



Date: 29 April 2019

YORKSHIRE COAST BUSINESS IMPROVEMENT DISTRICT

THE BUSINESS IMPROVEMENT DISTRICTS (ENGLAND) REGULATIONS 2004 – CONSIDERATION OF VALIDITY UNDER REGULATION 9

Thank you for your letter to the Secretary of State for Housing, Communities and Local Government, enclosing a petition signed by a number of local businesses, formally objecting to the validity of the ballot result relating to the proposals for the Yorkshire Coast Business Improvement District (BID).

In accordance with regulation 9 of the Business Improvement Districts (England) Regulations 2004 (referred to as the “2004 Regulations” below), the Department has considered the material provided by you in support of the appeal. In particular, it has reviewed the signatories to the petition to determine whether the petition meets the requirements of regulation 9(4)(b). This requires the signatories to have been eligible to vote in the ballot, and for the total number of valid signatories to be at least five per cent of the number of persons entitled to vote in the ballot. Separate provisions apply where the petition has been signed by the BID proposer, BID body or the relevant billing authority.

Following a request to Scarborough Borough Council as the lead authority, the Department has been provided with the voter list that was produced for the Yorkshire Coast BID ballot. As per regulation 9(4)(b) of the 2004 Regulations, the Department has counted the number of persons contained within the voter list. Based on the information provided, the Department has determined that 1044 persons were entitled to vote in the Yorkshire Coast BID ballot. On this basis, the Department has concluded that the five per cent threshold, as defined by regulation 9(4)(b), is 53 persons.

The petition enclosed with your letter included 88 signatures. Having considered the voter list prepared for the ballot, the Department has determined that 44 of the signatories to the petition were persons entitled to vote in the Yorkshire Coast BID ballot. Of the remaining signatories, 13 were not the liable ratepayer in respect of the relevant hereditament. They were thus not entitled to vote in the ballot under regulation 8 and could not be counted towards the five per cent of the number of eligible persons required to submit a valid request for a BID ballot to be declared void under regulation 9(4)(b). There were also 19 cases where the ratepayer eligible to vote in the BID ballot had signed the petition more than once to reflect that they had an interest in more than one hereditament. However, the 2004 Regulations are clear that, irrespective of the number of hereditaments for which they are responsible, they

can only be counted as one for the purposes of regulation 9(4)(b). In addition, the businesses of 12 of the entries were not included on the voter list.

Subsequent to receiving the appeal, the Department received a representation that alleged that the voter list that had been used to determine the validity of the appeal was not accurate. It was stated that eight businesses that should have been entitled to vote had not been included in the voter list. It was also stated that six businesses that should not have been entitled to vote were included in the voter list.

The Secretary of State is able to consider a request to declare a BID ballot void only if the request meets the criteria set out in the 2004 Regulations. In the case of the appeal against the Yorkshire Coast BID, the Department must be satisfied that the appeal has been submitted by at least five per cent of the persons entitled to vote in the ballot before the merits of the appeal can be considered. The Department is satisfied that, even if it were to accept the allegations that the voter list was inaccurate, the scale of the potential changes is not large enough to take the number of valid signatories to the level of 5% required for a valid appeal. Given this, the Department has not formally considered the arguments set out in the letter since a valid appeal has not been submitted.

For the reasons set out above, the Department has concluded that the total number of valid signatories is less than five per cent of the number of persons entitled to vote in the ballot. Under regulation 9 of the 2004 Regulations, the Department has decided that the petition submitted with your letter does not meet the criteria for a valid appeal as set out in regulation 9. The Department will therefore take no further action on the case. This letter has been copied to Scarborough Borough Council, East Riding of Yorkshire Council and the Yorkshire Coast BID body.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter Bates', written in a cursive style.

Peter Bates