

# **THE NEED FOR A REVIEW OF THE BUSINESS IMPROVEMENT DISTRICT REGULATIONS**

## **Background**

Business Improvement Districts (BIDs) were introduced to England in 2004. There are now over 300 BIDs in the UK with total annual investment in the places in which they operate exceeding £140 million.

The Eastern BIDs Network (EBN) is a grouping of 25 BIDs in the 6 counties of Norfolk, Suffolk, Essex, Cambridgeshire, Bedfordshire, and Hertfordshire. They include 10,631 businesses and invest £9 million a year in the region.

We welcome the government's proposed review of BID Regulations and have incorporated in this document the EBN's views on the following:

The Business Improvement Districts (England) Regulations 2004

The Business Improvement Districts (England) (Amendment) Regulations 2013

The Business Improvement Districts (Property Owners) (England) Regulations 2014

The 2004 Regulations permitted the introduction of BIDs in England based upon only property occupiers being able to be charged a levy; the 2013 Regulations permitted BIDs, as described in the 2004 version, to include more than one local authority's area; and the 2014 Regulations allowed property owners to be charged a levy if:

- (a) there is already a Supplementary Business Rate in place (thereby only Central London);
- (b) there is already an occupier BID in place;
- (c) the area to be covered by the proposed property owner BID is the same as the area covered by the occupier BID.

Members of the EBN will have seen the joint response produced by the three industry bodies – Association of Town and City Management (ATCM), British BIDs (Bb) and Institute of Place Management/The BID Foundation (IPM/TBF). They are broadly supportive of the views expressed but felt that a more detailed, practitioners' response might provide further insight.

On 10<sup>th</sup> October 2023, the EBN met to determine this final response.

## **(A) Occupier BIDs**

The recommendations set out relate to the 2004 Regulations, with the same views referring to the 2013 Amendment.

**Regulation 2** – restricting the information provided to a BID Proposer to only “the name of the ratepayer, property address and the rateable value” places a great onus on the Proposer to acquire other data that is available (e.g., charitable discounts on rates, the address of the ratepayer etc.). In addition, references to “occupied” should be defined as ‘tenanted’ as a property could be subject to a lease with a tenant who is not in occupation. Most usually, only in instances of untenanted properties would the owner become the ratepayer.

**Regulation 3** – in section (1) (a) (ii), the ability for a mortgagee to propose a BID is inappropriate. Furthermore, in section (2) the notification to the Secretary of State causes much confusion, primarily because the date of the notice required under Regulation 4 (2) (a) (ii) is often not known so early. It would lead to less confusion if the notification was sent on the same date as the notice.

**Regulation 4** – the reference to what is required within a BID Proposal is split between this Regulation and Schedule 1 which causes much confusion. In addition, given that most BIDs produce a business plan as well as the Proposal, references to ‘business plan’ in the Regulation should be amended to ‘financial plan’.

**Regulation 5** – many local authorities misunderstand this clause with some believing that they need to ‘approve’ the BID Proposal. Clarification that, unless the BID Proposal is deficient in some way, it should proceed to ballot is needed.

**Regulation 8** – again, this section causes confusion as the person entitled to vote may not be listed on the ratings list. A process by which a person is determined as entitled to vote may be beneficial. In addition, such person frequently changes between the issue of Notice of Ballot and the final day of ballot (e.g., a change of store manager), yet the process to permit the new person to exercise their right to vote is unclear.

**Regulation 9** – there should be a prescribed timescale within which the Secretary of State should aim to determine a challenge.

**Regulation 10** – this should be incorporated with Regulation 20 making it clear that the billing authority pays the costs of ballot (Regulation 20) but, in certain circumstances, can seek to recover this cost (Regulation 10).

**Regulation 12** – if the veto period is to remain as 14 working days after the ballot, there should be included a right for a local authority to propose any alterations to the BID Proposal that would avoid the need to veto.

## General:

Schedule 1 (1) (b) – it would be helpful to clarify here that the baseline statement is required only for those services being provided within the BID area (a) as at the date of the letter requesting a ballot to be held, and (b) the ‘services’ referred to are only those which the BID Proposal suggests will be added to or replaced by the BID.

Schedule 2 (4) (1) – the reference to “postal ballot” here is assumed by most ballot holders to mean that ballot papers are first posted out but that, for efficiency purposes, replacement and re-issues can be delivered or collected. It would be helpful here to elaborate on how voters may participate, for example by electronic means for those distant from the site and in a polling booth at the council offices.

Schedule 2 (4) (2) – this contains a drafting error in that, whilst universally accepted as meaning something different, it says that any person entitled to vote shall have a vote on every hereditament they “own” (presumably, this is meant to include leasehold interests) within the geographical area of the BID. So, for example, if Person A “owns” one shop (A) that has a rateable value above the threshold for the BID and another (B) whose rateable value is below, the intention was that they would receive a vote only for Shop A; however, if the paragraph is read literally, they would receive a vote for both, even though only one is liable.

Schedule 2 (11) (1) – it is often not possible to evidence a spoiled ballot paper (e.g., instances in which it has been shredded, eaten by the ratepayer’s dog etc.). Therefore, a person stating that their ballot paper has been spoiled should be taken at face-value and a new paper issued.

Schedule 2 (12) (1) – if a lost paper is reported, the replacement should be made available immediately as with spoilt papers or proxy requests and there should be no need to wait until the final 4-days as currently included.

Schedule 4 (3) (2) – whilst some believe that any local authority serving a demand notice on a levy payer should provide a ‘billing leaflet’, this is not what the Regulations state, saying only that certain information should be provided at the time. If there were a requirement for a formal billing leaflet it could include more detailed information on the income and expenditure of the BID Body, including, where appropriate, reference to its last filed accounts.

## Improvements:

In addition, EBN would recommend that:

- longer than 5-year terms should be permitted for BIDs seeking their second term or beyond. If, for example, terms of 10-years were to be permitted, the US model of sunset clauses could be considered at the end of the 5<sup>th</sup> year.
- BIDs should be given greater flexibility to not only charge levy by a multiplier of rateable value or similar (e.g., by room occupancy for the new Accommodation BID in Manchester).
- by agreement with the local billing authority, BIDs should be able to invoice and collect the levy themselves, particularly if the administration costs from the local authority are excessive. Guidance as to the reasonable costs of collection by any local authority is required as costs vary significantly.
- by local agreement, a proportion of business rates should be encouraged to be repatriated to BIDs.
- a mechanism is found by which resident participation can be encouraged within the governance of BIDs in a move towards a Community Improvement District (CID) model.
- ballot papers should be available to addresses outside of England.
- ballot holders need to be advised on the arrangements by which those liable for the BID are notified of the ballot outcome.
- the meaning of “research and consultation” as part of the BID Proposal should be defined (at present, if no research or consultation has been conducted, a Proposer has no need to include anything).
- local authorities should be encouraged to ensure that BIDs are statutory consultees on matters such as licensing and planning.
- any reference to ‘renewal ballot(s)’ within the Regulations is removed and that all ballots for BIDs entering new terms are dealt with as a full ‘BID ballot’.

## **(B) Property Owner BIDs**

The take-up of Property Owner BIDs in London has been slow. However, there will be locations elsewhere where the make-up of the property owners is conducive with collective action towards improvement and a distinct stream of income is available to fund such improvements. A relaxation of the need for there to be a Supplementary Business Rate in place would allow for Property Owner BIDs to be developed across England. However, in the view of the EBN, on its own this will not be enough. Government should, therefore, consider:

- I. requiring local authorities, in conjunction with Land Registry, to produce and maintain a register of property owners in their area.
- II. whether the exact location of Property Owner BIDs should be restricted by the existence of occupier-funded BID Proposals, particularly at their renewal, given the longer-term nature of their likely delivery.
- III. encouragement should be given to 'pocket' Property Owner BIDs; for property owner BIDs to be a tool that can deliver economic growth, it is essential that those proposing them can define the property owner BID boundary; either within the whole or part of an existing operator-funded BID.
- IV. whether it is appropriate that the Proposer of Property Owner BID Proposals should be different to the existing or proposed BID Body, and whether this may lead to local authority rather than business-led Proposals emerging.
- V. the methodology for the generation of the voter (and subsequently the billing) list will be important, particularly in larger areas where property ownership is complex.
- VI. the fact that many Property Owners may not be based in England is important, meaning that they would be more difficult to engage, meaning that more flexibility in voting processes (e.g., e-voting) should be encouraged.
- VII. the possible double charging of Property Owners who are also considered as occupiers within the existing BID, and vice-versa.
- VIII. repayable and recyclable loan funding should be made available to cover up to 50% of the development costs.
- IX. given the likely nature of delivery of Property Owner BIDs, restriction to a 5-year BID term may place unnecessary limitations on the scale of delivery.