



Department for
Communities and
Local Government

Property Owners & Business Improvement Districts

Summary of consultation responses and
Government response

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Introduction

1. The Government published a consultation document *Property Owners and Business Improvement Districts* on 23 July. This set out the Government's detailed proposals to formalise the role of property owners who are not ratepayers in Business Improvement Districts.
2. The purpose of the proposals is to help property owners, the business community and local authorities work together to improve the local trading environment. Business Improvement Districts meet two of the government's key priorities: Promoting economic growth and localism.
3. The consultation sought views on a framework for allowing such a scheme, canvassing views from Business Improvement District companies and Representative Bodies, local authorities, property owners and other interested parties to seek assurance that the proposals are workable.
4. The focus of the consultation was specifically around the detailed and technical issues concerning the implementation of the scheme. As such, the questions asked were limited to the workability of the scheme.
5. At present, the statutory powers under which the scheme will be implemented limit property owner Business Improvement Districts to areas where there is both a Business Rates Supplement being levied and where there is a ratepayer Business Improvement District in place. The Business Rates Supplement is only levied by authorities in London at present, and as such these proposals will only allow property owner Business Improvement Districts to operate in London. The Government intends to proceed with implementing property owner Business Improvement Districts under the existing powers, subject to these restrictions and will review how they are working before deciding whether they should be rolled out more widely.

Consultation Process

6. The consultation was open for eight-weeks from 23 July 2013 until 17 September 2013. The consultation document was available on the Department's website and drawn to the attention of interested parties. The consultation related to properties in England only.
7. In total 43 written responses were received. The majority of responses came from individual business organisations and local authorities. Responses were also received from representative bodies such as the Association of Town & City Management, The British Retail Consortium, The British Property Federation, The Association of Convenience Stores and The Royal Institute of Chartered Surveyors. The table below provides a breakdown of responses by type of organisation:

Type of Organisation	Number of responses
Local authorities	14
Representative bodies	7
Individual business organisations	22
Total	43

8. The consultation focused on how the role of property owners, who are not ratepayers, can be formalised in Business Improvement Districts. It sought views from respondents on a series of questions to determine whether the scheme as proposed is workable. Some respondents did not answer the questions directly and focused instead on wider issues as well as putting forward views around the scope of the scheme.
9. Following consideration of the responses to the consultation, this document sets out a summary of the responses received and the Government's response to those comments. It sets out firstly a summary of the comments made in relation to the sixteen specific consultation questions followed by a summary of more general comments made.
10. It is important to recognise that this document provides a summary of the key issues raised by respondents. In developing its proposals, the Government has taken account of all of the responses submitted in response to its consultation process, and has taken account of all of the points made in each of those responses. However, as a summary, this paper does not attempt to capture each and every single point made in those responses.

Summary of Responses

11. The Government appreciates the potential benefits of allowing for property owner Business Improvement Districts and the consultation sought views on a framework that would allow for such a scheme and assurance that what was proposed was workable. It is recognised that providing for property owner schemes is not straightforward and the consultation provided a useful insight into some of the difficulties that could be encountered when the scheme is implemented.
12. This section sets out a summary of the responses received to the consultation along with the Government's decisions in light of the responses received.

Question 1 – Do you agree that we should ensure that any property owner Business Improvement Districts is balloted on separately?

13. 35 respondents specifically answered the question, of which 33 agreed that the property owner Business Improvement District should be balloted on separately. Two did not agree, mainly on the basis that the process could prove costly, time consuming and the decision whether to hold a separate ballot should be left to local discretion. The remaining responses did not answer the question directly nor had a strong view.
14. A number of respondents felt that property owner Business Improvement Districts should be balloted on separately as this would be easier to administer at least initially, and property owners may have a longer term interest in an area and differing objectives to ratepayers. Separate votes would allow the arrangements for a ratepayer Business Improvement District to go ahead even if the proposals for a Property Owner Business Improvement District fail at the ballot (the reverse is not possible as property owner Business Improvement Districts can only exist in a ratepayer Business Improvement District where a Business Rates Supplement is also levied)
15. Of those respondents that either did not agree with the proposal to provide for separate ballots or did not specifically answer the question, it was commented that combining ratepayer and property owner Business Improvement Districts would encourage a more joined up approach across the various interested bodies and that it should be left to local discretion to determine whether to ballot separately to allow flexibility.

The Government Response

16. The Government is grateful for the responses it received. The Government has noted that there was majority agreement on the proposal to ballot Property Owners separately to ratepayers. The Government has decided to provide for separate ballots for property owner Business Improvement Districts. A property owner Business Improvement District might be proposed after a ratepayer Business

Improvement District has already been established or at the same time as a new one is proposed. Providing for separate ballots, therefore, means that the process would be the same for all property owner Business Improvement District ballots no matter what the situation is locally. Whilst the Government agrees that local discretion and flexibility should be key elements of the property owner Business Improvement District scheme, it considers that in establishing the initial framework for property owner Business Improvement Districts providing for separate ballots is the simplest way forward and allows proposers of both ratepayer and property owner Business Improvement District sufficient flexibility. As noted in the consultation document, the Government is prepared to revisit this issue in the light of experience of property owner schemes.

Question 2 - Do you agree that we legislate to allow for a property owner to be defined as any freeholder, leaseholder or persons with commonhold interest?

17. The question attracted 36 responses, of which 33 agreed that the Government should legislate to allow for a property owner to be defined as any freeholder, leaseholder or persons with a common hold interest and 3 responses did not agree. The remaining responses did not answer the question or asked for clarity on the definition of property owner.
18. Many respondents said that the property owner should be identified locally and that there should be freedom in the legislation to determine how property owners are defined.
19. Some respondents commented that greater clarity was needed on the definition and category of who is liable as in many cases it is unclear where ownership lies and that legislation should ensure that property owner liabilities cannot be passed onto occupiers or leaseholders
20. A few respondents were concerned about the difficulty of identifying property owners and concerns about Land Registry and/or local authorities having inaccurate information especially when collecting levies.

The Government Response

21. There was majority agreement for the proposal. The Government has decided to proceed with introducing legislation for a property owner to be defined as any freeholder, leaseholder or persons with a common-hold interest. The Government considers that leaving the decision as to who is liable open will enable the proposer of the Business Improvement District to properly consider who should be subject to the levy by taking account of their local environment and will allow local areas to develop individual schemes which meet the needs of the area. It will provide flexibility to the proposer who will need to determine locally who should be liable for the levy and will place the responsibility on the proposer to ensure their schemes are successful by clearly defining those who should be subject to the levy and

identifying such owners In addition, for a scheme to come into force, there needs to majority support for the proposal at ballot preventing a further safeguard against proposals that are unclear are overly wide.

22. The Government has considered the comments on legislating to limit the definition of property owners who may be liable for the levy. The Government considers that proposers of property owner Business Improvement Districts should determine locally who should be liable for the levy. By not legislating, it will allow for the schemes to be targeted where they need to be and at a level for which there is local support.

Question 3 - Do you agree that we should not legislate for owner/ratepayers to be exempt from property owner Business Improvement Districts where they are liable for ratepayer Business Improvement Districts in the same area?

23. The question attracted 40 responses, of which 33 agreed that there should be flexibility on a case by case basis and using local discretion to determine whether a ratepayer/owner should be liable. 7 responses did not agree stating that it should not be left to local discretion to exempt owner ratepayers and the remaining responses did not answer the question directly.
24. Many respondents felt that an exemption for owners who are also liable for ratepayer Business Improvement District levy should be on a case by case basis and the decision should be left to local proposers. This was because regulations which automatically exempt such persons may stop or restrict the development of Business Improvement Districts.
25. However, some suggested the introduction of regulations would be helpful so proposers could cap the fee for both ratepayer and property owner schemes at a fair rate to ensure that property owners and ratepayers are not penalised. In addition, a few respondents commented that owners that are also occupiers of empty properties should not be liable for both the ratepayer and property owner schemes.

The Government Response

26. There was majority agreement for the proposal. The Government will not legislate for owner/ratepayers to be exempt from property owner Business Improvement Districts where they are liable for ratepayer Business Improvement Districts in the same area. Allowing local discretion and flexibility in the creation of property owner Business Improvement Districts will ensure that proposers properly take account of the local area and the nature of ownership. The Government considers this will place a greater responsibility on the proposer and in order to achieve a successful outcome at ballot, the proposer will have to ensure that proper consideration has been given to who is to be liable for the levy.

27. The Government has noted the comments regarding the making of legislation such that owners that are also occupiers of empty properties are not liable for both the ratepayer and property owner scheme levies. However, the Government considers that this decision should be determined locally by the proposer of the scheme. At the same time as considering whether the levy is set at a level which is fair, the proposer will also have to consider whether or not owner/occupiers and owners of empty properties should be liable for the levy to ensure that there is sufficient support for the scheme.

Question 4 - Do you agree that the responsibility for identifying and compiling the list of property owners should lie with the Business Improvement District Proposer?

28. There were 39 responses to the question. 32 agreed that the Business Improvement District proposer should be responsible for compiling a list of property owners. 7 did not agree stating the local authority should be responsible for compiling the list of property owners. The remaining responses did not answer the question directly.
29. Many respondents were concerned over the accuracy of any potential list of property owners, how this information would be gathered, the time taken to compile such a list and the administration costs involved and how the accuracy of the list would affect billing and the potential for challenge. Some also thought the Government should support the creation of a Public Register of Property Ownership, and/or that local authorities should be given more powers in order to obtain the information.
30. A few organisations felt that a provision be placed within the legislation to identify a minimum number of property owners that must be identified.
31. A few organisations felt that regulations should place an obligation on all persons with an interest in the property that is subject to a property owner Business Improvement District levy to provide information to billing authorities and financial penalties imposed for those that fail to provide the requested information.

The Government Response

32. This area was identified in the consultation as possibly the most significant practical challenge in enabling property owner Business Improvement Districts to be established. The Government has noted there was majority agreement that the responsibility for identifying and compiling the list of property owners should lie with the Business Improvement District proposer.
33. It will not be as straightforward for proposers of property owner Business Improvement Districts as it is for Ratepayer Business Improvement Districts. The consultation responses raised a number of difficulties around the compilation of the list which the Government recognises could impact on the feasibility of property owner schemes being established. Unlike ratepayers, the concept of property

owners does not appear in business rates legislation, other than in relation to empty properties. Although there is strong support for these proposals from interested parties who wish to put forward Business Improvement Districts which show it is possible to identify property owners in some areas, this is unlikely to be the case in all areas.

34. However the Government considers that it will be in the interest of any proposer of a property owner Business Improvement District to ensure that any list that it compiles is accurate to minimise the risk of challenge to the integrity of the proposals and to ensure that the levy is collectable. Ownership of the scheme lies with the proposer who will have to take account of time and costs in compiling the list as part of its consideration of the viability of the proposal. As such the Government considers that the responsibility for identifying and compiling the list of property owners should lie with the proposer.
35. In developing ratepayer Business Improvement Districts, local authorities and proposers work closely together to compile the list of persons to be liable to the levy. This will also need to be the case for property owner Business Improvement Districts with owners of properties identified largely from local knowledge or by seeking information from the ratepayer of the property. Also, local authorities have existing powers to request information about persons with an interest in land for the purpose of performing any of their functions under section 16 of the Local Government (Miscellaneous Provision) Act 1976. In addition, the Business Rate Supplements Act 2009 provides power to make regulations conferring powers on authorities to obtain details of the recipients' interest in the land as well as the name and address of either the occupier, or a person with an interest (such as a property owner) in the land.
36. The Government considers this to be sufficient to enable Business Improvement District proposers to obtain information about property owners in order to assist establish of the Business Improvement District. The Government, also, does not intend to create a Public Register of Property Ownership.
37. The Government will review how property owner Business Improvement Districts are operating before determining whether and how they can be rolled out more widely.

Question 5 - Do you agree that we should legislate to make it compulsory for a property owner Business Improvement District proposal to provide information about any relationship with the ratepayer Business Improvement District in the same area?

38. This question received 37 responses of which 33 agreed that it should be compulsory for a property owner Business Improvement District proposal to provide information about any relationship with the ratepayer Business Improvement District in the same area. 4 did not agree and thought that that it should either be left to local discretion or that there should be one joint Business Improvement District proposal in the area. The remaining responses did not answer the question directly or did not comment.

39. Many felt that it should be made compulsory to provide information about the relationship between the property owner and ratepayer scheme. This is mainly for transparency purposes and to improve co-ordination of plans or projects.
40. A few respondents felt that both the ratepayer scheme and the property owner scheme should be proposed and managed by the same body, and that there should be one Business Improvement District proposal that encompasses both schemes. Some respondents felt that in the interests of transparency and clarity, there is a necessity to have the full objectives of the ratepayer Business Improvement District before any property owner ballot; and that all ratepayers liable to pay the levy should be notified how the collection of funds is to be used in the Business Improvement District area.

The Government Response

41. There was majority agreement for the proposal to make it compulsory for a property owner Business Improvement District proposal to provide information about its relationship with the ratepayer Business Improvement District in the same area. The Government has considered that in the interests of transparency and clarity, it will introduce legislation to this effect. This will increase co-operation and co-ordination across both ratepayer and property owner Business Improvement Districts increasing their effectiveness in local areas.
42. The Government has noted the comments that both the ratepayer and property owner scheme should be proposed and managed by the same body but does not propose to legislate for this as it provides flexibility for the property owner scheme to either be a stand alone scheme or one that operates as an extension of the ratepayer scheme. This will need to be determined by taking into account the needs of the local area. It will be for the proposer of the property owner Business Improvement District to ensure that the proposals which will be balloted on are sufficiently clear and transparent to gain the support of property owners. As it will be a requirement for property owner schemes to provide information about any ratepayer schemes in the same area, information about the objectives of the ratepayer scheme will be available prior to the property owner scheme ballot,. The proposer would want to consider the objectives of existing ratepayer Business Improvement Districts in developing its proposals to ensure that the scheme will meet the needs of property owners.

Question 6 - Should the calculation of the levy be set out as part of the Business Improvement District proposal or left to be prescribed by regulations? If prescribed by regulations, should this include limiting the amount of the levy that may be charged, and what limit should be applied?

43. There were 38 responses to this question, of which 35 specifically agreed that the levy should be set out as part of the Business Improvement District proposal or left to local discretion. 3 agreed that a cap on the amount of levy charged should be

prescribed in regulations and that a limit should be set at between 1 and 5 per cent of rateable value. The remaining responses raised various views as set out below

44. Many respondents felt that the calculation of the levy should be set out as part of the Business Improvement District proposal and that the levy should be set locally. There should be no limit on the amount of levy charged and that the calculations should not be prescribed by regulations.
45. Some organisations felt that the calculations should be prescribed by regulations but they should be significantly flexible to allow Business Improvement Districts to set differential charging models.
46. A small number of respondents felt that regulations should cap the amount of levy being charged however the amount suggested varied between 1 per cent and 5 per cent of rateable value.
47. One organisation felt that consideration should be given to a statutory exemption for hereditaments with a low rateable value.

The Government Response

48. There was majority agreement for the levy to be set out as part of the proposal, and not prescribed in regulations. The Government considers that in order to achieve a successful outcome at ballot, the proposer will have to be clear about the objectives of the scheme taking account of the local area. The proposed amount of the levy and/or the basis of its calculation will also need to be clearly set out in the proposal. The levy will have to be set at a level that is fair in order to gain support. Furthermore the double lock method of voting provides adequate protection against the setting of excessive levies. Therefore the calculation of the levy will not be prescribed in regulation but will be required to be set out as part of the proposal and approved by majority support in the ballot.
49. The Government does not consider it necessary to provide statutory exemption for particular types of hereditaments. As with ratepayer Business Improvement Districts, proposers will have to determine locally whether exemption should be given to particular types of hereditaments by taking account of the characteristics of the local area.

Question 7 - Do you agree that voting arrangements should be the same as for ratepayer Business Improvement Districts?

50. There were 39 responses to this question with 39 agreeing that the arrangements should mirror that of the ratepayer Business Improvement Districts. No respondents disagreed. The remaining responses did not answer the question.
51. A few organisations and local authorities felt that there should be some form of electronic voting system especially as some property owners are located overseas.

52. Some organisations felt that multiple property owners should be entitled to vote in proportion to the number of properties they owned, however there is some concern regarding the impact a single owner of multiple properties would have on the priorities of the Business Improvement District.
53. One organisation felt that consideration should be given to a minimum turnout requirement and that there should be greater improvement in the publication of Business Improvement District proposals and engagement with ratepayers in the area of the scheme.
54. Many respondents were in favour of the double lock mechanism stating it is the most fair and equitable way of taking into account the different interests in the Business Improvement District.

The Government Response

55. The Government has noted there was majority agreement to the proposal. The issue of multiple properties has been considered by Government and the influence that a single owner of multiple properties could have on the vote. However, these owners are likely to be liable for more than one levy and as such it is fair that they get a commensurate number of votes. Again, Government will review how this works in practice before deciding whether to roll out the scheme more widely.
56. The Government has noted the request to move to a form of electronic voting given that some of the property owners are likely to be located overseas. Various electronic voting schemes were piloted at local government elections in England between 2002 and 2007 and these were evaluated by the Electoral Commission. The evaluation findings identified a number of issues relating to the security, reliability and transparency of e-voting solutions that the Commission recommended be addressed before electronic voting could be used in any future electoral events. The Commission also recommended that any further e-voting proposals should be set within a wider strategy for electoral modernisation, which takes account of these issues. The Commission remains of this view and has stated that it would not support the further use of e-voting in the absence of these issues being resolved.
57. The Government does not consider it necessary to introduce legislation to ensure a minimum turnout requirement. The double lock voting system, which many respondents support and work very well in ratepayer Business Improvement Districts, which will apply to property owner Business Improvement Districts provide a fair and equitable way of establishing property owner Business Improvement Districts.

Question 8 - Do you agree ballot papers should be able to be sent outside England?

58. There were 38 specific responses to the question 37 agreed that the ballot papers should be sent outside England and that electronic voting should be considered as well as extending the return of replacement ballot papers to fourteen days. One

respondent did not agree. The remaining responses did not specifically answer the question or did not comment.

59. A few organisations and local authorities felt that it would be difficult in some instances to correctly identify where the ballot papers should be sent and identify the property owner. It was suggested that Government should consider legislation to ensure a minimum turnout requirement.
60. A few organisations and local authorities felt that there should be electronic balloting and voting system to allow property owners that are overseas to fully contribute in the process.

The Government Response

61. The Government is grateful for the responses it received and has noted there was majority agreement to the proposal. In respect of comments about the correct identification of property owner for the ballot papers, the proposer will have to ensure that all the property owners that are eligible to vote are correctly identified. This is in the proposers' interest as this will minimise the risk of appeal against the ballot. As stated earlier, the Government does not consider it necessary to introduce legislation to ensure a minimum turnout requirement. The double lock voting system which will apply to property owner Business Improvement Districts provides a fair and equitable way of establishing property owner Business Improvement Districts. The Government will proceed with introducing legislation for ballot papers to be sent outside the UK.
62. As property owners are more likely to be based overseas requiring ballot papers to be sent outside of the country the Government will legislate for the extension of the return of replacement ballot papers to fourteen days. For the reasons outlined in paragraph 56, electronic balloting and voting will not be legislated for.

Question 9 - Do you agree that the process for declaring a ballot void should mirror those for ratepayer Business Improvement Districts?

63. There were 38 responses to the question and 37 agreed that the process for declaring a ballot should mirror that of a ratepayer Business Improvement District. One did not agree on the basis that the requirement for a request to declare a ballot void to be made by 5 per cent of persons entitled to vote should be the number of properties involved not of those entitled to vote otherwise large property owners could be abused. The remaining respondents did not specifically answer the question or did not comment.

The Government Response

64. There was majority agreement to the proposal that for the process for declaring a ballot void to mirror that for ratepayer Business Improvement Districts (contained in regulation 9 of the Business Improvement District (England) Regulations 2004).

Under the ratepayer Business Improvement Districts legislation, the Secretary of State may declare a ballot void and order a re-ballot be held if he considers that a “material irregularity”, as defined in the legislation, has occurred and provided that a request has been made by the Business Improvement District proposer, the authority or at least 5% of persons entitled to vote in the ballot.

65. Experience from ratepayer Business Improvement Districts does not suggest that the requirement for a request to the Secretary of State to declare a ballot void to be made by at least 5% of persons entitled to vote in the ballot causes particular difficulty for ratepayers who are liable in respect of several properties and the same conclusion could be drawn for large property owners. The 5% threshold requires there to be a number of persons entitled to vote to be concerned about the operation of the ballot rather than for just one individual. The strong support in this consultation from respondents for the double lock voting system, which work very well in ratepayer Business Improvement Districts, will apply to property owner Business Improvement Districts to provide a fair and equitable way of establishing property owner Business Improvement Districts. Therefore the Government will mirror the process for declaring a ballot void in property owner Business Improvement Districts with those in place for ratepayer Business Improvement Districts.

Question 10 - Do you agree that the veto arrangements should mirror those for the current ratepayer Business Improvement Districts?

66. There were 38 responses that specifically answered the question of which 37 agreed. One did not agree on the basis that veto arrangements should be reviewed to allow for wider powers of veto for local authorities and there was not enough information to allow a billing authority veto. The remaining respondents did not specifically answer the question or did not comment.

The Government Response

67. The Government is grateful for the responses it received and notes there was majority agreement to the proposal. Property owner schemes like ratepayer schemes are partnerships between the local authority and the business community to benefit both partners and the local area. There are unlikely to be many situations where the billing authority is required to exercise its veto. The power to veto is only included to provide a protection to other groups where the scheme proposal is considered by the billing authority to be obviously unfair to, for example, a group of levy payers. Furthermore, should there be any concerns about the billing authorities' use of the veto arrangements; there is a further safeguard within the existing regulations for ratepayer Business Improvement Districts for an appeal to the Secretary of State against the exercise of the veto by the billing authority within 28 days of the notice of veto being given (regulation 13 of the Business Improvement District (England) Regulations 2004). The Government considers that the current arrangements which allow for local authorities to veto a ratepayer scheme in prescribed circumstances (as set out in regulation 12 of the 2004 Regulations) are sufficient and will proceed for veto arrangements for property owner schemes to mirror those for the ratepayer Business Improvement Districts.

Question 11 - Do you agree that legislation should include that considering whether to veto a ratepayer scheme, the authority should have regard to the impact on the property owner Business Improvement District?

68. There were 37 responses that specifically answered the question. 35 agreed on the basis that Government may also want to make provision to prevent a single property owner having the power to influence the scheme and consideration should be made of the impact a veto on a ratepayer scheme would have on a property owner scheme in consultation with the Business Improvement District concerned. Two did not agree as property owners would appear to have precedence. The remaining respondents did not specifically answer the question or did not comment.
69. A few organisations felt that the process should work both ways so the impact of a veto on either type of scheme should be carefully assessed. It was also felt that provision may need to be made to prevent a single large property owner having the power to bring down a Business Improvement District.

The Government Response

70. The Government is grateful for the responses and notes that there was majority agreement to the proposal. However, whilst there is a strong link between ratepayer and property owner schemes, the Government considers that decision on whether to veto either a ratepayer or property owner scheme should be taken by the authority on the basis of the existing prescribed circumstances (as per those set out in regulation 12 of the 2004 Regulations). As set out in paragraph 66, there are unlikely to be many situations where the billing authority is required to exercise its veto but where it does exercise its power of veto on ratepayer schemes, the Government considers that authorities will already take into consideration all relevant factors including any wider impact of an exercise of its veto and therefore does not consider that it would be necessary to regulate for the billing authority to have a further consideration about the impact on the property owner scheme. The prescribed circumstances are limited to conflicts with a local authority's own policies or the significant disproportionate financial burden on any person or class of person subject to the levy due to the manipulation of boundaries or structure of the levy. The Government considers that if these issues arise they are sufficiently serious that the authority must be free to exercise its discretion even if exercise of the veto would also cause the property owner Business Improvement District to end. The decision on whether to veto should be based solely on the circumstances of the scheme of concern. On this basis the Government will not introduce regulations for billing authorities, when considering whether to veto ratepayer schemes, to have regard to the impact on the property owner schemes.
71. The Government will review how this works in practice before determining whether the scheme can be rolled out across the country.

Question 12 - Do you agree that the process for alteration of arrangements should mirror those for ratepayer Business Improvement Districts?

72. There were 39 responses that specifically answered the question. 38 agreed that the alteration of arrangements should mirror those of the ratepayer scheme. One respondent did not agree on the basis that there is currently not enough detail in the consultation to comment. The remaining respondents did not specifically answer the question.
73. No respondents stated that they had any concerns for the process for alteration of arrangements in property owner schemes to mirror those for ratepayer Business Improvement Districts.

The Government Response

74. The Government is grateful for the responses it received. The Government has noted there was majority agreement. The provisions relevant to the alteration of ratepayer Business Improvement District arrangements are contained in regulations 16 and 17 of the Business Improvement District (England) Regulations 2004. Arrangements may be altered without a further ballot where the arrangements have included provision to this effect and set out the procedure to be followed to make such alterations. However, arrangements may only be altered in this way provided that the alteration would not affect the geographical area of the district, or increase the levy or extend the levy to persons who were not previously liable. In all other circumstances a further ballot must be held in accordance with the Regulations before the alteration can be made. The Government considers that the process for alteration of arrangements works well for ratepayer Business Improvement Districts as it provides sufficient flexibility for less significant alterations to be made easily whilst retaining the appropriate safeguard of a ballot for more significant alterations. On this basis, the Government intends to proceed with legislation to mirror these arrangements in property owner schemes.

Question 13 - Do you agree that the relevant local authority should notify levy payers of the date that they will cease to become liable for the property owner levy – due to the Business Rate Supplement or ratepayer levy ending - as soon as practicable after that date is known to them?

75. There were 37 responses that specifically answered the question. 37 agreed that the proposal. No respondents disagreed but some did comment that there was not enough detail in the consultation to comment. The remaining respondents did not specifically answer the question.
76. Some organisations felt that due to the fact that it is likely ratepayer and property owner business improvement schemes terms will overlap it is imperative that there is clarity in the event the ratepayer scheme term ends or fails at a renewal ballot.

77. A few organisations and local authorities felt that due to the long term investment nature of a property owner Business Improvement District the full five years must be able to be delivered so must be able to run to the end of its planned term even if the ratepayer scheme fails. A proposal was made that the Regulations provide for a minimum termination notice date of six months.

The Government Response

78. The Government is grateful for the responses it received. It has noted the comments for extending property owner Business Improvement Districts and understands that property owner schemes may well have differing objectives to that of ratepayer schemes and that in some cases a five year term may not be sufficient. However, the effect of the Business Rate Supplements Act 2009 is that property owner Business Improvement District arrangements must terminate where the ratepayer Business Improvement District or Business Rate Supplement has come to an end. This is because without these both in place, there would be no powers for the property owner Business Improvement levy to be imposed. Therefore in the event that the ratepayer scheme has ended or fails at renewal, the property owner scheme will cease even if the property owner scheme is not at the end of its term.

79. Furthermore, as ratepayer schemes can only run for five years, it will not be possible for a property owner scheme to run for any longer than this, as without a ratepayer scheme (as well as a Business Rates Supplement) in place, property owner schemes cannot operate. The Government considers that if a property owner scheme is successfully operating, the scheme will be renewed at when the ballot comes up for renewal (provided that the Business Rate Supplement and ratepayer Business Improvement District is in place).

80. The Government will review how this works in practice before determining whether the scheme can be rolled out across the country.

Question 14 - Do you agree with the proposal for the termination of a property owner Business Improvement District?

81. There were 37 responses that specifically answered the question. 37 respondents agreed with the proposal for the termination of a property owner Business Improvement District. No respondents disagreed. The remaining respondents did not answer the question or did not comment.

82. One respondent felt that there should be regulations that allow for a termination of a property owner scheme where the majority of levy payers by number and rateable value express a wish to terminate early through a ballot. It is felt that regulations should allow for a termination ballot on submission of a petition presented by a least 50 per cent of the number of levy payers. The ballot proposer should pay in advance to the billing authority for costs of conducting this ballot. If the ballot were to prove successful then the proposer should be reimbursed for costs out of the Business

Improvement District revenue account once the usual disbursements had been made.

The Government Response

83. The Government has noted there was majority agreement to the proposal. The Government recognises that there will be circumstances in which it will not be viable for a property owner Business Improvement District to continue to the end of its term. However, there needs to be a degree of certainty in place to allow the property owner Business Improvement District scheme to deliver the objectives that it set out to achieve across the five year period. Therefore, the Government does not intend to introduce regulations to allow for the termination of a property owner scheme where the majority of levy payers wish to terminate through a ballot. The Government considers that mirroring the regulations for terminating ratepayer Business Improvement Districts in property owner Business Improvement Districts provides sufficient certainty for the scheme to run to the end of its term, as well as adequate protection to the levy payers where the scheme has become unviable, either financially or practically.

Question 15 - Do you agree that collection and enforcement for property owner Business Improvement Districts should be the same as for ratepayer Business Improvement Districts?

84. There were 38 responses that specifically answered the question. 36 agreed that collection and enforcement should be the same as the ratepayer scheme. There were comments about the cost of enforcement and how overseas property owner collections would be enforced. Two respondents did not agree mainly on the basis that enforcement would be difficult or not enough detail to comment, the remaining respondents did not answer the question directly,

85. Many respondents felt that enforcement for overseas property owners would be extremely difficult and questioned whether there would be a legal obligation for overseas property owners to pay the levy and how this would be enforced. Some felt that tracing activity for overseas property owners would increase costs therefore propose a possible cap on these costs or contract a professional body with the relevant legal and professional accreditation to carry out this activity on behalf of the local authority.

86. A few organisations felt that effective enforcement and collection would be dependant on the accuracy and effective maintenance of a property owner list and those liable.

The Government Response

87. The Government is grateful for the responses it received and has noted there was majority agreement. It is clear that an accurate property owner list will be critical in achieving a successful property owner Business Improvement District. The proposer

will have to ensure that all the property owners that are eligible to vote and liable for the levy are correctly identified. This is in the proposers' interest as this will minimise the risk of appeal. However the issue of enforcing the levy against owners that are based outside of England is more difficult. Proposers of property owner Business Improvement Districts will need to ensure that they have properly considered all the enforcement and collection issues with the relevant local authority, including an assessment of reasonable costs (which could include negotiating a cap on charges) for any work that it carries out before determining whether to proceed with a property owner scheme.

88. The Government will review how this works in practice before determining whether the scheme can be rolled out across the country.

Question 16 - Do you agree that authorities should be able to charge reasonable costs for any work conducted?

89. There were 37 responses that specifically answered the question. 35 agreed and 2 respondents did not agree on the basis that costs would deter a property owner Business Improvement District from forming and reasonable costs would need to be defined. The other respondents did not specifically answer the question or provided general comments in answer to the question.

90. Many organisations felt that reasonable costs should be defined and should be a framework or agreed schedule of rates to ensure transparency and that charges are not excessive.

91. A few respondents felt that they should undertake work on a full cost recovery basis as work involved in the property owner scheme is variable and that issues involved in ownership, location of property owners particularly those overseas, cost of collection and billing would be higher so overheads and administrative fees would need to be recovered.

The Government Response

92. Local authorities are a vital part of the property owner schemes but their level of involvement will vary from scheme to scheme and it would not be appropriate for a cap to be imposed by Government as the cap would need to vary according to local circumstances which could not be prescribed in regulations.

93. Local authorities already work with proposers of ratepayer Business Improvement Districts and charge reasonable costs for any work that is carried out in connection with these schemes. There is strong support from local authorities of ratepayer Business Improvement Districts as they provide services which often enhance the local area and support the statutory services that local authorities provide. The Government considers that local authorities should charge reasonable costs for any work in relation to property owner schemes and that any proposers of a property owner Business Improvement Districts will need to ensure that they engage with local authorities to properly consider the basis of costs and to determine for

themselves whether the costs are reasonable. As with ratepayer Business Improvement Districts, local authorities could decide not to charge for the work.

Other comments

94. A number of respondents felt there needed to be some form of regulations that prevented the property owner levy being passed onto the occupier therefore reducing the risk of an additional cost to occupiers who may already be subject to a ratepayer levy.
95. A number of businesses and organisations as well as local authorities asked for clarity on the meaning of 'same geographical area' and whether the same ratepayer boundary must be used for the property owner Business Improvement District. In addition, where there are two neighbouring ratepayer schemes would there have to be two property owner schemes or would one property owner scheme that span both areas be allowed

Government response

96. The Government has noted the concern from some respondents that ratepayers could pay for the property owner levy through an increase in their business rates. The Government could include a provision in regulations, which would seek to invalidate any attempt made by the landlord to require the tenant to reimburse the landlord for the levy. However, it would not be possible to enforce this in practice as it would be very difficult to prove that an amount charged to the tenant is attributable to the levy rather than a legitimate charge, particularly if it is wrapped up in the rent. The Government therefore proposes not to introduce legislation for this at this stage. However, the Government will consider whether there is an impact on ratepayers from property owner Business Improvement Districts before determining whether and how the scheme can be rolled out across the country
97. Both ratepayer Business Improvement Districts and property owner Business Improvement Districts will be required to operate in the same geographical area, i.e. the boundaries for both must be the same. In areas where there are two neighbouring ratepayer schemes, there would have to be two property owner schemes. One property owner scheme would not be able to span both areas.