

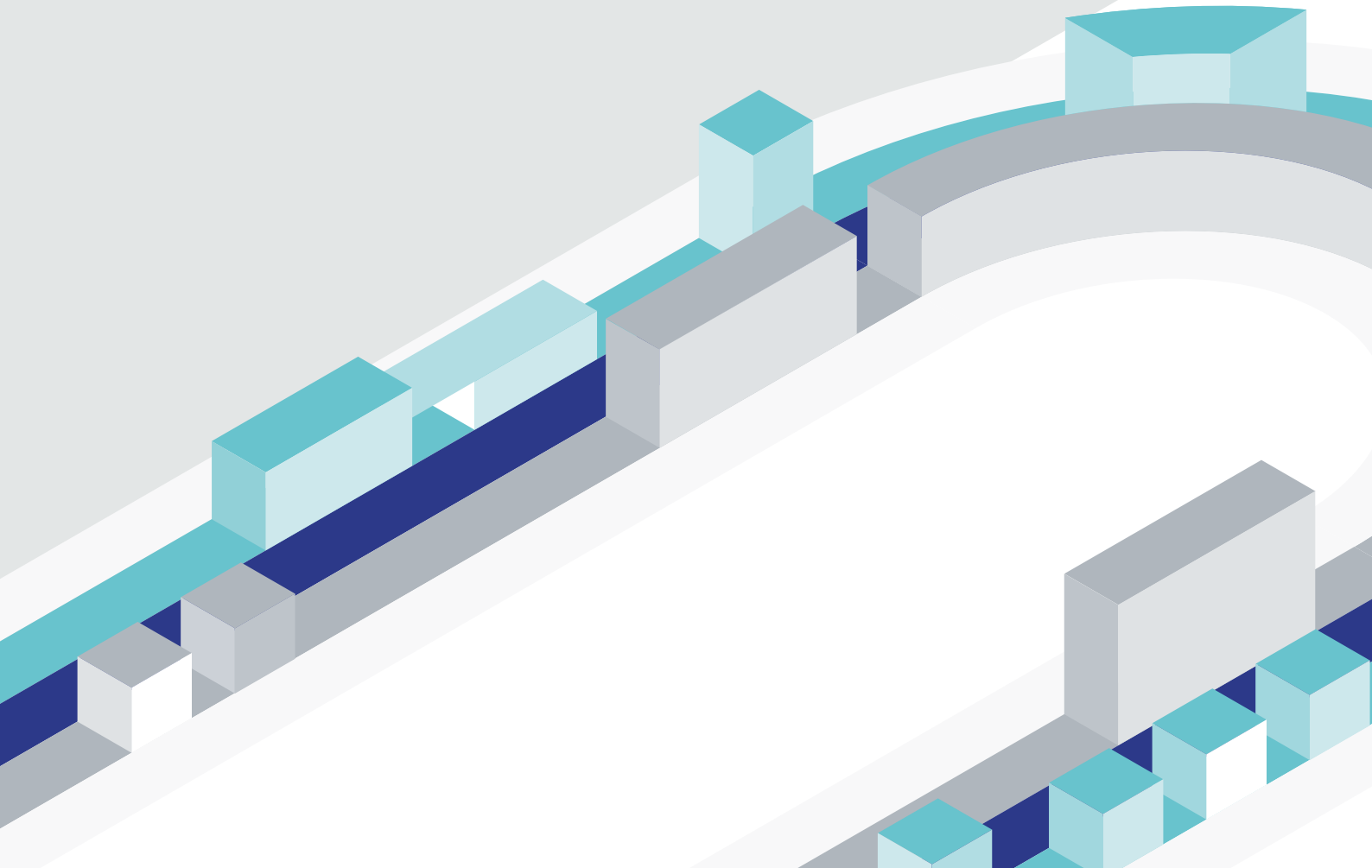
**British  
BIDs™**

Leading the BID industry

# FINANCIAL ADVICE FOR BUSINESS IMPROVEMENT DISTRICTS

UPDATED FOR COVID-19

APRIL 2020



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# Introduction

From the first moments that COVID-19 struck the UK, it was clear that it would bring major disruption to Business Improvement Districts (BIDs), to the levy payers that they serve, and to the places that they manage.

In a series of Q&A sessions attended by over 150 BIDs from around the UK major issues concerning the industry were discussed with experts. Many of these have focussed upon financial matters. Some of the responses to the most frequently asked questions form the basis of this updated advice to the industry.

# 01

## Should BIDs produce a new budget to take into account COVID-19?

**A: Yes, the crisis will almost certainly mean** that some planned projects and services cannot or should not be delivered. New, previously unplanned, projects and services may be required once recovery begins. Lower than budgeted levy income may demand a lower cost base and can affect the ability of some BIDs to meet their obligations.



# 02 Can my BID furlough staff?

**A: Yes, assuming that the conditions of the scheme are met.**

<https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>

# 03 Should my BID furlough staff?

**A: This will depend upon local circumstances,** particularly the extent to which the BID is required to continue to deliver on its priorities and its ability to do so with members of the staff team absent. A revision to the budget, and its impact on cashflow, will likely dictate any decision.

# 04 What are the conditions for furloughing staff?

**A: Simplistically, the staff must have been on the company's payroll** as at 19th March 2020 and would have been at risk of redundancy if not furloughed; they must consent to furlough; and the period of furlough must be for a minimum of 3-weeks (presently, to 30th June 2020)

# 05

## Should I review my BID's cashflow?

**A: Yes, this is as important as making adjustments to the budget.** Cashflow budgets project the movement of cash into and out of the BID's bank account. For example, VAT should be considered in cashflow forecasts, but are excluded for budgeting purposes. The value of any reserves might be required. Payment terms of bills received compared to bills issued will affect cash reserves. Specialist advice might need to be taken.

# 06

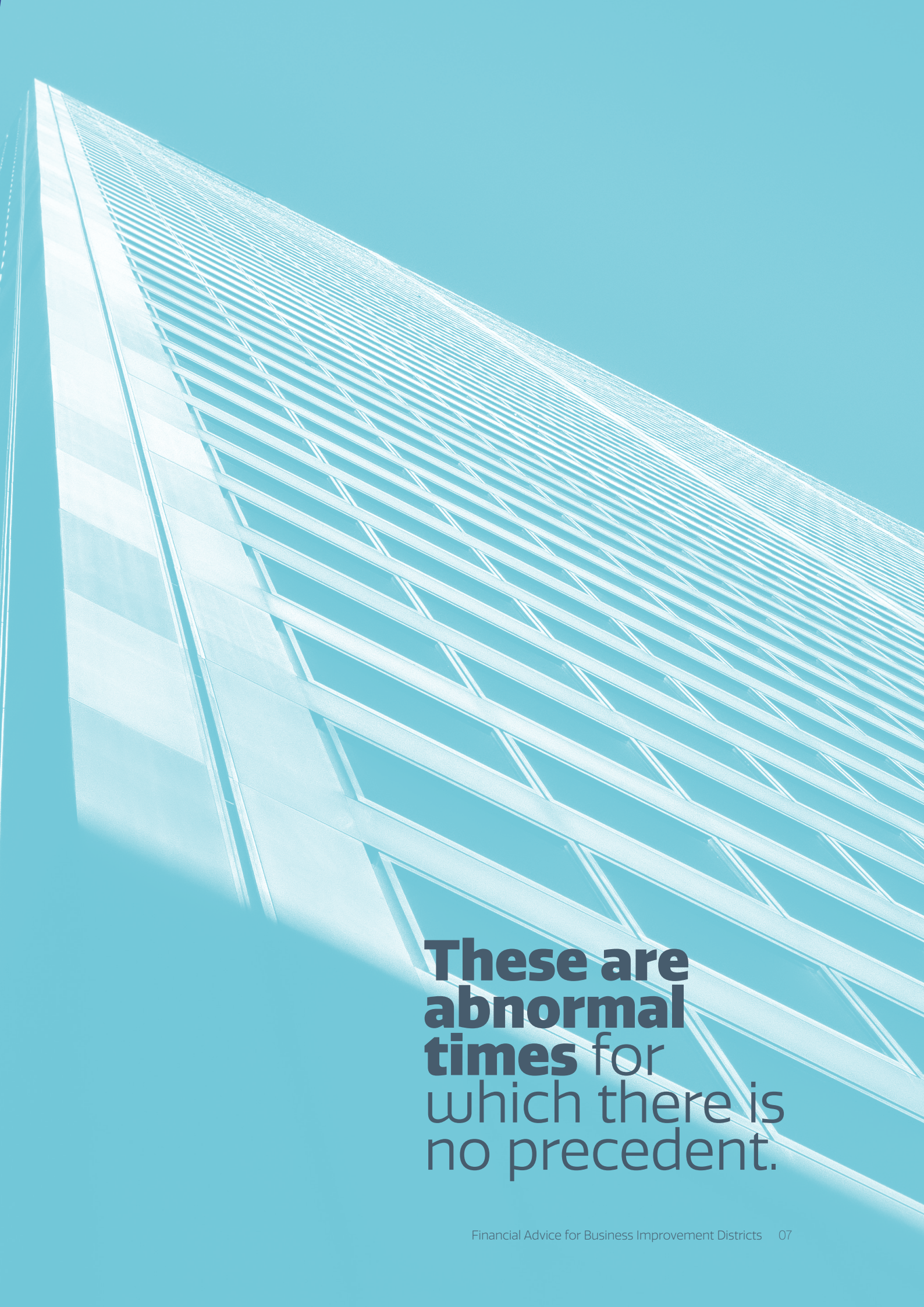
## Does furloughing staff assist my budget and cashflow?

**A: Furloughed staff can be paid 80% or more** of their normal salary or monthly earnings. The employer can apply for a grant to reclaim up to 80% of normal salary or earnings for furloughed staff, subject to a maximum of £2,500. If the employer opts to top up this amount, the effect on budget is reduced. The scheme assumes that payroll obligations are met prior to a grant application for the relevant period being made. Hence, the cashflow benefits are not short-term.

# 07

## Are there any guidelines for how much levy my BID might receive?

**A: These are abnormal times** for which there is no precedent. The answer, though, will partly depend upon the timing of your levy bills and the start of the financial period. Some BIDs, for example, have a financial year that matches the calendar year and had received most of this year's levy prior to the lock-down. It is likely to be BIDs with an April start date (or later) that will be most affected. For these, collection rates from the leisure, hospitality and retail sectors are likely to be lower than for other sectors. Some BIDs are budgeting based upon a 50% or lower collections rate from their leisure, hospitality and retail sector and 75% or higher for others.



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# 08

## Should my levy bills go out at this time?

**A: Yes, if bills are due, businesses have to be sent them.** Local authorities have to send out levy bills under the Regulations, and this can neither be deferred or ameliorated. Some businesses will want to know the amount of their bill so that they can budget to pay it in the future; others will want to pay it straightaway. BIDs should insist that their local authorities conform with their requirements of the Operating Agreement that sets out billing procedures.

# 09

## Can my leisure, hospitality and retail businesses ask to be let off their levy?

**A: The bill is owed** and needs to be paid by all levy payers.

# 10

## Can my BID agree relaxed payment terms with levy payers?

**A: No, the bill is owed to the local authority** and not to the BID. Therefore, any alternative payment terms must be agreed by the local authority. We are aware that some BIDs have agreed time-to-pay or instalment arrangements with their local authorities which should be a temporary measure only.



# 11

## Can I propose that we alter levy payment terms temporarily?

**A: Some BIDs may be considering providing relief** to some sectors or to lower levy charges. In general terms, assuming the BID has an alteration (or variation) provision contained within its BID Arrangements, modification to delivery, particularly during an emergency period such as this, would not necessitate any formal change to billing arrangements and this should be resisted. An alteration ballot would be required if the proposal is to change the BID area and/or to vary the levy in such a way that new person(s) become liable or anyone's liability increases

# 12

## What if my new budget and cashflow show that I am going to run out of money?

**A: Firstly, don't panic.** Secondly, don't worry about it on your own and involve your Board immediately. Thirdly, work through a series of priorities that might involve reducing cost further or asking your local authority to provide short-term assistance (for example, by accelerating payments due from the Revenue Account).

# 13

## At what stage might my cashflow demonstrate risks of insolvency?

**A: Technically, a company is insolvent** if its liabilities are greater than its assets or if it is unable to pay its debts as they fall due. Many companies become "technically" insolvent but manage to trade through and recover.



# 14

## How do I involve the BID Board?

**A: The Directors form the Board of the company** and primary responsibility for its trading and financial position is theirs. As soon as you become concerned about the financial security of the company the Board must be informed and full minutes of all decisions taken thereafter. The critical point for the Board is whether the company is trading “wrongfully”; that is, carrying on trading beyond the point at which the directors should have realised there was no reasonable prospect of the company being wound-up because it was insolvent because it could not meet its liabilities. If the directors allow the company to trade wrongfully, a Court can require the directors personally to contribute to the company’s funds in order for it to be able to pay creditors irrespective of their limited liability under the Company Articles.

# 15

## Have the responsibilities of my Board changed?

**A: Directors’ general duties under the Companies Act** remain in force and are, primarily, to act in the company’s best interests. If, for example, the company is in financial difficulty, this expressly includes the obligation to consider the best interests of the company’s creditors. In light of COVID-19, the government has announced that it plans to change the law temporarily to restrict any liability on behalf of the Directors in relation to companies which carry on trading while they are insolvent. The change will be backdated to 1st March 2020 and will remain in force for a minimum 3-months. Formal legislation has not yet been published.

# 16


## Can my BID access the government's COVID-19 financial package?

**A: If the BID is an incorporated entity** and a business rates payer in its own entity there may be aspects that can be accessed depending upon local circumstances.

# 17

## Should I refer to our Operating Agreement?

**A: Yes, as this is likely to set out when the majority of your income,** via the BID levy, becomes due to you. Think of it like any commercial contract setting out the obligations of one party to pay another. BIDs are primarily funded by payments made to them by their relevant billing authority under an Operating Agreement (or similar). The terms of the agreement will vary, particularly in the steps that the billing authority must take to collect the BID levy and pay it across to the BID - typically, either "pay-when-paid" or set amounts at regular intervals with a balancing exercise at the end of the year to reconcile payments with the amount of levy received.



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# 18

**Given current circumstances, my local authority is proposing to vary from the Operating Agreement – can it do so?**

**A: Unless otherwise stated or subject to a break or variation clause,** the Operating Agreement is a legally binding contract. If the authority has said it will pay a set amount (for example) every quarter, and then refuses to do so, the BID would be legally entitled to claim that money and, if necessary, to enforce the Operating Agreement by legal action. Discussions with the authority are recommended in the first instance. If both Parties agree a temporary variation, this should be documented. Both parties are recommended to take professional advice.

# 19

**My Board has decided to close the BID down until things recover – can they do so?**

**A: A company can be permanently closed down and struck off.** But in this instance, the proposal is to make the company dormant by temporarily ceasing all activity and releasing it from all financial outgoings. This will take time and involves some cost (for example, staff redundancy). In addition, contractual obligations may need to be varied. Some BID companies may cease operating permanently but, in what is predicted to be a temporary emergency, making a BID company temporarily dormant may be problematic. Firstly, a BID may be in breach of its BID Arrangements as a result of ceasing any delivery, even for a short period. Secondly, cessation of all activities risks termination proceedings by a local authority as inactivity may be seen as evidence that "...the works or services to be provided under the BID arrangements are no longer required...". Thirdly, and arguably of most importance, most businesses will be expecting their BID to be there for them as they battle and recover from this crisis.



# British BIDS<sup>TM</sup>

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