



SCOTTISH EXECUTIVE

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# Scottish Executive

Business Improvement Districts (BIDs): Consultation  
on proposals for secondary legislation

Analysis of responses

November 2006

## INTRODUCTION

1. In November 2006, the Scottish Parliament approved Primary legislation (in Part 9 of the Planning etc (Scotland) Bill), that will provide the statutory basis for BIDs in Scotland. A Business Improvement District (BID) is a partnership between local businesses and their local authority to secure such additional services as the businesses determine they need to improve the business environment. Following a commitment given by the Scottish Ministers in 2003 to introduce BIDs in Scotland, a number of working groups have met to consider what the arrangements for BIDs should be. Full details of their deliberations and the decisions taken since by Ministers on their recommendations are published at:

<http://www.scotland.gov.uk/Topics/Government/local-government/17999/22235>

2. The primary legislation does not contain all the statutory provisions that will be needed to introduce BIDs. More detailed provisions will be contained in secondary legislation to be laid before both the Scottish and UK Parliaments in due course, once the primary legislation is enacted. The provisions to be laid before the UK Parliament (under section 104 of the Scotland Act 1998) relate to the billing, collection and setting of the BID levy (as the funds raised by BIDs will not be for local authority expenditure, but rather for the expenditure of the BID board).

3. Broadly speaking BID arrangements in Scotland mirror those in place in England and Wales. However, the consultation document on proposals for Secondary Legislation in respect of BIDs set out some proposed differences and requested views. Views were also welcomed on other issues consultees considered important. The consultation paper was issued to 181 organisations on 3 June 2006. 32 responded. The consultation paper was also available on the internet and open to all to contribute at <http://www.scotland.gov.uk/Topics/Government/local-government/17999/BIDSconsultations>. The consultation period closed on 4 August 2006.

4. We would like to thank all those who responded to the consultation. The responses received have helped inform the decision making process with regard to the secondary legislation to implement BIDs in Scotland. Further work is being undertaken on the issues raised as a result of the consultation and our intention is that draft regulations for Scotland will be issued for further consultation in due course.

5. A list of the 32 respondents is provided at **Annex A**. No respondents asked for their response to be kept confidential.

6. Copies of individual responses are available from the Scottish Executive library at Saughton House, Broomhouse Drive, Edinburgh EH11 3XD (telephone 0131 244 4565)

## **SUMMARY OF RESPONSES**

### **Number and type of respondent**

Councils/COSLA	19	59%
Business Representatives (Chambers of Commerce & City Centre Management Groups)	7	22%
Individual Business	3	9%
Public Bodies (Scottish Enterprise, Institute Of Rating & Revenue Valuation & Association of Electoral Administrators)	3	9%
<b>Total (% rounded up)</b>	<b>32</b>	<b>100%</b>

7. Below are tables giving a numerical breakdown of respondent's replies to each consultation question, broken down into the categories above. Specific comments are detailed below these tables, split into the private (Business Representatives/Individual Businesses) and public sectors (Councils/COSLA/Government Departments) where views between these sectors differed significantly.

**Question 1: The mandatory requirement to provide details of current and planned provision of services in the BID area was recommended by the BID working group, which involved COSLA. We propose to ask local authorities to liaise with other public bodies to ensure a comprehensive list is provided to the BID proposer. Is this proposal reasonable?**

<b>Class</b>	<b>Yes</b>	<b>Yes with Reservations</b>	<b>No / Not at this Stage</b>	<b>No opinion</b>
Business Rep	6		1	
Individual Business	3			
Councils/COSLA	11	3	4	1
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>22 (69%)</b>	<b>3 (9%)</b>	<b>5 (16%)</b>	<b>2 (6%)</b>

### **Public Sector**

8. Most Local Authorities (LAs) expressed their willingness to provide this information, much of which is already contained within Community Plans and required as part of joint working principles of the Local Government Act 2003. However, many LAs pointed out that they were often dependent on information from other organisations and are seeking a mandatory requirement for provision of information from those other organisations. LAs stated that they could not be held liable for inaccurate information provided by others and some suggested that the commitment is too open-ended and the BID area has to be defined precisely. One LA suggested a standard template that all LAs could complete to help clarify the information sought and another suggested that a time limit should be specified by which other bodies should provide information.

### Business Sector

9. Business representatives and owners welcomed the provision of information about existing information to help clarify additional services to flow from the levy and as a means to provide comprehensive data to support the BID.

### **Question 2: Should any other bodies be included in the list of those allowed to develop BID proposals?**

*For consistency, the following table reflects those content with the principle of partnership that underlies the question.*

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	5	1		1
Individual Business	1		2	
Councils/COSLA	17	1		1
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>25 (78%)</b>	<b>2 (6%)</b>	<b>2 (6%)</b>	<b>3 (9%)</b>

10. The majority of respondees were content with the list as suggested. Some suggested other organisations whose involvement would be worthwhile, including Scottish Enterprise and Local Enterprise Companies (LECs), other public sector bodies (but see reservation below) community councils, local traders associations, local / national business associations and national retailers. Scottish Enterprise did not cite itself or the LECs.

### Public Sector

11. One LA expressed reservations about the involvement of public sector bodies in a BID as these might then go on to inflate their own property portfolio. A further concern expressed here and with regard to other elements of the consultation document is that owners or mortgage holders might take advantage of a BID proposal to pass on an increased levy through increased market rental values.

### Business Sector

12. Some responses suggested that the list of participants ought to be left solely to the discretion of the BID body and therefore the list must not be added to.

### **Question 3: Are there any other matters that should be addressed in renewal proposals (for instance the performance and achievements of the current BID)?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	5			2
Individual Business	3			
Councils/COSLA	17	1		1
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>27 (84%)</b>	<b>1 (3%)</b>	<b>0</b>	<b>4 (12%)</b>

13. Virtually all replies agreed that performance and achievements should be included, often stating the need for consistent criteria across Scotland. One respondee suggested that it

is for the BID body to determine any other issues, another that more specific financial data should be included.

Public Sector

14. One LA recommended the BID should be tested through public opinion, especially where the LA is involved. A reservation expressed was that any other matters to be addressed should depend on the outcome of the Executive’s pilots and that it was too early to state that other matters be included.

Business Sector

15. The Business sector commented that where a BID has run for 5 years there should be no need for a renewal proposal as the project should be self-sustaining by that period.

**Question 4: For transparency for the customer and ease of administration for local authorities we propose to have a mandatory requirement for separate notices for the BID levy charge. Due to the involvement of owners in particular, and the necessary split of the Rateable Value (RV) element of the vote and charge, current local authority billing systems could not cater for these arrangements. Is this reasonable?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	4			3
Individual Business	2			1
Councils/COSLA	8	5	6	
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>16 (50%)</b>	<b>5 (16%)</b>	<b>6 (19%)</b>	<b>5 (16%)</b>

16. Of the 27 respondents that expressed an opinion, 21 agreed that separate notices should be issued because of the transparency that they offer. One non-LA response included above as “No opinion” said that the decision should lie with the LA. Some business sector and LA representative argued that the “ease of administration” argument is harmed by the production of extra invoices and the possible creation of a duplicate list. A national BID levy system was also proposed.

Public Sector

17. A majority of LAs agreed that the separate notices should be issued and that the requirement should be mandatory. Others stated that the LA should have the option to decide. Within both sets of those responses, several Local Authorities cited software difficulties in producing separate bills, principally due to the involvement of property owners who are not currently part of the LAs Non Domestic Rate (NDR) billing arrangements. The extent of these views ranged from upgrading existing software systems to the introduction of new local systems to operate a stand alone BID levy system or even a national system. The sundry debtors system was cited as a possible billing alternative. Other billing concerns include timing to coincide with the Financial Year. Several Councils went on to say that the additional software costs should be met through the BID levy or through Scottish Executive funding. It was asserted that any software amendment costs imposed on the initial BID body would impact disproportionately.

18. A consequence of not involving owners because of the billing concern is that the BID levy would fall entirely on occupiers. The vast majority of respondees (see Question 24 below) agree with the proposition that owners should be involved.

Business Sector

19. The Business sector recommended, given the involvement of national companies, that the billing address used should be the same as the standard business rates bill. If the BID levy can be itemised, then it could be included on the rates bill. Several business replies mentioned that the LA would cover these initial costs, with the expectation that greater income would be generated in the future as a result of a successful BID.

**Question 5: Should we allow a local authority to issue a demand notice prior to the chargeable period?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	2		1	
Individual Business	6			1
Councils/COSLA	18		1	
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>28 (88%)</b>	<b>0</b>	<b>2 (6%)</b>	<b>2 (6%)</b>

20. Virtually all of the respondees agreed that the LA should be able to issue the demand notice before the chargeable period begins as this will allow proper budgeting and planning. Several replies suggested that in practice the BID levy would not be known at the beginning of each period because it would be partly dependent on final total costs and income from the previous year which would be unknown at that stage. As a result many responses said that the power must not be mandatory and indeed is one of the reasons for the two “No” votes in this section. It is likely that this information would be held by the BID company. A related concern is that any significant delay in notification of the levy would have a detrimental effect on planning.

Business Sector

21. One response urged that a business yet to begin trading must not be liable for the levy.

**Question 6: The proposals in paragraphs 3.18 to 3.20 of the consultation document (arrangements for splits, mergers and new subjects) are entirely new and have been inserted at the suggestion of businesses. Are they reasonable?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	6.66		0.33	
Individual Business	1	1		1
Councils/COSLA	11.67	6.33	1	
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>22.33 (69%)</b>	<b>7.33 (22%)</b>	<b>1.33 (3%)</b>	<b>2 (6%)</b>

(Note: Only one vote per response is allocated to this three part question. The votes are split into thirds where different responses have been given to different parts of the question. Two LAs voted against Para 3.18. One LA expressed reservations with Para 3:19. One Business Representative voted against Para 3:19.)

Public Sector

22. The majority of LAs agreed with the reasoning behind these proposals but concerns were raised, primarily regarding additional complexity being built into the system to cope with the provisions. One LA argued that a notional property value is needed to implement these provisions because, for example, transitional relief extends beyond duration of a valuation list, and therefore a notional value for the purpose of determining liability would be required and involve significant software adjustments. LAs said that the provisions had to be consistent with NDR assessment provisions.

Business Sector

23. Some responses recommended that the levy ought to be updated to reflect the new RVs once the merger or split has taken place. Any such change would have an effect on the levy income. Perhaps more significantly, other replies questioned here and elsewhere the impact on a BID’s effectiveness of a major organisation ending its contribution, perhaps due to bankruptcy or re-location.

**Question 7: The 84 day advance notice of the intention to ballot period is taken from the English regulations. Is the same period appropriate for Scotland?**

Class	Yes with		No	No opinion
	Yes	Reservations		
Business Rep	6		1	
Individual Business	2		1	
Councils/COSLA	12	2		5
Public Bodies	1	1		1
<b>Grand Total (% rounded up/down)</b>	<b>21 (66%)</b>	<b>3 (9%)</b>	<b>2 (6%)</b>	<b>6 (19%)</b>

24. Most responses were positive to this aspect of the Consultation. The main issue raised was whether the advance notice refers to working or calendar days, with several asking that this be clarified. Several “No opinions” recorded above wanted this to be confirmed before providing a response. The Association of Electoral Administrators recommended “3 months” advance notice as this is the same period as that needed when a by-election vacancy occurs. Others raised the issue of what happens when UK and Scottish parliamentary elections coincide with the BID ballot and whether or not the BID ballot can take place in the same period.

Public Sector

25. Some LAs raised the issue of costs associated with conducting a ballot and production of postal packs, and to whom these costs should be attributed. Some ballots are outsourced by LAs, with costs more evident as a result.

Business Sector

26. Two opposite viewpoints were expressed in arguing against the proposal. One suggested more time might be required to develop a BID; another said fewer days would

reduce any costs that the BID body will face in the period prior to the ballot result. Again a suggestion was made that information about the BID could be stored on the website.

**Question 8: (a) We are considering whether to cap a persons RV vote to the level of RV used in the calculation of the BID levy. Would this proposal be reasonable?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	3	3	1	
Individual Business	1		2	
Councils/COSLA	7	6	5	1
Public Bodies	1	1		1
<b>Grand Total (% rounded up/down)</b>	<b>12 (38%)</b>	<b>10 (31%)</b>	<b>8 (25%)</b>	<b>2 (6%)</b>

27. Although the bulk of the respondees did agree with the proposal, many responses to this two part question were qualified by a request to clarify why the owner or occupier might be eligible for relief and hence the relatively large number of “yes” votes with reservations or (as in part B below) no opinions.

Public Sector

28. Some LAs said that a non-capped vote would be simpler because relief and occupation status changes. Several respondees were concerned that charities and others with responsibility for empty properties that received high or even 100% relief would be ineligible to vote and as a result some voted against this proposal. Others mentioned complexity as a concern because of graduated levy rates.

Business Sector

29. A common view among the Business sector was that the capping decision should be left to the BID Board to determine.

**(b) If yes, should it be left to the discretion of the BID board or should it be mandatory?**

Class	Mandatory	Not Mandatory	No opinion
Business Rep	3	1	2
Individual Business			1
Councils/COSLA	11		2
Public Bodies	1	1	
<b>Grand Total (% rounded up/down)</b>	<b>15 (68%)</b>	<b>2 (9%)</b>	<b>5 (23%)</b>

(Note: Figures above based on those who voted Yes including reservations and those who expressed an opinion.) This proved a difficult area to score precisely, as some respondents reserved their opinion and made related contributions at the same time without stating whether the RV cap should be mandatory or not.

30. Of the 22 who responded that the RV vote should be capped in line with the level of RV used in the calculation of the BID levy, 15 declared that it should be mandatory. The

principle reason cited for this is that it ensures consistency both in the NDR system and among different BIDs, including within the same LA area.

**Question 9: Are there any other persons (in addition to those in paragraph 4.9) who should be allowed to request that Ministers declare a BID ballot void?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	2	3		2
Individual Business	3			
Councils/COSLA	14	2	1	2
Public Bodies	3			
<b>Grand Total (% rounded up/down)</b>	<b>22 (69%)</b>	<b>5 (16%)</b>	<b>1 (3%)</b>	<b>4 (12%)</b>

31. An overwhelming majority of respondents were content with the list provided.

Public Sector

32. Two local authorities requested that local authorities be specifically named in the list of people who could ask Ministers to declare a BID ballot void. Two different local authorities also suggested that the 5% figure for those entitled to vote was too low.

Private Sector

33. One respondent also wished the Scottish Executive and the ballot organiser to be able to request that the ballot be declared void. A further respondent thought the 5% figure too low and another respondent thought the 5% figure too high.

**Question 10: Are there any other reasons (in addition to those in paragraph 4.10 of the consultation) we should consider including in the meaning of a material irregularity? For consistency, the following table lists those who agree or do not agree with the proposals.**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	5			2
Individual Business	3			
Councils/COSLA	16			3
Public Bodies	3			
<b>Grand Total (% rounded up/down)</b>	<b>27 (84%)</b>	<b>0</b>	<b>0</b>	<b>5 (16%)</b>

34. All those who expressed a view on this agreed with our definition of material irregularity and most thought the definition comprehensive, although 4 advised that there should be time limits built in. Additional reasons suggested were fraud in the ballot, a significant error in the business plan, a significant change in local circumstances and insufficient guidance provided to those eligible to vote.

**Question 11: There are stipulations in place to ensure that a BID proposer develops the BID proposals in line with the requirements of the legislation, and the associated guidance document. However, there will be cases where a BID ballot fails simply due to lack of support, despite the proposer following all the correct procedures. Also, there**

**will be costs associated with the development of a BID prior to the ballot that may be difficult for a BID proposer to fully meet. Views on how these costs can be met would be welcomed.**

Public Sector

35. The majority of respondents appeared to believe that the BID proposer should be liable for costs, although a couple indicated that this should be considered on an individual basis. Several respondents suggested that the local authority may be jointly liable with the proposer, if they had been involved in a failed ballot, with others suggesting that the local authority may choose to provide some support.

Private Sector

36. There was a range of views expressed. A few of the respondents said that the proposer should not be liable if they had acted correctly. It was thought by some that the local authority should cover or contribute to the costs, and by one that the Scottish Executive should pay. One respondent suggested that development costs could be met by the proposer, which they could obtain from a public body. Another respondent suggested that the business plan should demonstrate that the proposer can meet all the development and ballot costs before the ballot is permitted. However, two respondents stated that the costs could be passed on through the levy, if this is specified in the proposal. One respondent suggested a partnership in costs, with the development costs met by a BID sponsor and the billing costs met by the local authority.

**Question 12: In England a local authority is allowed to charge for supplying information. Given that the supply of the information is not viewed as being burdensome, and is restricted to those involved in the BID, we do not plan to allow this in Scotland. However, views, particularly from local authorities, would be welcomed on whether this would represent a significant financial burden.**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	6			1
Individual Business	3			
Councils/COSLA	6	2	10	1
Public Bodies		1	1	1
<b>Grand Total (% rounded up/down)</b>	<b>15 (47%)</b>	<b>3 (9%)</b>	<b>11 (34%)</b>	<b>3 (9%)</b>

Public Sector

37. A minority of public sector respondents thought that this information should be provided free of charge, some with caveats such as providing only one copy or the BID needing to accept the data in the form provided by the local authority. However, a majority of local authorities thought that they should have the discretion to charge for information provision in case there is a high level of applications for BIDs and the administration of the information proves burdensome.

Private Sector

38. All private sector respondents agreed that this should be provided free of charge, as it would encourage transparency and was not anticipated as burdensome.

**Question 13: In England the ballot papers do not need to be sent to ratepayers until 28 days before the date of the ballot, and the date of the ballot is to be published 42 days before it takes place. Due to representations from business we have extended these periods, are these appropriate?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	5		1	1
Individual Business	3			
Councils/COSLA	12		3	4
Public Bodies	1		1	1
<b>Grand Total (% rounded up/down)</b>	<b>21 (66%)</b>	<b>0</b>	<b>5 (16%)</b>	<b>6 (19%)</b>

39. The majority of respondents agreed with the extension to the ballot period, although some felt that the period proposed was too long and in practice a short period would be sufficient.

**Question 14: We propose to have a restriction on when a re-ballot can take place so that a re-ballot cannot take place until one year after the date of the original ballot. The reason we are proposing this is to ensure there will be no rapid succession of ballots taking place in one area. If businesses have voted no, then it is reasonable to allow some time to pass before they are asked to vote again. It will also ensure that BID proposers do all they can to properly consult with those who would be expected to fund the BID. Is this reasonable?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	2		4	1
Individual Business	3			
Councils/COSLA	15		3	1
Public Bodies	3			
<b>Grand Total (% rounded up/down)</b>	<b>23 (72%)</b>	<b>0</b>	<b>7 (22%)</b>	<b>2 (6%)</b>

Public Sector

40. The vast majority of public sector respondents agreed with this proposal, with a small number who felt that there may sometimes be a case for a re-ballot in less than 12 months.

Private Sector

41. A very small majority of private sector respondents agreed with this proposal. However, some felt that this should be left to local discretion and that there will be cases where a ballot should be repeated in less than a year.

**Question 15: In England attendance at the vote count is not restricted to just the ballot holder. However, representations have been made stating that this is leading to information being made available regarding how people have voted. We therefore propose to restrict attendance purely to those involved in the count. We would welcome views on this proposal.**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	2	1	1	3
Individual Business	2	1		
Councils/COSLA	8		8	3
Public Bodies	1		1	1
<b>Grand Total (% rounded up/down)</b>	<b>13 (41%)</b>	<b>2 (6%)</b>	<b>10 (31%)</b>	<b>7 (22%)</b>

#### Public Sector

42. Views were split on this point. Many thought that this was reasonable, with many others concerned about compromising the secrecy of the ballot process. Some suggested that if others were to be present at the count, then the ballot papers should be re-designed to protect the identity of the voter.

#### Private Sector

43. The majority of respondents agreed with this proposal, one on the condition that individual voting information was not shared, but some thought that vote count attendance should be restricted.

44. The Association of Electoral Administrators commented that a secret ballot is essential and the count be open and transparent with an equal number of observers appointed by each party. Those present must subscribe to the requirement of secrecy, as operates at other elections.

**Question 16: In England the BID proposer is not permitted to update the address list, and it is the billing authorities' records that are used for this. This can lead to a delay in the correct person receiving the ballot papers. We propose to allow BID proposers to compile an address list to be used for billing and balloting. Is this proposal appropriate?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	3		1	3
Individual Business	3			
Councils/COSLA	6		11	2
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>14 (44%)</b>	<b>0</b>	<b>12 (38%)</b>	<b>6 (19%)</b>

#### Public Sector

45. Most public sector respondents disagreed with this proposal and were concerned over the integrity of the list and issues around fraud. It was strongly suggested that only the billing authority should be able to update the address list. A number of respondents did agree with the proposal however, arguing that the BID promoter should be able to update and verify the list.

#### Private Sector

46. The majority of private sector respondents agreed with this proposal, as a pragmatic solution to keep data current. One respondent suggested that this may lead to postal vote fraud and that established lists should be used.

**Question 17: In England the issuing of replacement ballot papers is only done 4 days prior to the close of ballot, which may cause difficulties if not received and returned promptly. To ensure that everyone is given a proper amount of time to vote we are allowing a more flexible approach in Scotland. Is this appropriate?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	4	2		1
Individual Business	3			
Councils/COSLA	13	4	1	1
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>22 (69%)</b>	<b>6 (19%)</b>	<b>1 (3%)</b>	<b>3 (9%)</b>

#### Public Sector

47. The vast majority of public sector respondents agreed with this proposal, although caveats were made by some, including use of electronic voting, strict control of papers and proper regulation.

#### Private Sector

48. All private sector respondents agreed with this proposal and welcomed the extension, mentioning postal procedures.

**Question 18: Should a time limit be given for publication of the ballot result?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	5			2
Individual Business	3			
Councils/COSLA	17		1	1
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>27 (84%)</b>	<b>0</b>	<b>1 (3%)</b>	<b>4 (12%)</b>

49. Only one respondent disagreed with this proposal, who felt that the result would be known immediately anyway. A variety of suggestions was made as to how long the time limit should be, ranging from 5-28 days and with 7 working days being the mode.

**Question 19: Is the veto power proposed at paragraph 5.1 reasonable? Are any additional reasons required?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	5			2
Individual Business	2		1	
Councils/COSLA	18			1
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>27 (84%)</b>	<b>0</b>	<b>1 (3%)</b>	<b>4 (12%)</b>

50. All but one respondent thought the local authority veto reasonable and that respondent thought that the local authority would be able to intervene anyway, both through the planning process and through BID board involvement. One other respondent who supported the veto thought an additional reason should be added: a veto on the basis of the BID resulting in new costs arising that they didn't wish to bear.

**Question 20: Are there any other conditions on the veto power that should be considered?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	5			2
Individual Business	2		1	
Councils/COSLA	16			3
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>25 (78%)</b>	<b>0</b>	<b>1 (3%)</b>	<b>6 (19%)</b>

51. Only one respondent explicitly stated that no other conditions should be allowed, which for the sake of clarity has been recorded as a 'No' here. All other responses supported the veto power as proposed with one mentioning the importance of a timeframe from when the local authority can veto the proposal and three local authorities suggesting the addition of commercial interests that impinge on public interests, anecdotal concerns about a BID owner and lack of rigorous consultation.

**Question 21: Are there any factors in addition to those set out that a local authority should consider when exercising its right of veto?**

*For consistency, the following table lists those who agree or do not agree with the proposals.*

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	5			2
Individual Business	2	1		
Councils/COSLA	16		1	2
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>25 (78%)</b>	<b>1 (3%)</b>	<b>1 (3%)</b>	<b>5 (16%)</b>

52. All but one respondent appeared to agree with the right of veto as outlined. The local authority who appeared to disagree thought that the veto should be considered on its own merits and not in relation to costs. Several public and private sector respondents highlighted a possible problem in relation to BIDs that cover more than one local authority area and how the right of veto might be affected. Two local authorities suggested that in these cases, the right of veto should lie with the lead local authority. One respondent suggested that the local authority should also consider the relative significance of the BID area to the local economy.

**Question 22: A £5 refund limit was set in England to ensure that any refund represents value for money given the costs associated with this. We have catered for the possibility of an alternative billing agent being secured, and propose to allow any outstanding balance to be transferred to the relevant local authority. As the local authority can use this money towards its goal of improving the wellbeing of its citizens. Is this appropriate?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	5		1	1
Individual Business			2	1
Councils/COSLA	11		7	1
Public Bodies			1	2
<b>Grand Total (% rounded up/down)</b>	<b>16 (50%)</b>	<b>0</b>	<b>11 (34%)</b>	<b>5 (16%)</b>

#### Public Sector

53. Although most public sector respondents seemed to agree with the proposal in principle, some stressed the importance of accountability and that £5 was too low a threshold due to administrative costs. Several suggested £10 as more appropriate and one suggested £25.

#### Private Sector

54. The majority of private sector respondents agreed with this proposal as reasonable but with one suggesting that the balance should not revert to the local authority. One respondent who appeared unresponsive of this proposal said that the threshold for refunds should be £50 and that remaining funds should be donated to a local charity.

**Question 23: In England it is only the local authority who can terminate BID arrangements. We propose to allow this power to the BID board as well so that the private sector has an escape clause from a BID that runs into financial difficulties. Are there any other reasons for permitting BID arrangements to be terminated?**

Class	Yes with			
	Yes	Reservations	No	No opinion
Business Rep	4	1	1	1
Individual Business	3			
Councils/COSLA	15		3	1
Public Bodies	2			1
<b>Grand Total (% rounded up/down)</b>	<b>24 (75%)</b>	<b>1 (3%)</b>	<b>4 (12%)</b>	<b>3 (9%)</b>

### Public Sector

55. The vast majority of public sector respondents agreed with the proposal outlined, but it was pointed out that disagreement between the BID board and local authority needed to be provided for. Some respondents showed concern for how the financial wind-up would be managed and stressed the importance of financial and risk management. Those who disagreed with the proposal appeared to support local authority control and discretion over the termination of arrangements.

### Private Sector

56. All but one private sector respondent agreed with the proposals and that respondent thought that only the BID board should be able to terminate the arrangements. Other suggestions included that the Scottish Executive and the majority of BID levy payers should be able to terminate arrangements, and that the board could be terminated for malpractice or changes in the operating environment.

### **Question 24: We would welcome views on the proposal relating to the involvement of property owners.**

### Public Sector

57. The majority of public sector respondents appeared to support this proposal. However, some made caveats or raised concerns, including:

- Enforcement costs should be recovered from BID levy;
- How will rate relief affect levy raised?
- Superior interest should get one vote per property;
- Involvement should be non-mandatory;
- BID proposer must justify why levy apportioned in way proposed;
- Significant property owners will be disenfranchised;
- Software amendments will be required; and
- Owners will be difficult to identify.

### Private Sector

58. The private sector respondents also appeared broadly content with the proposals as made. However, additional queries suggestions included:

- How will the benefits to property owners be assessed?
- If owners have to pay a levy for each property, why not give them a vote for each property?
- Identifying owners will be problematic; and
- Liable owner should be actual owner, not “superior interest”.

### **ADDITIONAL ISSUES RAISED**

59. Respondents raised a large range of additional issues. Some of these are listed below.

### Public Sector

- Concern over enforcement
- Can the local authority be compelled to be a billing authority?
- Provisions for local authority input should be strengthened;
- Concern over administrative burden;

- Need to take existing burden of electoral officers into account;
- Will public authorities under the Designated Assessor regime be included?
- How will new owner/occupiers find out about BIDs?
- Scottish Executive should provide funding to kick-start schemes; and
- Who will initiate a BID?

#### Private Sector

- Boundaries should include major shopping areas and not be used for out-of-town developments
- Is the BID proposal the same thing as the business plan?
- Request for clarity around enforcement procedures;
- Will the arrangements between the BID levy body and the BID body be audited?
- Who gets interest and surplus funds?

### **POST CONSULTATION**

60. Primary legislation to establish Business Improvement District (BIDs) in Scotland through the Planning etc (Scotland) Bill has been approved by the Scottish Parliament. Subject to the granting of Royal Assent, Secondary Legislation will be introduced in February 2007. We hope to consult further with key stakeholders on the detail of the Scottish Secondary Legislation although the time we have available for this may be constrained by the legislative timetable. Different pieces of Secondary Legislation are required, including a set of Regulations to be approved by the Scottish Parliament; and a Section '104' Order, which will cover the reserved aspects of this policy and which must be progressed at the UK Parliament.

61. Further information about BIDs in Scotland and the ongoing pilot projects across the country can be found at: [www.bids-scotland.com](http://www.bids-scotland.com) And, more information about BIDs in the UK is available at [www.ukbids.org](http://www.ukbids.org)

Local Government Finance Division  
 Scottish Executive  
 November 2006

**ALPHABETICAL LIST OF RESPONDENTS**

Aberdeen City Council  
Aberdeenshire Council  
Angus Council  
Argyll & Bute Council  
Association of Electoral Administrators  
Boots PLC  
Comhairle nan Eilean Siar  
COSLA (Convention of Scottish Local Authorities)  
East Ayrshire Council  
Edinburgh City Centre Management  
Edinburgh City Council  
Falkirk Council  
Federation of Small Businesses  
Fife Council  
Glasgow Chamber of Commerce  
Glasgow City Council  
Highland Council  
Institute of Rating & Revenue Valuation  
Inverness Chamber of Commerce  
Inverness City Centre Management  
John Lewis Partnership (Edinburgh)  
North Ayrshire Council  
North Lanarkshire Council  
Perth & Kinross Council  
Renfrewshire Council  
Royal Bank of Scotland  
Scottish Borders  
Scottish Chambers of Commerce  
Scottish Enterprise  
Scottish Retail Consortium  
South Lanarkshire Council  
West Lothian Council