alter the BID arrangements in accordance with this regulation.

(2) An alteration of the BID arrangements under this regulation is not to come into force unless the alteration proposals are approved by a ballot of the non-domestic ratepayers who are to be liable for the BID levy under the BID arrangements (as altered) (“an alteration ballot”) and they are not to be regarded as approved by an alteration ballot unless—

(a) a majority of the persons voting in the alteration ballot have voted in favour of the alteration proposals; and

(b) the aggregate of the rateable values of each hereditament in respect of which a person voting in the alteration ballot has voted in favour of the alteration proposals exceeds the aggregate of the rateable values of each hereditament in respect of which a person voting in the alteration ballot has voted against the alteration proposals.

(3) Where BID arrangements are altered pursuant to this regulation—

(a) the billing authority shall ensure the BID arrangements (as altered) are made by the time those BID arrangements (as altered) are to come into force; and

(b) sections 44 to 47 of the Act, regulations 14 to 18 and Schedules 3 and 4 shall have effect from the date the BID arrangements (as altered) come into force as if a reference in each of those provisions to “BID arrangements” were a reference to the BID arrangements (as altered).

4. Collection of the BID Levy

The local authority is required to manage the collection and enforcement of BID levy charges. In practice the BID body and the local authority establish a levy collection agreement often known as an Operating Agreement. The principle of this agreement is to define the principles and processes for collecting the levy; enforcing the payment of the levy; reporting on collection and bad debt; monitoring provisions between the BID and the local authority; and providing regular detailed and summary information on the service to the BID as the client. Best practice suggests that a draft arrangement between the authority and BID should be available for scrutiny by businesses during the ballot period.

The local authority may opt to send the levy bill out as part of the business rate bill or as a separate bill. Best practice suggests that a separate bill that includes a clear logo for the BID on the header of the bill and a smaller local authority logo with reference to the local authority being the collection agency on behalf of the BID is preferable. This helps to ensure businesses recognise that the BID is delivering specific services over and above that which is funded and delivered by the local authority. The local authority is also required to issue an annual billing leaflet with the levy bills and this should include the previous year’s financial summary and the forecast for the forthcoming year as per Schedule 4 to the BID Regulations, paragraph 3 (2). In practice, a billing leaflet is often produced by the BID with the in-house design style and approved by the local authority prior to printing.

The mechanism for charging should be defined within the levy rules of the BID business plan and should be agreed between the BID proposer and local authority rating department in advance of publication of the Business Plan. There is no requirement within the BID regulations to follow the charging principles of the business rates system; instead it is up to the BID proposer to consider the principles that are appropriate to their location.

There are two charging principles – ‘daily charging’ that mirrors the approach in the business rate system of the charge being broken down to each day of the 365 days of the year thereby managing refunds as each change to occupation occurs; or ‘chargeable day’ that imposes the full year levy charge on the incumbent on a fixed day of the year (usually 1st April) and then makes no refunds within the year as a result of any changes. The daily charge system is a more complex system and therefore requires a greater resource making the annual levy collection charge higher. Where refunds are provided a further component on the levy rules should be fixing the charging system so that it operates within a closed financial year meaning refunds are only applicable within the current chargeable year. Whilst the chargeable day system tends to be preferred by BIDs because it provides a more predictable cash flow and usually means a lower collection charge.

The local authority is permitted to charge a reasonable fee for this service. There have been wide variations on charging policies across the country with approximately one third of local authorities providing the service at no charge to the BID, whilst others at the other end of the spectrum charging over £100/hereditament (Source: British BIDs Nationwide BID Survey). As a consequence levy payers have increasingly challenged these charges on the basis that there appears to be no correlation between the levy collection rate and its relative collection charge. The Industry Criteria and Guidance Notes (published by British BIDs annually on behalf of the British Retail Consortium, the British Council of Shopping Centres, the Federation of Small Businesses and the Inter Bank Rating Forum) recommend an industry standard of ‘a maximum charge of £35/hereditament or 3% of annual levy income, whichever is the lower.

Administration of the BID Levy etc (Reg 15)

15. The relevant billing authority shall, by the commencement date, provide for the imposition, administration, collection, recovery and application of the BID levy and Schedule 4 shall have effect with respect to those matters.

Schedule 4 paragraph 3

(2) A billing authority must when it serves a demand notice supply to the person to whom the notice is served the following information—

(a) the revenue from the BID levy the billing authority was due to receive in the previous year;

(b) the amount spent on the BID arrangements in the previous year;

(c) a description of the matters on which it was spent; and

(d) a description of the matters on which it is intended to spend the revenue from the BID levy in the financial year.

5. Ballot Holder for provision of Ballot Services

The local authority is required to ensure the ballot is operated, either in-house or outsourced, in line with the BID Regulations. Irrespective of whether the ballot is run in-house or outsourced, the local authority ballot holder still remains legally responsible for the ballot process as set out within the Regulations.

Ballot Timetable

The timetable for the ballot is defined within Schedule 2 to the BID Regulations stating the key dates as follows:

- Notification to the local authority and the Secretary of State by the BID proposer (min 84 calendar days prior to submitting proposals to the local authority)
- Notice of Ballot (Ballot holder to notify voters) (min 42 calendar days before the ballot day)
- Ballot Period (min 28 calendar days)
- Ballot Day (must be a working day and finish at 5pm)
- Count and Announcement (as soon as 'practicable' after the ballot day)

Creating the Voter List

The local authority is required to ensure a voter list has been created in readiness for a ballot, and this must originate from the rating list to define the eligible hereditaments. The Regulations set out that the voter must be an eligible ratepayer who will be liable to pay the BID levy and that the address to which the ballot paper must be sent can be the address of the hereditament within the BID area or their principal place of business. In practice the rating list does not always provide all the relevant information that enables the creation of the voter list, the key information it does provide is the actual hereditament entry and Unique Property Reference Number (UPRN).

Best practice demonstrates that the default position should be to prepare the list using the local hereditament address with 'The Manager' as the contact and then to update the list to a principal place of business/head office when voter details are confirmed. Therefore the local authority should identify how additional voter details can be collected to maximise the opportunity for businesses to cast their vote. This may be done directly by the local authority by way of pre-ballot canvass but, perhaps most likely, via the BID proposer ensuring evidence of voter identity is proved to the ballot holder who remains responsible for the list at all times. All ballot papers are required to be sent within England via a postal ballot and

therefore any person entitled to vote that is located outside England must be identified in advance and offered a proxy.

Managing Changes to the List

To ensure that the final voter list is as accurate as possible, the ballot holder should ensure it corresponds with the rating list update from the Valuation Office Agency closest to the date of Notice of Ballot. Once the Notice of Ballot has been issued to the voters, this list is then fixed and no changes to the rating list can be taken into account during the ballot period. In the event that ballot papers have not reached the correct name and address of the voter during the period of the ballot the Regulations allow two provisions:

1. Proxy Application – where a named voter is unable or is not the appropriate person to vote, he/she can apply for a proxy vote to be given to a colleague within the same business. This can be done from the date of the Notice of Ballot through to ten days before the end of the ballot period. The proxy application must be sent from the original named voter to the ballot holder.
2. Replacement of Lost Papers – where a voter has not received a ballot paper by the fourth day before the end of the ballot period, the voter can apply for a replacement ballot paper.

Ballot Principles

The ballot is run as a secret ballot meaning that the BID Proposer will not be notified of which way votes have been cast at any stage of the ballot, or after the ballot has ended. However the ballot holder may report to the BID Proposer during the ballot which ballot papers have been received.

The ballot must be won on two counts – both a majority by number of votes; and a majority by rateable value of those that turnout to vote with no turnout threshold required.

The count of the ballot papers is the responsibility of the ballot holder and is required to be carried out as soon as practicable after the ballot has ended. In practice, it is usually undertaken the morning after the ballot has ended with the announcement straight after the count on the same day.

Ballot Materials

There are two sets of documents prepared for the ballot– firstly the documents created and issued in accordance with the Regulations; and secondly the campaign and canvassing documents produced by the BID proposer and not dictated by the Regulations nor requiring the involvement of the local authority.

Ballot Documents

The BID proposer will send out the notification of their intention to put the BID proposals to a ballot to both the Secretary of State and the local authority, at least 84 days before formally asking the ballot holder to arrange a ballot.

The Ballot Holder will send out the following:

- a. Notification to the Secretary of State at least 42 days before the day of the ballot, confirming that the Notice of Ballot has been issued
- b. Notice of Ballot and covering letter to those entitled to vote, which includes an explanation of the ballot arrangements, an explanation that the person may request a copy of the BID proposals from the BID proposer and provides the name and address of the BID proposer.
- c. Ballot Paper (best practice suggests using a different colour for the ballot paper to ensure it stands out and ensuring the envelopes used include the logo for the BID and a strapline making reference to 'Ballot papers enclosed, please return by *date*').
- d. Ballot Statement (often produced by the BID proposer in line with the other campaign documents and approved by the local authority. This must be sent out with the ballot paper and should be an impartial and factual document which provides an explanation of the BID arrangements and the ballot arrangements)

Best practice also suggests the inclusion in the ballot documents of:

- e. The statement of existing baseline services (these must be available for inspection prior to the ballot). If a Baseline Agreement has been agreed (which includes the statement of existing baseline services) then this should be made available. Section 3 of this Guide refers
- f. Levy collection arrangement (or operating agreement, (available for inspection prior to the ballot and for adoption at the commencement of the BID)) Section 4 of this Guide refers

Ballot holder (Reg 6)

6. (1) *The person who holds a BID ballot, renewal ballot, alteration ballot or re-ballot ("the ballot holder") shall be the person the relevant billing authority has appointed under section 35 of the Representation of the People Act 1983(1) as the returning officer for elections to that authority.*

(2) The ballot holder may by writing under his hand appoint one or more persons to discharge all or any of his functions under these Regulations.

Arrangements for holding a ballot and conduct of a ballot (Reg 7)

7. *On receipt of an instruction under regulation 5, the ballot holder shall make arrangements for conducting a BID ballot, alteration ballot, renewal ballot or re-ballot, as the case may be, in accordance with Schedule 2.*

Persons entitled to vote (Reg 8)

8.—(1) *Subject to paragraph (3), a person shall be entitled to vote in a BID ballot, an alteration ballot or a re-ballot in respect of a BID ballot or an alteration ballot if, on the date the ballot holder publishes the notice under paragraph 3(a) of Schedule 2, he falls within the class of non-domestic ratepayers to be liable for the BID levy described in the BID proposals or the alteration proposals, as the case may be.*

Schedule 2

8.—(1) *Nothing is to be printed on the ballot paper except in accordance with this paragraph.*

(2) *Each ballot paper may have a number or barcode printed on the back.*

(3) *The box in which a vote may be marked on the ballot paper shall not be less than 1.5 centimetres square.*

(4) *All of the words on the ballot paper shall appear in the same size type.*

10.—(1) *One ballot paper shall be issued in respect of each person entitled to vote in the BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, in respect of each hereditament for which he is entitled to vote.*

(2) *The address to which the ballot paper is to be sent is—*

(a) *the address of the hereditament or the principal place of business within England of the person entitled to vote; or*

(b) *in the case of a proxy, the address shown for the proxy on the list prepared under paragraph 3(b).*

(3) *At the same time there shall be issued to each person entitled to vote or, if applicable, his proxy—*

(a) *a statement prepared by the ballot holder providing an explanation of the BID arrangements and the arrangements for the ballot; and*

(b) *an envelope for the return of the ballot paper (referred to in this Schedule as the “return envelope”).*

6. Notification of Ballot Outcome

The Regulations require that as soon as is reasonably practicable after the ballot the ballot holder should arrange for public notice to be given of the outcome of the ballot. Public notice must be given of the four specific matters set out paragraph 17(1)(a) of Schedule 2 to the Regulations, which are:

(a) the total number of votes cast in the ballot excluding any votes given on ballot papers rejected under paragraph 15 of Schedule 2;

(b) the aggregate rateable value of each hereditament in respect of which a person voted in the ballot;

(c) the total number of votes cast in favour of the question asked in the ballot; and

(d) the aggregate rateable value of each hereditament in respect of which a person voting in the ballot has voted in favour of the question asked.

The Regulations do not currently prescribe the manner of publication or the period for which such publication should remain in the public domain. Best practice has shown that, in addition to publication of the outcome by the ballot holder, the BID proposer should look to exploit all media and social media options. They should ensure that all businesses on the ballot voter list are made aware of the outcome as soon as possible.

Best practice also suggests that the Local Authority, as a minimum, should place the outcome of the ballot on their website as soon as the outcome is known. They should also consider other options via social media and publicising in the local newspaper.

7. Declaring a Ballot Void

There is a 28 day period immediately after the ballot result announcement during which a request to the Secretary of State to declare the ballot void can be made. The request can be made by either the BID proposer/body, at least 5% of the voters, or the local authority and this request needs to be made in writing to the Secretary of State. The request must set out the basis of the challenge which must be a perceived material irregularity in the ballot process. A material irregularity means either that there has been a contravention of the regulations which is likely to have had a significant effect on the voting and/or that persons other than those entitled to vote have purported to vote or persons entitled to vote have been prevented from voting or hindered from doing so freely in accordance with their own opinion and that this is likely to have caused a significant impact on the result of the ballot. On receipt of a request, the Secretary of State is required to notify the BID proposer and the local authority and then a further 28 days are available for written representations to be made and 14 days thereafter in response. If the Secretary of State declares the ballot void, a re-ballot must be held.

Regulation 9

9.—(1) *Subject to paragraph (3), the Secretary of State may declare void a BID ballot, renewal ballot, alteration ballot or re-ballot if it appears to him that a material irregularity has occurred.*

(2) *In this regulation, “material irregularity” means—*

(a) *a contravention of any requirement of these Regulations which, in the Secretary of State’s opinion, means it is likely that voting in the BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, has been affected to a significant extent by the contravention;*

(b) *persons other than persons entitled to vote have purported to vote in the BID ballot and, in the Secretary of State’s opinion, it is likely that the result of the BID*

ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, has been affected to a significant extent; or

(c) persons entitled to vote have been prevented from voting or hindered from doing so freely in accordance with their own opinion and, in the Secretary of State's opinion, it is likely that the result of the BID ballot, renewal ballot, alteration ballot or re-ballot, as the case may be, has been affected to a significant extent.

(3) Paragraph (1) shall not apply unless, by the date which is 28 days after the notice of the result is published pursuant to paragraph 17 of Schedule 2, a person ("the complainant"), being a person or group of persons referred to in paragraph (4), has made a request (by notice given in writing) to the Secretary of State to exercise his powers under this regulation, specifying the reason for such a request.

(4) The persons mentioned in paragraph (3) are—

(a) the BID proposer or the BID body;

(b) at least 5 per cent. of the number of persons entitled to vote in the BID ballot, renewal ballot, alteration or re-ballot, as the case may be; or

(c) the relevant billing authority.

(5) On receipt of a request under paragraph (3) the Secretary of State shall notify the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, in writing that he has received the request and send a copy to each of them.

(6) Where two or more requests relate to the same ballot, the Secretary of State may decide those requests together.

(7) Within 28 days of the date of the notice given by the Secretary of State under paragraph (5) the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, may serve on the Secretary of State written representations in respect of the request.

(8) A copy of the representations made by one party shall be sent by the Secretary of State to the other parties and shall be accompanied by a statement explaining the effect of paragraph (9).

(9) Any party to whom a copy of representations is sent under paragraph (8) may within 14 days of receiving them serve on the Secretary of State further written representations in reply and the Secretary of State shall send a copy of any such further representations to the other parties.

(10) The Secretary of State shall notify the complainant, the relevant billing authority and the BID proposer or the BID body, as the case may be, in writing of his decision and where he declares void a BID ballot, renewal ballot, alteration ballot or re-ballot, he shall notify the relevant billing authority in writing requiring it to arrange for a re-ballot or, as the case may be, a further re-ballot to be held.

(11) Where the Secretary of State declares void a BID ballot, a renewal ballot, an alteration ballot or a re-ballot in relation to such a ballot and he is of the opinion that the material irregularity was caused by the actions or omissions of the BID proposer or BID body, as the case may be, he shall issue a notice in writing to that effect with his decision notice and, he shall include in the notice an explanation of the effect of regulation 10.

(12) Where the Secretary of State declares void a BID ballot, a renewal ballot, an alteration ballot or a re-ballot in relation to such a ballot—

(a) the BID arrangements, the renewed BID arrangements or the alterations to the BID arrangements, to which the ballot declared void relates, shall not come into force on the commencement date; and

(b) subject to paragraph (13), the BID arrangements, the renewed BID arrangements or the alterations to the BID arrangements, if subsequently approved in the re-ballot, shall come into force on such day as the relevant billing authority determines.

(13) The day determined under paragraph (12) shall be no later than a year after the date of the notice of the result is published pursuant to paragraph 17 of Schedule 2.

8. Termination Procedures

The local authority has a role defined in the Regulations in pursuing termination procedures in the event that the BID has insufficient funds and/or is unable to deliver the services. The termination arrangements require the local authority to run a consultation with 'appropriate' business representatives and to give a notice of 28 days.

Termination of BID arrangements (Reg 18)

18.—(1) The relevant billing authority may terminate BID arrangements where—

(a) in the opinion of the authority, the BID body will have insufficient finances to meet its liabilities for the current chargeable period and the authority has—

(i) offered the BID body a reasonable opportunity to arrange for financing the shortfall or for a reduction in the works or services under the BID arrangements which is sufficient to offset the shortfall; and

(ii) given those persons who are liable to the BID levy an opportunity, at a public meeting, to make representations in relation to the termination of the BID arrangements; or

(b) the authority is unable, due to any cause beyond the control of the authority, to provide works or services which are necessary for the BID to continue and the authority has—

(i) where there is a BID body, consulted the BID body and conducted a consultation with such representatives of the business community for the geographical area of the BID as the authority considers appropriate; and

(ii) where a local authority BID body is responsible for implementing the BID arrangements, conducted a consultation with such representatives of the business community for the geographical area of the BID as the authority considers appropriate.

Summary Checklist for best practice

Developing a BID is labour intensive, both for the BID proposer and the local authority and requires a focused effort to ensure a robust and thorough process is followed.

The key tasks for a local authority to complete are:

1. Regulations
 - a. Thoroughly read and understand the Regulations
 - b. Agree the 'approval process' whether this is via Committee or delegated approval
 - c. Satisfy yourself there is likely to be no need for a veto of the BID proposals
 - d. Review and sign-off the BID proposals prior to ballot
2. Ratings List Data
 - a. Provide rating list data for consultation
 - b. Provide updated rating list data for the voter list
3. Baselines
 - a. Coordinate details on local authority services and produce the statement of existing baseline services
4. Levy Collection
 - a. Produce the levy collection arrangement (operating agreement) defining the terms of levy collection and enforcement
 - b. Agree the arrangements for billing along with the annual billing leaflet
 - c. Agree method of charging, i.e. daily charging or chargeable day and ensure there is a closed financial year rule in place
 - d. Agree the pricing of the levy collection service in line with Industry Criteria
5. Running the Ballot
 - a. Agree whether the ballot is going to be in-house or outsourced and confirm the timetable
 - b. Agree the principles of creating the voter list and confirm if a pre-ballot canvass is going to take place
 - c. Set the voter list at the last rating list update prior to the Notice of Ballot
 - d. Agree the contents of all ballot pack materials
 - e. Agree the procedures for proxy applications and replacement ballot paper requests
 - f. Agree the ballot count arrangements and the announcement of the result
6. Void Ballot
 - a. Be aware of the rules in relation to declaring a ballot void by the Secretary of State
7. Termination
 - a. Be aware of the responsibilities of the local authority in relation to a possible call for termination