



Scottish Executive Finance and Central Services Department

Business Improvement Districts: A Consultation

Analysis of responses to Consultation

April 2004

INTRODUCTION

1. *Business Improvement Districts - A consultation paper* sought views on how Business Improvement Districts (BIDs) can be implemented in Scotland.
2. The consultation paper was issued to 137 organisations on 3 July 2003, 60 responded. The consultation paper was also available on the internet and open to all to contribute: <http://www.scotland.gov.uk/consultations/finance/consultbids.pdf>. The consultation period closed on 10 October 2003.
3. We would like to thank all those who responded to the consultation. The responses received will help inform the decision making process with regard to the implementation of Business Improvement Districts (BIDs). Further work is being undertaken on the issues raised as a result of the consultation and next steps will be announced in due course.
4. A list of the 60 respondents is provided at **Annex A**. 3 respondents asked for their response to be kept confidential. Broadly speaking most respondents favoured BIDs in principle.
5. Copies of individual responses (except those marked confidential) 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 | 28 | 46% |
| Business Representatives | 26 | 43% |
| Government Departments | 3 | 5% |
| Business Owners | 1 | 2% |
| Political Parties | 1 | 2% |
| Trade Union | 1 | 2% |
| Total | 60 | 100% |

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

7. In general most respondents favoured BIDs in principle. However it was made clear by the majority of those who responded, whether public or private sector, that a BID proposal would only work if there was a clear need for additional services and the benefits to the businesses paying the levy were clearly identifiable. It was also stated that a BID project would also have to be taken forward with due consideration of other initiatives such as Community Planning, Best Value and Follow the Public Pound. Several reservations were expressed which relate to the specific consultation questions, these are detailed below.

Question 1

*Do you agree with the proposed balance between a legislative framework and local choice?
Do you think more (or less) aspects should be covered by legislation?*

| Class | Agree Balance | No opinion | More | Less |
|----------------------------------------|----------------------|-------------------|----------------|---------------|
| Business Rep | 16 | 4 | 6 | |
| Business Owner | | 1 | | |
| Gov Dept | 1 | 1 | 1 | |
| Councils/COSLA | 23 | 2 | | 3 |
| Political party | 1 | | | |
| Trade Union | | | 1 | |
| Grand Total (% rounded up/down) | 41 (69%) | 8 (13%) | 8 (13%) | 3 (5%) |

8. Most respondents stated that it was difficult to say too much in reply to this question as the legislation which would implement BIDs was not detailed within the consultation document. However most agreed that there had to be a balance between having appropriate legislation in place to give BIDs a legal framework, without being overly prescriptive. There was a firm view within both the public and private sector that for BID proposals to be successful they had to be shaped by the local business community in partnership with the local Council, and there had to be clear benefits for the ratepayers funding the project. Many of the respondents favoured guidance being developed which BID boards could use as a reference tool, this would allow flexibility but also ensure the boards were aware of best

practice. Several respondents raised the issue of agreeing baselines services which the Council would provide, with the suggestion that this could be detailed within the legislation.

Public Sector

9. Points made here specific to Councils were that it would be important, to ensure Council involvement, that appropriate protections for Councils were framed within the legislation in the event of a BID project folding, or for payments due not being paid. It was stated that a Council should not have to take on the burden of any outstanding debt as a result of an unsuccessful project. It was also suggested that the legislation should allow the BID levy to be applied to residential property as well as non-domestic as these properties could also benefit from improvements made to a BID area.

Business Sector

10. A particular concern within the business community was the current service level being provided by Councils and how to ensure that a BID project did not simply allow Councils to reduce their current spending levels in the BID area and have the BID levy funding the services. It was stated that it would be important for Councils and businesses to agree that current service levels would continue to be funded by the Council and the BID levy would be used purely for additional services/improvements.

Question 2

*Do you agree with the voting scheme proposed? Is the dual 50% threshold by number and rateable value reasonable? Is it reasonable to base the percentage on those **voting**, rather than those **eligible to vote**?*

Do you agree with the voting scheme proposed?

| Class | (i) Agree | (i) Disagree | (i) No opinion |
|--------------------|------------------|---------------------|-----------------------|
| Business Rep | 20 | 2 | 4 |
| Business Owner | | | 1 |
| Gov Dept | 2 | | 1 |
| Councils/COSLA | 18 | 8 | 2 |
| Political party | | | 1 |
| Trade Union | | 1 | |
| Grand Total | 40 (67%) | 11 (18%) | 9 (15%) |

Is the dual 50% threshold by number and rateable value reasonable?

| Class | (ii) Reasonable | (ii) Unreasonable | (ii) No opinion |
|--------------------|------------------------|--------------------------|------------------------|
| Business Rep | 14 | 8 | 4 |
| Business Owner | | | 1 |
| Gov Dept | 1 | 1 | 1 |
| Councils/COSLA | 15 | 10 | 3 |
| Political party | 1 | | |
| Trade Union | | 1 | |
| Grand Total | 31 (52%) | 20 (33%) | 9 (15%) |

*Is it reasonable to base the percentage on those **voting**, rather than those **eligible to vote**?*

| Class | (iii) Voting | (iii) Eligible to vote | (iii) No opinion |
|--------------------|---------------------|-------------------------------|-------------------------|
| Business Rep | 13 | 7 | 6 |
| Business Owner | | | 1 |
| Gov Dept | | 1 | 2 |
| Councils/COSLA | 12 | 5 | 11 |
| Political party | | | 1 |
| Trade Union | | 1 | |
| Grand Total | 25 (42%) | 14 (23%) | 21 (35%) |

11. In general most respondents favoured the dual system approach whereby 50% of ratepayers and 50% of rateable value had to vote in favour of a BID proposal before it could progress. However there were different opinions, within both the private and public sector, regarding the voting threshold for a BID proposal to succeed. Many respondents were firmly of the view that for a BID to work a large percentage of businesses had to support it and this should be reflected in the voting threshold. Regarding whether to base the percentage on those voting rather than those eligible strong arguments were made for both proposals. The benefit of basing the percentage on those voting was it would ensure all ratepayers who would pay the BID levy were incentivised to vote, rather than rewarding apathy by not allowing a BID to go ahead until 50% of those eligible had voted in favour. On the other hand it was pointed out that basing it on those eligible would ensure that the proposal had widespread support of those paying the levy before going ahead, which could help to avoid default on payments. It would also encourage the organisers of the vote to ensure that all businesses in the area who would pay the levy were fully aware of the proposal and its implications for them.

Question 3

Should a minimum percentage of businesses have to vote (by number and / or rateable value) for the vote to be valid? Do you have a view on what that level should be?

| Class | Yes | No | No Opinion | Max of Suggested % level | Min of Suggested % level |
|--------------------|-----------------|-----------------|-------------------|---------------------------------|---------------------------------|
| Business Rep | 14 | 5 | 7 | 75 | 5 |
| Business Owner | | | 1 | 0 | 0 |
| Gov Dept | 1 | | 2 | 50+ | 50+ |
| Councils/COSLA | 21 | 4 | 3 | 80 | 10 |
| Political party | | 1 | | 0 | 0 |
| Trade Union | 1 | | | 0 | 0 |
| Grand Total | 37 (62%) | 10 (16%) | 13 (22%) | 80 | 5 |

12. Again opinions within both public and private sectors were similar. The vast majority of those responding stated that it was imperative to the success of a BID project that the majority of businesses supported the proposal. Favoured levels varied widely (5 - 67%) but most stated that around the 50% mark would be appropriate. However some respondents, mainly within the public sector but not exclusively, did point out that this criteria was not applied to democratic elections, and that as long as there was an effective notification scheme then this should not be a concern.

Question 4

*Should there be a minimum level of support among businesses in the BID area **before any vote** goes ahead? Do you have a view on what that level should be?*

| Class | Yes | No | No Opinion | Max of Suggested % level | Min of Suggested % level |
|--------------------|-----------------|----------------|-------------------|---------------------------------|---------------------------------|
| Business Rep | 17 | 3 | 6 | 75 | 5 |
| Business Owner | | | 1 | 0 | 0 |
| Gov Dept | 1 | | 2 | 30 | 30 |
| Councils/COSLA | 19 | 5 | 4 | 75 | 5 |
| Political party | | 1 | | 0 | 0 |
| Trade Union | 1 | | | 0 | 0 |
| Grand Total | 38 (63%) | 9 (15%) | 13 (22%) | 75 | 5 |

13. The vast majority of respondents were firmly of the view that there should be some indication of support for a BID proposal before a vote goes ahead. This would ensure that time was not wasted arranging votes for schemes that did not have any chance of gaining support amongst the business community. Responses favoured some form of petition, organised by the business community, which would be submitted to the Council/BID Board requesting that a vote on a proposal be arranged. The petition did not necessarily have to be only from those in favour, but would allow the proposal to be opened up for further discussion. Those against some indication of support beforehand stated that it could be unnecessarily bureaucratic as for a vote to take place the Council and business community would already have an idea of support for the project and the actual BID vote would determine how strong, or otherwise, the support is.

Question 5

*The proposed **maximum** number of years the BID mandate can last before a new vote is required is 5 years. Do you agree?*

| Class | Agree | Disagree | No opinion |
|--------------------|-----------------|-----------------|-------------------|
| Business Rep | 19 | 1 | 6 |
| Business Owner | | | 1 |
| Gov Dept | 1 | | 2 |
| Councils/COSLA | 22 | 3 | 3 |
| Political party | 1 | | |
| Trade Union | 1 | | |
| Grand Total | 44 (73%) | 4 (7%) | 12 (20%) |

14. Responses broadly favoured the 5 year maximum limit before a new vote is required. However it was stated that a degree of flexibility should be allowed to ensure that a vote could take place before the 5 year period if this was deemed desirable by the ratepayers in a BID area. It was also stated that allowance should be made for a BID to continue after the 5 year period if the ratepayers thought the benefits of the BID were worth continuing. This was particularly the case for large scale projects as positive benefits from these type of projects could take a longer period of time to be realised and a degree of commitment would have to be in place for the project to go ahead.

Public Sector

15. Some Council responses did raise concerns that if a BID project did end after 5 years the ending of the project would need to be properly managed to ensure there would be no expectation within the business community that the improvements realised over the 5 year term which entailed an annual cost would continue to be funded by the Council.

Business Sector

16. A concern within this sector related to a tenancy changing hands within the 5 year period and whether the new tenant would be obliged to pay the additional levy for the remainder of the term. It was also stated that there should be a withdrawal mechanism where a BID project was clearly failing to meet its objectives.

Question 6

Do you agree that a Council should have the right to veto a BID scheme under circumstances set out in legislation? Are there any other circumstances, apart from those listed in paragraph 23, which you think should be considered?

| Class | Agree | Disagree | No opinion |
|--------------------|-----------------|-----------------|-------------------|
| Business Rep | 16 | 4 | 6 |
| Business Owner | | | 1 |
| Gov Dept | 2 | | 1 |
| Councils/COSLA | 26 | | 2 |
| Political party | 1 | | |
| Trade Union | 1 | | |
| Grand Total | 46 (77%) | 4 (7%) | 10 (16%) |

17. Most respondents thought Councils should be given the right to veto a proposal due to them being integral providers of services. In addition several respondents stated that a BID would be unlikely to work unless all partners were committed to the project which made Council agreement to the proposal essential to its success. However most responses, from both the public and private sector, considered that the use of a veto would be unlikely given the partnership nature of BID proposals. There were specific concerns relating to each sector which are detailed below.

Public Sector

18. Similar to the private sector some responses here supported the use of a veto but only where the veto is backed up with valid reasons. It was suggested that if a proposal does not represent good value for any public investment made alongside the levy then the veto should be used. It was also stated that the use of a veto should also be allowed where a BID proposal would entail potential costs to the Council after the scheme ends. Environmental considerations should also be taken account of.

Business Sector

19. The concern within the private sector regarding the use of a veto mainly related to the criteria to be used for determining whether a Council can use its veto powers. It was

considered that this criteria should be clear, possibly set out in statute, and with a Council's reasons backed up with strong supporting evidence. Where a Council does use its right to veto and costs have already been incurred then the Council should be responsible for meeting these costs. It was also stated that if a BID proposal has no adverse effect on an Council's budget and businesses clearly want to take forward a BID proposal then Councils should have no veto power over it. Lastly it was mentioned that reference to business needs should be included in the criteria for a veto.

Question 7

Do you agree that local businesses supporting a BID should have the right to appeal to Scottish Ministers if they disagree with the use of the veto by a Council?

| Class | Agree | Disagree | No Opinion |
|--------------------|-----------------|-----------------|-------------------|
| Business Rep | 16 | 4 | 6 |
| Business Owner | | | 1 |
| Gov Dept | 2 | | 1 |
| Councils/COSLA | 22 | 4 | 2 |
| Political party | 1 | | |
| Trade Union | | 1 | |
| Grand Total | 41 (68%) | 9 (15%) | 10 (17%) |

20. Respondents broadly supported the proposal to have a right of appeal against a Council using its veto power. However most were of the view that this, like the veto itself, was unlikely to be used given the partnership nature of BID proposals. If a BID proposal is properly managed and affected parties are consulted properly at all stages then the scheme which is developed should be acceptable to all parties. The development of a scheme that went against a Councils interests would not be likely to succeed and it is unlikely it would ever reach the voting stage. Both the public and private sector considered that the criteria for an appeal should be made clear, possibly via legislation. Councils did make some additional points in relation to the appeal process which are detailed below.

Public Sector

21. There was concern regarding the burden an appeal could place on a Council and it was considered that the time period for an appeal should be limited and the process be kept informal to ensure costs are kept to a minimum. It was also stated that if a veto is used and it clearly meets the criteria then an appeal should not proceed, however if the reason for the veto is ambiguous then an appeal should be allowed. There was a suggestion that a third party right of appeal should also be considered, although it was stated that this may be best left for any future consultation on the third party right of appeal in general. It was also suggested that there should be a minimum percentage of affected businesses supporting the appeal before it can go ahead. In addition If Ministers backed the appeal and the project going ahead would involve costs for the Council concerned then this should be met by central government.

Question 8

Do you agree with the approach taken towards landlords i.e. that they are encouraged to participate in the development, implementation and funding of a BID through voluntary contributions and that the contribution is disclosed as part of the BID proposal? If not, do you have any other suggestions?

| Class | Agree | Disagree | No opinion |
|--------------------|-----------------|-----------------|-------------------|
| Business Rep | 11 | 10 | 5 |
| Business Owner | | | 1 |
| Gov Dept | | 1 | 2 |
| Councils/COSLA | 11 | 16 | 1 |
| Political party | 1 | | |
| Trade Union | 1 | | |
| Grand Total | 24 (40%) | 27 (45%) | 9 (15%) |

22. It was clear from the responses that this was seen as one of the main stumbling blocks against the potential success of BIDs. Both the public and private sector considered that landlords had to make some contribution towards the costs of a BID project as they would see big improvements to the market value of their properties. Occupiers could also see their rents being increased as a result of these improvements which could result in there being no appetite for a BID project through fear of the financial effect on the rented business properties within the BID area. Many responses from both the public and private sectors recommended that the involvement of landlords be set out in legislation to ensure that they are obliged to contribute. It was stated that if this was done then landlords should be able to vote on the BID proposal. However it was pointed out that if the BID levy was to be administered via the non-domestic rating system then it would be difficult if not impossible to involve landlords due to the rating system being geared towards occupancy and not ownership, this could mean that the voluntary approach is the only way forward.

Question 9

We would welcome views on whether there is a need for the BID concept to be developed further to be of greater use in rural areas and, if so, we would welcome suggestions on how this could be done.

| Class | Need | No need | No opinion |
|--------------------|-----------------|-----------------|-------------------|
| Business Rep | 9 | 11 | 6 |
| Business Owner | 1 | | |
| Gov Dept | 1 | | 2 |
| Councils/COSLA | 11 | 10 | 7 |
| Political party | | | 1 |
| Trade Union | | | 1 |
| Grand Total | 22 (37%) | 21 (35%) | 17 (28%) |

23. In general respondents were of the view that it would be difficult to take forward a BID project in a rural area in the same way as an urban one due to the low levels of rateable value in these areas restricting the amount of money a BID levy could raise on its own. However the use of BIDs should not be restricted to large towns/cities so as to allow for innovative schemes to be developed where possible. It was mentioned that many rural areas are extremely vulnerable and already receive rates relief so the appetite for increasing rates

payments would be very low. However a BID project in a rural area could possibly be taken forward alongside other rural initiatives such as village development programmes. One suggestion was that it could be appropriate for several rural settlements to pull resources in order to fund a specific project which would benefit all the communities involved. This would address the potential difficulty of confining a BID project to a small area due to the wide dispersal of businesses in rural areas. A BID could also focus on a particular sector rather than a district, for example Tourism or agriculture. It was pointed out that a BID in a rural area would probably require additional sources of funding not available to the urban areas, and that consideration should be given to how this could be done (suggestions were the involvement of residential properties in the project, and central government funding). Suggestions of how a BID could be used in rural areas referred to improvements that would encourage tourism within an area, and increasing the availability of affordable housing to allow residents to locate closer to their place of work which would benefit both employee and employer. It was also recommended that larger BID projects in urban areas should take account of the effects of the project on smaller nearby communities to ensure there is no detrimental effect.

FINANCIAL ASPECTS

24. Many respondents raised the issue of start-up funding for BID projects. This was in reference to the costs of arranging the vote and administering the BID, as well as any other initial costs before BID payments were made. The concern was that Councils should not be put in a position whereby they had to fund the front-end costs of a BID project and then recover these costs as payments were made as this could lead to resource problems for them in other service provision areas.

LEGISLATION

25. Primary legislation will be required to allow the implementation of BIDs. This will be taken forward as soon as a suitable legislative vehicle has been identified. The English legislation can be viewed by accessing the following website link:

<http://www.legislation.hmsso.gov.uk/acts/acts2003/30026--h.htm#41>

26. It is likely that secondary legislation will also be required to flesh out details in regard to veto powers, appeals, involvement of landlords, and BIDs in rural areas.

POST CONSULTATION

27. To ensure the implementation of BIDs is successful and all unresolved issues are addressed further work will need to be undertaken. It is proposed that a working group is set up to take forward the fine details of the implementation of BIDs in Scotland. This will address issues such as guidance on how to implement BIDs, the type of projects a BID proposal could cover (including examples of best practice), and whether it is desirable to initiate a BID pilot in order to see how the projects work on the ground. The working group would consist of a cross-section of those who would be involved in a BID project, as well as other interested parties. This would include public and private sector representation. In addition to the working group it may also be desirable to set up a sub-group which will focus solely on the issue regarding the involvement of landlords as the majority of those who responded stated it would be vital to resolve this issue for BIDs to succeed.

LIST OF RESPONDENTS

Aberdeen City Council
Aberdeenshire Council
Association of Convenience Stores
Angus Council
Argyll & Bute Council
Association of Town Centre Management
Boots Group plc
City of Edinburgh Council
CBI Scotland
Chartered Institute of Public Finance and Accountancy
Convention of Scottish Local Authorities
Dumfries & Galloway Council
Dundee City Council
East Dunbartonshire Council
East Lothian Council
East Renfrewshire Council
Edinburgh City Centre management
Falkirk Council
Federation of Small Businesses
Fife Council
Glasgow & Clyde Valley Structure Plan Joint Committee
Glasgow Chamber of Commerce
Glasgow City Centre Vision
Glasgow City Council
Hanover Housing Assoc
Highland Council
Institute of Chartered Accountants of Scotland
Institute of Economic Development
Inverness & Nairn Enterprise
Inverness City Centre Management
Institute of Revenue, Rating and Valuation
Midlothian Council
Moray Council
National Farmers Union Scotland
North Ayrshire Council
Orkney Islands Council
Perth & Kinross Council
Perth Partnership
Renfrewshire Council
Royal Institution of Chartered Surveyors in Scotland
Ryden
Scottish Business Crime Centre
Scot Enterprise Tayside
Scottish Borders Council
Scottish Chambers of Commerce
Scottish Council for Development & Industry

Scottish Enterprise
Scottish Liberal Democrats
Scottish Landowners Federation
South Ayrshire Council
South Lanarkshire Council
State Aid Unit
Stirling Council
UNISON
West Dunbartonshire Council
West Lothian Council
Western Isles Council
3 Confidential