

Dated

BID LEVY OPERATING AGREEMENT

Cheltenham Borough Council

And

Cheltenham BID Ltd

Agreement

THIS Agreement is made on the

BETWEEN

- (1) **CHELTENHAM BOROUGH COUNCIL** of The Promenade, Cheltenham, Gloucestershire, GL50 1PJ (“the Council”)
- (2) **CHELTENHAM BID LIMITED (Company No: 10247399)** whose registered office is situated at Pillar House, 113-115 Bath Road, Cheltenham GL53 7LS (“the BID Company”)

Recitals

- A The Council is the billing authority for the purposes of the Local Government Act 2003 and is responsible for collecting the BID Levy and administering the BID Revenue Account which shall be used towards the operation of the BID within the area of the Local Authority and the funding of the BID Arrangements.
- B The BID Company is responsible for the operation of the BID and for using the BID Levy for the purposes of achieving the BID Arrangements.
- C The two parties wish to confirm the arrangements by which the BID Levy shall be collected together with general arrangements as to the relationship to be established for the duration of the BID.
- D The purpose of this Agreement is to:
- Establish the procedure for setting the BID Levy;
 - Confirm the basis upon which the Council will be responsible for collecting the BID Levy
 - Set out the enforcement mechanisms for collection of the BID Levy;
 - Set out the procedures for accounting and transference of the BID Levy;
 - Provide for the monitoring and review of the collection of the BID Levy;
 - Confirm the manner in which the Council expenses incurred in collecting the BID Levy shall be paid;
- E. A Monitoring Group shall comprise representatives of each of the parties to this Agreement, namely:
- a. Revenues Manager, the Council
 - b. BID Director, the BID Company

1. Definitions

Bad or Doubtful Debts shall have the same meaning as further described in Part 2 of Schedule 3 of the Regulations

Ballot Result Date means the date upon which a successful ballot result has been declared in favour of putting in place the BID Arrangements

BID means the Business Improvement District which is proposed to be managed and operated by the BID Company

BID Area means that area within which the BID operates as defined within the BID Proposal

BID Arrangements means those arrangements to be put in place pursuant to the Regulations for the operation of the BID

BID Financial Year means the financial year for the BID which runs from 1st August to 31st July

BID Levy means the charge to be levied and collected within the BID Area pursuant to the Regulations and Appendix A to this Agreement

BID Levy Payer(s) means the non-domestic rate payers responsible for paying the BID Levy

BID Levy Rules means the rules contained in Appendix A to this Agreement

BID Proposal means the plan voted for by the BID Levy Payers which sets out the objectives and projects of the BID

BID Revenue Account means the account which the Council will set up in order to hold BID Levy payments before payment to the BID Company in accordance with regulations and accounting codes of practice

BID Term means the period of five years from the Commencement Date

Commencement Date means 1st August 2016

Commercially Sensitive Information: means information of a commercially sensitive nature relating to the BID Company, its intellectual property rights or its business or which the BID Company has indicated to the Council that, if disclosed by the Council would cause the BID Company significant commercial disadvantage or material financial loss.

Contributors means the BID Levy Payers or other contributors making voluntary contributions to the BID.

Council Financial Year means the financial year for the Council which runs from 1st April to 31st March

Data Protection Legislation means the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (*SI 2000/2699*), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

Data Processor shall have the same meaning as set out in the Data Protection Act 1998.

Demand Notice shall have the same meaning ascribed to it as further set out in paragraph 3 of Schedule 4 of the Regulations

EIR means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

FOIA means the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

Information has the meaning given under section 84 of FOIA.

LNL has the meaning of Late Night Levy relating to those licensed premises which pay a levy to the Council.

Monitoring Group means the group to be set up consisting of 1 representative from the Council who shall be a Council officer and 1 representative from the BID Company.

NNDR means National Non-Domestic Rates.

Operating Agreement means this Agreement entered into between the Council and the BID Company which sets out various procedures for the collection monitoring and enforcement of the BID Levy

Personal Data shall have the same meaning as set out in the Data Protection Act 1998

Public Meeting means a public meeting held pursuant to regulation 18(1)(a)(ii) of the Regulations.

Request for Information means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIR

Regulations means The Business Improvement Districts (England) Regulations 2004 and such amendments to those regulations which may be made by the Secretary of State pursuant to Section 48 of the Local Government Act 2003 (from time to time) and terms defined in the Regulations shall have the same meaning when used in this Agreement

Single Instalment Due Date means the date the BID Levy will be payable, in one Lump sum, 14 days after the date of issue of the demand notice

2 Statutory Authorities

2.1 This Agreement is made pursuant to Part IV of the Local Government Act 2003 and Section 111 of the Local Government Act 1972 and all other enabling powers

3 Commencement and Determination

3.1 This Agreement shall take effect on the Commencement Date

3.2 This Agreement shall determine and cease to be of any further effect in the event that:

(i) The Secretary of State declares void a BID ballot, renewal ballot, alteration ballot, or re-ballot;

(ii) The Council exercises its veto and there is no successful appeal against the veto;

(iii) The BID Term expires save where a renewal or alteration ballot is held and is successful in which event this Agreement shall continue for the duration of the new BID term ;

(iv) The Council exercises its discretion to terminate the BID Arrangements in exercise of powers under regulation 18 of the Regulations.

4 Setting the BID Levy

4.1 As soon as reasonably practicable following the Ballot Result Date the Council shall:

(i) Calculate the BID Levy for each BID Levy Payer in accordance with the BID Levy Rules; and

(ii) Confirm in writing to the BID Company the BID Levy payable by each BID Levy payer

5 The BID Revenue Account

5.1 As soon as is reasonably practicable following the Ballot Result Date the Council shall keep a BID Revenue Account in accordance with regulations and accounting codes of practice in force at the time and provide written confirmation to the BID Company.

5.2 As soon as reasonably practicable following the Ballot Result Date the BID Company shall provide the Council with details of its bank account into which the BID Levy shall be transferred from the BID Revenue Account and any other details which the Council may reasonably require.

5.3 Within 5 working days of the end of each calendar month the Council will provide to the BID Company a list of all the BID levy payments received in the calendar month and all refunds made in the calendar month and a summary report of the monies due, the monies received and the collection percentage rate.

5.4 The BID Company will invoice the Council for the levy received net of refunds made plus VAT each month and the Council will pay the BID Company a sum equal to the monies collected in the month net of refunds plus VAT and properly credited to the BID Revenue Account . The payment to be made within 20 working days of the month end.

- 5.5 The Council shall pay the levy to the BID Company in full. The Council shall invoice the BID Company for the agreed annual cost of collection of the BID levy of 3% of the annual BID Levy income property per annum and any further agreed adjustments from payments properly credited to the BID Revenue Account.
- 5.6 After the end of the BID Financial Year, in addition to the monthly report the Council will send to the BID Company a detailed report summarising the total monies due for the BID Financial Year, the monies collected, any refunds made, monies still owed to the BID Company and the final balance for the current year. The Council will make payment of any sums owing to the BID Company or the BID Company will refund any sums owing to the Council within 30 days of the receipt of the report. Any monies received after the end of the BID Financial Year will be accounted for during the month in which they are received and paid over as set out in paragraph 5.4. In any reports the amounts relating to a previous BID Financial Year will be shown separately from the current BID Financial Year.
- 5.7 All sums will be subject to the addition of Value Added Tax (VAT) where applicable under VAT legislation and regulations in force at the time.
- 5.8 The BID Company and the Council as appropriate will issue VAT receipts, where applicable under VAT legislation and regulations in force at the time.
- 5.8 The Council will estimate a sum by which the Bid Levy income will be reduced each year by any provision for Bad or Doubtful debts

6 Collecting the BID Levy

- 6.1 As soon as reasonably practicable following the Ballot Result Date the Council shall confirm in writing to the BID Company the anticipated date of the despatch of Demand Notices for the initial Chargeable Period and the anticipated Single Instalment Due Date.
- 6.2 The Council shall serve a Demand Notice on each BID Levy Payer and thereafter shall continue to calculate the BID Levy and serve a Demand Notice throughout the BID Term.
- 6.3 The Council shall maintain a list of those BID Levy Payers who have paid the BID Levy and those BID Levy Payers who have not paid the BID Levy and shall make the list available to the BID Company at the end of each calendar month.
- 6.4 The Council shall serve a Demand Notice or amended Demand Notice on a BID Levy Payer as soon as reasonably practicable after the Council receives notice of a change that affects liability for the BID Levy.
- 6.5 The Council shall use all reasonable endeavours to collect the BID Levy throughout the BID Term.
- 6.6 The Council is not liable to pay the BID Company any sums not collected and/or which are written off. The Council will use its sole discretion to determine whether a debt is collectable and notify the BID accordingly. The BID Company will decide whether or not the debt is to be written off.

7 Procedures available to the Council for enforcing payment of the BID Levy

7.1 Procedures for the enforcement and recovery of the BID Levy will be in line with the Council's enforcement procedure for NNDR and the Regulations, subject to agreed exceptions, and the Council shall comply with these enforcement procedures (where appropriate) in enforcing payment of the BID Levy against BID Levy Payers.

8 Enforcement Mechanisms in the event that the Council fails to enforce collection of the BID Levy

8.1 In the event that the Council fails to enforce payment of the BID Levy pursuant to Clause 7 the BID Company shall be entitled to:

(i) Require the Council to provide written confirmation of the action it is taking in relation to the sum which remains unpaid;

(ii) Question whether the Council has failed to use the enforcement mechanisms available to it under this Agreement to recover the sum which remains unpaid; and

(iii) Provide written notice requesting that a meeting of the Monitoring Group take place in order to achieve a solution and/or agree a strategy to recover the sum which remains unpaid such meeting to take place no later than 28 (twenty-eight) days from the date of the request.

9 Accounting Procedures and Monitoring

9.1 Within 21 working days of the end of the first quarter after the Commencement Date and every month thereafter, (subject to the correct IT systems/ software being set up and available/ready to use) for the duration of BID Term the Council shall provide the BID Company with:

(i) The rateable value for each BID levy Payer

(ii) The amount of the BID Levy for each BID Levy Payer; the amount of the BID Levy collected for each BID Levy Payer;

(iii) Details of BID Levy Payers who have not paid the BID Levy;

(iv) Details of reminder notices issued;

(v) Details of any further action taken to recover any sum unpaid;

9.2 Within one month of the start of each BID Financial Year the parties shall agree the dates when there will be meetings of the Monitoring Group and there will be at least four such meetings in every BID Financial Year throughout the term of the BID. Further meetings of the Monitoring Group may be arranged by written notice being given by either party.

9.3 At each meeting the Monitoring Group shall:

(i) Review the effectiveness of the collection and enforcement of the BID Levy;

and

(ii)- If required by either party review and assess information provided by the parties.

9.4 Within 3 (three) months after the end of each BID Financial Year (for the duration of the BID Term) The BID Company shall provide an annual report to the Council which will include information on the progress of projects undertaken and project spend by area.

9.5 The BID Revenue Account will be subject to the normal internal & external audit arrangements of the Council and the Council will make available to the BID Company and its appointed auditors such information as requested by the Company and its appointed auditors and that they are able to request under legislation and regulation

9.6 The BID Revenue Account will be subject to the normal internal & external audit arrangements of the Council and the Council will make available to the BID Company and its appointed auditors such information as requested by the Company and its appointed auditors and that they are able to request under legislation and regulation

10 Termination

10.1 Where the Council is contemplating terminating the BID Arrangements under regulation 18(1)(a) of the Regulations it shall serve written notice on the BID Company and in addition to its obligations to hold a Public Meeting, shall meet with the BID Company as soon as is reasonably practicable to discuss and review the following

(i) The basis of the Council's concerns that the BID Company has insufficient funds to meet its liabilities for that period

(ii) The level of insufficient funds

(iii) Alternative means by which the insufficiency of the funds can be remedied in accordance with regulation 18(1) (a) (i) of the Regulations and

(iv) An appropriate time frame to resolve the issue

10.2 Where the Council is contemplating terminating the BID Arrangements under regulation 18(1)(b) of the Regulations it shall, in addition to the consultation requirements contained in the aforesaid regulation 18(1)(b), serve written notice on the BID Company and shall meet with the BID Company as soon as is reasonable practicable to discuss and review the following;

(i) The service it is no longer able to provide and the reasons why the service cannot be provided

(ii) The options available to the BID Company including alternative means of providing the services

(iii) Alternative services

(iv) The time frame in which the issue is to be resolved.

11 Freedom of Information

11.1 The Bid Company acknowledges that the Council is subject to the requirements of the FOIA and the EIRs. The BID Company shall:

(a) provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and EIRs;

(b) transfer to the Council all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;

(c) provide the Council with a copy of all Information belonging to the Council requested in the Request for Information which is in its possession or control in the form that the Council requires within 5 Working Days (or such other period as the Council may reasonably specify) of the Council's request for such Information; and

(d) not respond directly to a Request for Information unless authorised in writing to do so by the Council.

11.2 The BID Company acknowledges that the Council may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the BID Company. The Council shall take reasonable steps to notify the BID Company of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Council shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

12 Data Protection

12.1 The BID Company shall comply with any notification requirements under the Data Protection Legislation and both parties will duly observe all their obligations under the Data Protection Legislation, which arise in connection with the Agreement.

12.2 Notwithstanding the general obligation in clause 12.1, where the BID Company is processing Personal Data as a Data Processor for the Council, the BID Company shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the Data Protection Act 1998; and

(a) provide the Council with such information as the Council may reasonably require to satisfy itself that the BID Company is complying with its obligations under the Data Protection Legislation;

(b) promptly notify the Council of any breach of the security measures required to be put in place pursuant to clause 12.2; and

- (c) ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the Data Protection Legislation.

12.3 The provisions of this clause shall apply during the continuance of the Agreement and indefinitely after its expiry or termination.

13 Force Majeure

13.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for twelve weeks, the party not affected may terminate this Agreement by giving fourteen days' written notice to the affected party.

14 Equalities

14.1 The BID Company shall perform its obligations under this Agreement (including those in relation to the Services) in accordance with:

(i) the Equality Act 2010 or other relevant legislation, or any statutory modification or re-enactment thereof (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);

(ii) the Council's equality and diversity policy as provided to the BID Company from time to time; and

(iii) any other requirements and instructions which the Council reasonably imposes in connection with any equality obligations imposed on the Council at any time under applicable equality law.

15 Dispute Resolution

15.1 If a dispute arises between the Council and the BID Company in relation to any matter which cannot be resolved either party may refer such dispute to the dispute resolution procedure set out in Clause 15.2 below.

15.2 In the first instance each of the Council and the BID Company shall arrange for a senior representative to meet solely in order to resolve the matter in dispute. Such meetings shall be minuted and conducted in such manner and at such venue (including a meeting conducted over the telephone) as to promote a consensual resolution of the dispute in question.

15.3 If the meeting(s) referred to in Clause 15.2 does not resolve the matter in question then the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure or any other model mediation procedure as agreed by the parties. In such circumstances the following shall apply:

15.3.1 to initiate a mediation the parties may give notice in writing (a "Mediation Notice") to the other requesting mediation of the dispute and shall send a copy thereof to CEDR or an equivalent mediation organization as agreed by the parties asking them to nominate a mediator;

15.3.2 the mediation shall commence within 28 days of the Mediation Notice being served;

15.3.3 neither party will terminate such mediation until each of them has made its opening presentation and the mediator has met each of them separately for at least one hour. Thereafter paragraph 14 of the Model Mediation Procedure will apply (or the equivalent paragraph of any other model mediation procedure agreed by the parties);

15.3.4 neither party to the mediation will commence legal proceedings against the other until 30 days after such mediation of the dispute in question has failed to resolve the dispute provided that a party shall not be prevented from taking action to protect any limitation periods;

15.3.5 the parties will co-operate with any person appointed as mediator providing him with such information and other assistance as he shall require and will pay his costs, as he shall determine or in the absence of such determination such costs will be shared equally.

15.4 This Clause 15 is without prejudice to the rights of the parties to apply for injunctive relief or to the rights of the parties in any future proceedings.

16 Confidentiality

16.1 Subject to Clause 11 the Council and the BID Company shall keep confidential and not divulge to any person without the prior written consent of the other party all information (written or oral) concerning the business affairs of the other nor any information which has been exchanged about the BID Levy Payers or Contributors or about other third parties which it shall have obtained or received as a result of operating the BID and this obligation shall survive the termination or lapse of the BID Arrangements.

17 Notices

17.1 Any notice or other written communication to be served or given to or upon any party to this Agreement to the other shall be in writing and shall be sent to the address provided for above or such substitute address in England as may from time to time have been notified by that party upon 7 days' written notice

17.2 A notice may be served by;

- Head of Paid Service Bd.*
- (a) Delivery to the ~~Managing Director for Place and Economic Development~~ at the address of the Council specified above; or
 - (b) Delivery to the BID Chairman at the address of the BID Company specified above;
 - (c) Registered or recorded delivery post to such addresses;
 - (d) Electronic Communication (provided that it is in legible form and is capable of being used for subsequent reference) to such addresses.

17.3 Any notice served shall be deemed to have been validly served or given at the time when in the ordinary course of business it would have been received.

18 Contracts (Rights of Third Parties)

18.1 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

19 Severance

19.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

19.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

20 Governing Law and Jurisdiction

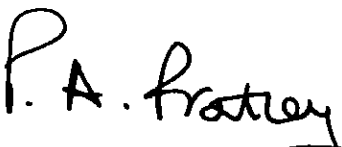
20.1 This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

Signed by the parties or their duly authorised representatives

Signed by

Name:


duly authorised for and
on behalf of
CHELTENHAM BOROUGH COUNCIL


PAT PRATLEY
HEAD OF PAID SERVICE

Signed by

Name:

duly authorised for and
on behalf of
CHELTENHAM BID LTD


TERRI BREWSTER
DIRECTOR

Appendix A

BID Levy Rules

1. Bid Term and Billing periods

The BID term will be for 5 years covering the period 1st August 2016 to 31st July 2021 inclusive. Liability for the BID levy will commence from 1st August 2016 and the billing period will be from 1st August 2016 to 31st July each year

The BID Levy is payable in one single instalment at the start of each BID Financial Year.

2. BID Levy

- The BID levy applies to all Non Domestic Rating hereditaments wholly within the BID area with the exception of exempt hereditaments:
 - those with a rateable value of less than £7,500
 - Advertising hoardings, communications masts, private parking spaces
- The BID levy rate will be 1.25% of the rateable value in the Local Non Domestic Rating List excluding those within managed centres, which would be subject to a 1% levy. At the start of the BID these are:
 - Regent Arcade Shopping Centre
 - The Brewery Quarter
 - Beechwood Shopping Centre
- Until the Late Night Levy arrangements end, hereditaments which pay the LNL will pay the normal amount of BID levy as set out above, less the amount of LNL they pay to ensure that they are not paying twice for similar services. If the value of the LNL equals or exceeds the BID Levy the BID Levy will be zero
- No discounts, exemptions or reliefs applicable to non-domestic rating other than those listed above will apply to the BID levy

3. Rateable Value and Relevant Period

The BID levy will be calculated using the rateable value for the hereditament in the current Local Non Domestic Rating List for the relevant date. The relevant date will be

- For existing hereditaments the first day of the billing period each year
- For new hereditaments the date of the alteration schedule on which the property enters the rating list and then the 1st day of the billing period each year

Where changes to the entry in the Local Non Domestic Rating List are made the relevant date will be as follows:

- Increases in rateable value – date of the alteration schedule on which the higher value enters the rating list
- Splits, mergers and other reconstitutions - date of the alteration schedule which changes the rating list
- Reductions in rateable value and deletion of entries – effective date of the entry on the alteration schedule which changes the rating list if in current billing period otherwise the 1st day of the current billing period

- For properties increasing to £7,500 and above - date of the alteration schedule which changes the rating list. For properties reducing to below £7,500 effective date of the entry on alteration schedule which changes the rating list if in current billing period otherwise the 1st day of the current billing period
- Rateable values in the 2017 Local Non Domestic Rating List will apply to the BID levy from 1st August 2017.
- Where a hereditament is deleted from the Local Non Domestic Rating List but then re-entered on a later alteration schedule with the same effective date it will be treated as not having been deleted.

4. Liability

- The BID levy will be charged to the Non Domestic Rate payer of any hereditaments within the BID area even though they may not have voted on the initial proposal
- New rateable hereditaments within the BID area created during the lifetime of the BID will be subject to the BID levy.
- Vacant or partly occupied properties, properties undergoing refurbishment and those being demolished will be subject the full BID levy, payable by the Non Domestic Ratepayer
- Where a BID levy payer is liable to pay the BID levy for less than a year the amount of BID levy will be calculated on a daily basis pro-rated to the full billing period
- Where there is a new Non Domestic Ratepayer in respect of a property within the BID area they will be liable for the BID levy from the date they become the ratepayer
- Where a Non Domestic Ratepayer in respect of a property within the BID area ceases to be liable for rates they will cease to be liable for the BID levy from the date they cease to be the ratepayer

5. Billing Collection and Enforcement of the Levy

Billing, Collection and Enforcement of the BID levy will be in accordance the legislation, rules and procedures for national non-Domestic Rating and The Business Improvement Districts (England) Regulations 2004

- The Council will issue a BID Levy demand notice to each BID levy payer
- The demand notice will request payment of the BID levy in a single instalment for the billing period which will be no less than 14 days after the date of issue of the notice
- The demand notice will assume that the BID levy payer will remain liable for the levy throughout the billing period
- The Council will issue an BID levy adjustment notice where the BID payer ceases to be liable or as a result of changes in the Local Non Domestic Rating list
- Where a BID levy payer has paid the Bid levy for all or part of the billing period and ceases to be liable to pay the BID levy or the amount of BID levy is reduced, the Council shall refund any overpayment