SESSION 2000/2001 SEVENTH REPORT

COMMITTEE FOR FINANCE AND PERSONNEL

Report on the Inquiry into the use of Public Private Partnerships

VOLUME 3 — WRITTEN SUBMISSIONS — PART II

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COMMITTEE FOR FINANCE AND PERSONNEL

POWERS

The Committee for Finance and Personnel is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Standing Order No. 45 of The Northern Ireland Assembly. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Finance and Personnel and has a role in the initiation of legislation.

The Committee has the power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
- call for persons and papers;
- initiate enquires and make reports;
- consider and advise on matters brought to the Committee by the Minister of Finance and Personnel.

MEMBERSHIP

The Committee has eleven members, including a Chairperson and Deputy Chairperson and a quorum of five members.

The membership of the Committee since its establishment on 29 November 1999 is as follows:

- Mr Francie Molloy (Chairman)
- Mr James Leslie (Deputy Chairman)
- Mr Alex Attwood
- Mr William Bell
- Mr Seamus Close
- Mr Nigel Dodds MP*
- Mr Derek Hussey
- Ms Patricia Lewsley*
- Mr Alex Maskey
- Mr Peter Robinson MP*
- Mr Peter Weir

* Mr Oliver Gibson was replaced by Mr Dodds on 2 October 2000.

* Mr Gardiner Kane was replaced by Mr Robinson on 2 October 2000.

* Mr Donovan Mc Clelland was replaced by Ms Lewsley on 15 January 2001.

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A	Sean Boyle, King’s Fund, London School of Economics
A	Prof Stephen Glaister, Imperial College London
A	Transport 2000
A	Professor Austin Smyth,Transport Research Institute NI
A	Professors Jane Broadbent, Richarsd Laughlin, University College London
CG	Department of Culture Arts & Leisure
CG	Department of Education
CG	Department of the Environment
CG	Department of Enterprise Trade & Investment
CG	Department of Finance & Personnel
CG	Department of Health Social Services & Public Safety
CG	Department of Higher & Further Education, Training & Employment
CG	Department for Regional Development
CG	Department for Social Development
CG	Northern Ireland Audit Office
GBCG	4 Ps
GBCG	National Assembly for Wales
GBCG	National Audit Office
GBLG	Dorset County Council
GBLG	Leeds City Council
GBLG	London Borough of Camden
GBLG	London Borough of Harrow
L	L’Estrange and Brett
NDPB	Altnagelvin Hospitals HSS Trust
NDPB	Belfast City Hospital Trust
NDPB	Belfast Institute for Further & Higher Education
NDPB	Council for Catholic Maintained Schools
NDPB	Eastern HSS Board
NDPB	Eastern, Northern, Southern and Western HSS Councils
NDPB	Homefirst HSS Trust
NDPB	Northern Ireland Housing Executive
NDPB	North East Education & Library Board
NDPB	North West Institute for Further & Higher Education
NDPB	Royal Group of Hospitals HSS Trust
NDPB	St Geneveive’s High School
NDPB	South Eastern Education & Library Board
NDPB	Southern Education & Library Board
NDPB	Southern HSS Board
NDPB	South & East Belfast HSS Trust
NDPB	United Hospitals HSS Trust
NDPB	Western HSS Trust
NDPB	Western Education & Library Board

Category	Individual / Organisation
PS	Business Services Association
PS	Compass Plc
PS	Confederation of British Industry (NI)
PS	Construction Employers Federation
PS	Jarvis Plc
PS	Major Contractors Group
PS	Northwin Consortium
PS	PricewaterhouseCoopers
SDC	Committee for Higher & Further Education, Training & Employment
U	Irish National Teachers Organisation
U	National Association of Teachers in Further & Higher Education
U	Northern Ireland Public Service Alliance
U	UNISON

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
LONDON BOROUGH OF HARROW

20 April 2001

PFI PROJECTS

Summary

This paper sets out the experiences to date of the London Borough of Harrow, in Private Finance Initiative (PFI) projects. The paper initially sets out a summary of the schemes already in contract and those being worked up.

It sets out general responses to the Request for Information (1). It should be noted that these are officer responses and not necessarily those of the Council.

The paper describes in greater detail the features of the two projects under contract with separate responses for each project to the Request for Information (2).

Introduction

Harrow has been very active in pursuing PFI projects, having 2 of the initial 4Ps pathfinders:

- an Information Technology (IT) project in the Revenues and Benefits
- a replacement Social Services residential/day care facility

and a pathfinder project for a voluntary aided school directly supported by the Private Finance Executive.

The first two are now in contract and payments commenced in 1999-2000, but regrettably the promoters decided not to proceed with the PFI Route for a Voluntary Aided School at the Best and Final Offer stage.

We have received Treasury approval to a further Social Services and Residential Care Project. We have been short-listed for an Education Special Needs Project, have an outstanding bid for the Joined Up Funding and are also actively progressing an Education maintenance and facilities management project.

This is a very diversified portfolio and by the very nature of some being pathfinders teething troubles have been encountered.

Responses to Request for Information (1)

1. Delivering services at best value ie additional services, higher quality services or more efficient services than the public sector. The risks should be borne by the party best able to meet them. In areas such as cutting edge IT, it will usually be the case that the supplier knows far more than the client and it is therefore appropriate that they take this risk. Linked to this is the issue of being able to benefit from partnership working – using the best placed organisation to take on that element and that risk eg the provider take the risk of getting the IT right so that it has the potential to deliver savings – and the local authority keep the job of managing the staff to work with the technology and delivery. The identified benefits to the public are around the financial benefit of the risk transfer and the fact that the best placed organisation is being used to deliver the service.

2. Key factors are being willing to enter into genuine partnerships, willing to think in new ways (not just apply traditional ways of procuring to PFI contracts). It is essential to have a robust business case. The client needs to know exactly what is wanted from the project at the outset, but is also willing to be willing to be influenced on issues that are not fundamental. There is a need for a well structured agreement.

3. Local authorities generally require the revenue support through PFI credits. These are rationed by sponsoring departments who need to seek innovatory projects that can be replicated. However there appears to be low priority given when an authority seeks to replicate a scheme. There appears to be an over-reliance on consultants where there is a limited market.

PFI contracts are required to follow the Negotiated Procurement procedures. This had a significant impact on the culture of the authority in respect of Standing Orders and Financial Regulations.

Although PFI guidance suggested that ideally to provide the necessary element of competition the identification of the preferred bidder should be delayed as long as possible and a reserve bidder should remain in the process, this has been considered to be impracticable. Dealing with one bidder up to Best and Final Offer has been found to be very time consuming. The commitment of the “reserve” to the process must be very questionable.

No grant aid is generally available for procurement costs except in certain cases for Education schemes. These costs can be substantial where extensive use of consultants is made. This has been exacerbated by the Accounting Code of Practice that prevents these costs being deferred and treated as capital.

The system is intended to place the authority in a similar position as to that under the normal procurement route. There is therefore a significant mismatch of Grant aid with the payment stream.

4. PFI through PFI credits enable local authorities to access government resources that would otherwise not be available eg a new library. The strategic priority of this expenditure may be less than for other developments where PFI credits are not available. Success in seeking PFI may be a driver of priorities. Resources should be allocated on need and local priorities rather than innovatory schemes.

5. The social factors should not differ from those taken into consideration in making investment decisions through the traditional route.

6. Alternative private/public partnerships where the transfer of risk is not an overriding consideration and resources are made available together with government support to the financing costs.

7. PPP/PFI should be taken forward on the basis of need using the best placed organisation to deliver the service. Risk should only be transferred when the private sector is best placed to meet the risk. The transfer of risk to keep the assets from the balance sheet is not always the best solution as risk is being factored into the price although it is unlikely to occur.

8. The continuation of the traditional procurement route and partnership funding with government support towards the revenue funding costs.

9. The economic basis of PFI appears to be to limit direct capital expenditure and thus the size of the public balance sheet.

10. The use of the Public Sector Comparator is a suspect value for money indicator if the justification of pursuing the PFI route is dependant on a spurious value of the risk being transferred.

Document Imaging and Workflow

This project is to equip the Revenues and Benefits Services in Harrow with the latest technology. Image and Workflow systems assist the efficient handling of paper work and are particularly useful in areas where there are repetitive tasks and the need to retrieve papers on a regular basis.

Harrow is buying a service rather than a system but are receiving a PFI credit. It is a real partnership with

- shared goals
- shared risk
- shared reward

The deal is structured in such a way that payment of the annual fee is dependant upon the ability to make the savings that the provider has identified as being possible. An acceptable level of savings must be achieved before a penny is paid. Additional annual savings are built in with these being shared between the parties. Both parties have the incentive to increase savings and failure to deliver additional annual savings will incur penalties. The savings identified by the preferred bidder are 250% of the proposed initial cost although the deal is structured to enable the provider to benefit from a greater percentage of future savings.

Response to Request for Information (2)

1. The output objectives were clearly stated and objectives were output based on giving the opportunity for the Council to make staff reductions through greater efficiency. The Council was careful not to stipulate how these requirements were to be met.

2. An outline of the output specification was drawn up initially and this was firmed up following detailed discussions with suppliers at the market solution stage.

3. The market solution stage was one of the main features of the project. There were frank discussions with the suppliers to achieve the following objectives:
   - the development of the output specification
   - to determine the market was willing to bear sufficient risk
   - to ensure the prospective bidders had a good understanding of the services the Council wanted.

4. The main areas of risk transfer are:

Risk Type	Responsibility
Design and Supply Risk	Contractor 100%
Commissioning and Operating Risk	Contractor 100%
Demand, Usage Risk	Contractor 100% within agreed Limits
Residual Value Risk	Contractor 100%
Technology/Obsolescence Risk	Contractor 100%
Intellectual Property Rights Risks	Contractor 100%
Legislation/Regulator Risks	Major – Council 100% Minor – Contractor 100% within agreed limits
Project Financing Risk	Contractor 100%

In relation to IT hardware the requirements were not specific. The Council were therefore not exposed if the equipment was under specified. In areas such as cutting edge IT, it will usually be the case that the supplier knows far more than the LA and it is therefore appropriate that they take this risk.

5. The main criteria were the ability to make savings which were reflected in the price, the solutions offered and the willingness of the provider to work in partnership.

6. The need to improve the service and make reductions in staffing and other costs.

7. A public sector comparator was constructed based on the Council's in-house solution.

8. The project team consisted of the Council's Head of Financial and Exchequer Services who led the procurement process assisted by the Client Monitoring Officer, and representatives of the legal, financial and IT services. External legal advisors were appointed early in the process to work with the Council's in-house legal staff. Technical consultants were appointed with the specific task of producing a report for the team to evaluate the IT technical aspects of the Best Negotiated Prices submitted.

9. The main contractual issues such as liability and the charging mechanism were developed in the market solution stage and fine tuned in the contract negotiations.

10. The procurement timetable took approximately 9 months from the OJEC advertisement to the signing of the contract.

11. The project is being funded from the effect of the staff savings and a government support for the capital costs.

12. The performance measures are out-put orientated. The payment to the contractor is based on the Council and the provider sharing the cost savings.

13. The assumptions in the business case were consistent with the outcome. The provider considered his cost assumptions to be commercially sensitive and these were not provided as the payment mechanism is based on the ability to make savings.

14. The number of claimants has been lower than forecast.

15. There are significant penalties for failing to meet the performance measures in addition to the payment being based on the achievement of savings.

16. The financial risks were factored into the price but were difficult to evaluate because of the structure of the deal.

17. The PSC was of little relevance to the deal other than to demonstrate that the cost of the PFI solution based on certain assumptions as to the level of savings was less.

18. No details have been made available. It is understood the capital costs are being funded internally.
19. It is considered that the contract is very robust.
20. Please see earlier response.
21. There are no TUPE implications.

22-25. There are no Property or construction implications.

Social Services Residential Homes/Day care facilities

The Council received pathfinder status for the redevelopment of one of its residential/day care establishments for the elderly. The PFI provider is a housing association in partnership with a care provider.

The PFI route has shown significant benefits to Harrow:

- lower unit cost of provision as compared to in-house provision
- access to the residential allowance only payable to the independent sector clients
- generation of a PFI credit
- future price increases limited to an inflation index
- a guarantee of only taking up 75% of the available beds the others being on a first refusal basis

Responses to Request for Information (2)

1. Objectives were established based on needs ie the provision of residential and stay care facilities. Output specification may have been more input based than later projects.
2. Reality is consistent with the specification requirements.
3. Interested social housing providers had been identified prior to formally seeking expressions of interest and tender submissions were limited to these providers. There was limited areas of innovation in the project.
4. There are major transfers of risk to the provider. Risk transferred into the contract allows for more than 40% to be transferred to provider under the terms of the contract structure test.
5. The major evaluation criteria were experience of providing the care facilities, proposals for providing the care, facility management proposals, a satisfactory operational design and price including the usage abatement. The Council is contracted to take up 75% of residential places with first refusal on the other places.
6. The need to replace the existing facilities without the involvement of profit distributing care home companies.
7. Public Sector Comparator was based on the Council providing the facilities by the traditional borrowing route although capital resources were not available.
8. The Council Project Team consisted of members of the Social Services Team that led the project supported by advisers from the Finance, Legal and Technical departments. No external professional advisers were used by the Council. The provider used advisers for financing legal, valuation, due diligence and business advisers.
9. The key contractual issues were identified during the negotiated tender procedure.
10. The procurement timetable and negotiations took longer than originally expected.
11. The Council is receiving support through the PFI Credit and by being able to access Residential Care Allowances achieved by moving from direct provision of care services to commissioning on a contact basis. Provider is being funded by a bank through provision of limited recourse facilities so that the scheme is not subsidised by the main stream housing.
12. Requirements were considered to be appropriately out-put orientated. To date all performance measures have been met and there had been no recourse to the penalty mechanism.
13. The estimates were below those used when compiling the business case.
14. The Council has to date taken up all places that are available.
15. No payment reductions have been triggered off by the performance measurement system.
16. As an early PFI scheme the financial model prepared by the provider who is a registered social landlord was limited. Although he stated the full financial risks had been factored into his price there was limited evidence in evaluating the offer that this was the position.

17. In this case the Public Sector Comparator costs relative to the bid was of limited use other than to demonstrate that the provider was able to provide the buildings, the facilities management costs and the care facilities at a significantly lower cost than direct provision by the Council. Experience on this and other PFI projects identifies the particular difficulty of comparing like with like eg life cycle costing. Our experience indicated a limited data base at both government departments and within the authority.

18. The funder was introduced late in the process and no details are available as to the financing arrangements. There were no legal difficulties arising from this introduction.

19. The transfer of risk is so great, ie penalties could amount to 22% of the contract price, that it is expected that full enforcement of the contract could prove difficult.

20. All major risks have been transferred including the take up of 25% of the placements in residential.

21. TUPE applied to the contract and a number of staff transferred.

22. The property was sold to the provider at market value and will not revert back to the Council at the end of the contract. The sale proceeds were used to reduce the PFI credit that was requested.

23. The tender obtained by the provider for construction costs was significantly below the estimated cost of Council provision reflected in the PSC.

24. The completed works matched the specification except where variations were requested by the Council. The agreement provided for the Council's clerk of works to have the right of inspection. This could create accountability issues. However although there was an agreed procedure for dealing with any major issues, no intervention was required. The Council therefore received what we had been sold in the ITN. It is difficult to say whether the situation would have been different if we had not carried out these inspections.

25. No project evaluation report has been completed.

Tony Redmond
Chief Executive and Director of Finance

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
L'ESTRANGE BRETT

1. BACKGROUND

1.1 L'Estrange & Brett is recognised as one of the leading law firms in Northern Ireland and has been in existence since 1796. Today it is a modern practice geared to the demands of a fast moving business environment, and with 30 solicitors and a total number of partners and staff of around 70 is one of the largest commercial law firms in Northern Ireland.

1.2 As a firm we are committed to providing clients with the best professional advice and support available in the Northern Irish market. We believe that the number and depth of experience of solicitors in the firm gives us the ability to provide a targeted cost effective and quality service in relation to Public/Private Partnership (PPP) and Private Finance Initiative (PFI) projects.

1.3 Based in Belfast, the firm has established contacts with many of the premier UK firms and in 1999 entered a formal association, the North South Legal Alliance, with one of Dublin's leading law firms, McCann FitzGerald. One of the key drivers for the Alliance was the increasing demand for advice on infrastructural projects both north and south.

2. RELEVANT EXPERIENCE

2.1 We have been fortunate to be involved in PFI and PPP work since its inception in Northern Ireland and believe that we have gained unique experience amongst local law firms in this area. In the last few years the firm's projects unit has advised on public sector projects, including PFI and PPP projects, with a total value in excess of £1 billion. Our experience covers a range of projects across a variety of sectors including education, health, courts, transport, waste, water and leisure. We enclose a separate summary of the projects with which we have been involved, which is a roll-call of many of the major projects completed in Northern Ireland in recent years.

2.2 Drawing on experience gained in Northern Ireland we have combined resources and expertise with McCann FitzGerald to advise the Irish Department of the Environment and local government on the PPP framework for the roads, water and waste sectors in the Republic of Ireland.

3. GENERAL COMMENTS ON THE PFI/PPP PROCESS

3.1 For reasons of client confidentiality we are not able to comment on the details of specific projects with which we have been involved but are able to provide comments based on our experience under the following headings:-

- potential benefits of the PFI/PPP process;
- success factors in future projects from a legal perspective.

4. POTENTIAL BENEFITS OF THE PFI/PPP PROCESS

4.1 Many of the benefits which have been ascribed to the PFI/PPP process are not strictly legal matters. For example since the inception of PFI under the last Conservative Government to the advent of a broader based PPP framework under the current Government, there has been an underlying assumption that PFI/PPP is a mechanism through which the public sector can achieve value for money in partnership with the private sector. Whether this is true in terms of hard economics remains to be seen, but there are a number of positive benefits to be derived from the process which enhance the broader value for money equation.

4.2 Perhaps the most important of these benefits is the ability to address the infrastructure deficit in Northern Ireland more quickly than could ever be the case if traditional procurement and funding methods were used. There is no doubt that the projects completed to date have faced difficulties and have taken longer to complete than would ideally have been the case, but having been involved in a number of these projects, we fully expect that the lessons learned will help to speed up the process as more projects come on stream. Equally the creation of a viable and sustainable "deal flow" will encourage more players into the market.

4.3 Again although it is not strictly a legal issue, projects completed to date have demonstrated that the private sector can bring innovation to bear to address public sector requirements. In addition, because of the direct financial penalties which private sector operators are likely to face for substandard levels of service, the private sector should enhance discipline and levels of service in infrastructure projects.

4.4 When judged against more conventional procurement methods the whole-life approach dictated by most PFI/PPP structures ensures that private sector operators are required to take a stake in the whole life cycle of an asset rather than just its design and construction.

5. SUCCESS FACTORS IN FUTURE PROJECTS FROM A LEGAL PERSPECTIVE

5.1 Some of the early successes in PFI/PPP have been in the health and education sectors, where the legislative framework already provided the contracting authorities with the appropriate capacity to carry forward projects. In other sectors, for example, local authorities, this may be more problematic. Consideration should be given to ensure that all contracting authorities have the necessary legal powers and capacity to enter into PFI/PPP schemes in sectors where there is a need to carry projects forward.

5.2 There is no doubt that PFI has been a learning curve for all stakeholders and interested parties. On the public sector side the existence of dedicated full-time teams with responsibility for individual projects would greatly assist in providing a consistent point of contact throughout the procurement process.

5.3 To date there has been heavy reliance on consultants and other advisers from Great Britain. There seemed to be an assumption in the early days of PFI that local expertise was not available to meet the public sector requirements. Even if that was true in the past it is surely no longer the case and it would seem sensible for the public sector to demonstrate its faith in local advisers and consultants who, after all, have a more direct interest in securing a successful outcome for projects.

5.4 There is no doubt that early projects here sometimes created the impression of reinventing the wheel in terms of the contract documentation. The moves from the Treasury Task Force to standardise contract terms and the development of sector specific terms in a number of areas has proved beneficial and is, undoubtedly, the way forward if the procurement process is to be speeded up.

5.5 In the specific case of accommodation projects there are a number of elements of preparatory work which could be carried forward on most projects and which would serve to speed up the process. For example, the awarding authority should fully investigate the title to affected land at the project planning stage and, if necessary, should consider vesting affected land.

Difficulties in the title to some sites has delayed projects to date.

5.6 Equally, it would be extremely beneficial if outline planning permission could be sought at the project planning stage. Once again, delays in the planning process have held up a number of projects in this area. Closer integration and co-operation between Government departments would greatly assist. More structured linkages between interested parties such as planning service, roads service, relevant awarding authority etc. would allow planning issues to be dealt with on a more collective basis thereby reducing procurement times.

5.7 Finally, early and close consultation with stakeholders on the employee side of projects is to be recommended. There has no doubt been significant unease amongst trade unions and others about the broader implications of PFI/PPP projects in the delivery of public services. On this broader point it needs to be understood that the procurement of services and assets via PFI/PPP projects does not and should not connote an abdication of responsibility by the public sector. On the narrow point of addressing the direct concerns of affected employees, the combination of the protection afforded by the TUPE Regulations and the now standard stipulation regarding the continuity of pension rights should help to allay concerns of public sector employees about being moved into the private sector.

6. FURTHER INFORMATION AND CONSULTATION

We would be pleased to meet with the Committee to discuss any of the issues referred to above further and indeed, subject to prior client approval, to discuss any aspects of specific projects with the Committee.

ANNEX

Private and Confidential

SUMMARY OF PFI, PUBLIC/PRIVATE PARTNERSHIP AND PROJECT FINANCE EXPERIENCE

APRIL, 2001

Over the last few years L'Estrange & Brett's Project Unit has advised on a variety of projects with a combined value exceeding £1billion. Some of these include the following:

Sector	Sponsor/Project	Client	Firm's Involvement	Capital Value
Courts	Belfast Courts Project	Consul Services (NI) Limited	We acted for the successful bidder, Consul Services (NI) Limited, in the Belfast Courts project for the construction and operation of a new court complex at Oxford Street, Belfast, and the disposal of associated surplus land; the bidding consortium comprised Jarvis plc, Karl Construction Limited and Northern Builders.	£29m
Courts	Northern Ireland Courts Service	Jarvis Projects Limited/Consul Services (NI) Limited	We are advising the Consortium bidding to design, build, finance and operate new accommodation for the Northern Ireland Court Service.	Unknown
Education	North West Institute of Further & Higher Education	Northwin Consortium	The firm acted for Northwin Limited, the successful bidder in this project for the construction and operation of a new educational facility for the North West Institute in Derry and the disposal of associated surplus land. The Northwin Consortium comprises three of Northern Ireland's leading construction companies, namely Farrans (Construction) Limited, John Graham (Dromore) Limited and Braidwater Enterprises Limited.	£8m (approx)
Education	Wellington College, Belfast; Balmoral High School	Northwin Consortium	We also acted for the Northwin Consortium in connection with this project for the construction and operation of two new schools at Wellington College, Belfast and Balmoral High School. In fact this is two separate projects which have been "bundled together" and is the first successful bundled project in Northern Ireland. Northwin was selected as the preferred bidder and financial close was achieved in October, 2000. Construction of the new accommodation is well under way.	£18m (approx)
Education	Drumglass High School	Northwin Consortium	The firm acted for Northwin which was one of the unsuccessful short-listed bidders in this school's project. The firm subsequently advised the Account Bank on security documentation.	£6m (approx)
Education	St Genevieve's High School	Northwin Consortium	The firm acted for Northwin which was one of the unsuccessful short-listed bidders in this school's project.	£10m (approx)
Education	St. Genevieve's High School	O'Hare & McGovern	The firm acted for O'Hare & McGovern Limited, one of the successful Consortium's Shareholders and Building Contractor. Financial close was achieved in August, 2000. Construction of the new accommodation is well under way.	£10m (approx)
Education	Belfast Institute of Further & Higher Education	Northwin Consortium	The firm acted for the Northwin Consortium, the preferred bidder on this accommodation project for the Belfast Institute which reached financial close in July, 2000. Construction of the new accommodation is well underway.	£23m (approx.)
Education	Springvale Project	Belfast Institute for Further and Higher Education	We act for the Belfast Institute of Further & Higher Education in connection with the development of a major joint educational campus by the Institute and the University of Ulster in a socially deprived area of West Belfast. We also act (jointly) for the special purpose company, Springvale Educational Village Limited, established to carry out the procurement of the campus. This has involved developing the structure to carry forward this innovative project, one of the first of its kind in the UK.	£90m (approx)
Health	Royal Victoria Hospital HSS Trust Car-Park	Royal Victoria Hospital HSS Trust	The firm acted, along with Lovell White Durant, as the Trust's advisers in this the first PFI project signed in Northern Ireland for the construction and operation of a multi-storey car-park at the Royal Victoria Hospital site by the successful bidder, Car-Park Services Limited.	£2.5m (approx)
Health	Construction of a new acute services hospital in Downpatrick, Co Down	Down Lisburn HSS Trust	Once again we acted with Lovell White Durant on behalf of the Trust in connection with this project for the construction and operation of a new acute services hospital in Downpatrick. Following evaluation of the short-listed bids it was decided not to proceed via a PFI solution.	£14m (approx)

Sector	Sponsor/Project	Client	Firm's Involvement	Capital Value
Health	Construction and operation of a renal dialysis unit	Belfast City Hospital HSS Trust	The firm acted with Lovell White Durant on behalf of the Trust in this project for the construction and operation of a renal dialysis unit at Belfast City Hospital. The contract was awarded to the Graham/Gambro consortium.	£3.5m (approx)
Health	Belfast City Hospital HSS Trust multi-storey car-park	Farrans (Construction) Ltd/ Dunloe Ewart plc	The firm acts for the preferred bidder, a consortium made up of one of Northern Ireland's largest construction companies and one of Ireland's largest property developers.	£3m
Health	Belfast City Hospital HSS Trust Cancer Centre	Jarvis plc	The firm acted for Jarvic plc and Siemens Healthcare Services Limited, one of the unsuccessful short-listed bidders in this hospital project. The firm has since been retained to act for the Trust on property and related Northern Irish legal matters.	£35m (approx)
Health	Royal Group of Hospitals	Siemens HS Limited/J Graham (Dromore) Limited	We are advising one of three short-listed bidders in relation to the provision of a new Imaging Centre at the Royal Victoria Hospital.	Undisclosed
Health	Altnagelvin Hospitals HSS Trust	Jarvis plc	We are acting for Jarvis plc in this project. Pre-qualification documentation has been submitted.	£9m (approx)
Transport/IT	Driver Vehicle Testing Agency (Department of the Environment)	Romaha Limited	We advised Romaha Limited, a joint venture between Rotary Group Limited and Maha GmbH (Germany) in connection with this project for the upgrading, operation and maintenance of all driver vehicle test centres in Northern Ireland. Financial close was achieved in March, 2001.	£14m (approx)
Water	New sewage treatment works at Kinnegar, Co Down (Department of the Environment)	Coastal Clearwater Limited	Together with Linklaters & Paines we acted for Coastal Clearwater Limited which was awarded the contract to build and operate a new sewage treatment works at Kinnegar, Co Down. Coastal Clearwater is a joint venture between Hyder plc (formerly Welsh Water plc) and one of Northern Ireland's most successful corporates, the Lagan Group. Our advice covered all aspects of the property and environmental issues involved, as well as the Consortium arrangements.	£12m
Water	New water treatment works at Quoile and Silent Valley Reservoirs (Department of the Environment)	HLP (NI) Limited	The firm acted as advisers on Northern Irish aspects of the funding and security arrangements for this project.	Undisclosed
Waste	Eastern Region Waste Management Strategy	Eastern Region Waste Management Group (11 District Councils)	The firm is part of an advisory team providing advice to public sector bodies in Northern Ireland in connection with the implementation of a waste management strategy required under European law. The firm is currently advising on possible contractual structures and the Councils' legal capacity to procure certain types of projects.	Undisclosed
Waste	Down District Council Landfill Site Disposal and Services Provision	Down District Council	The firm is advising Down District Council on the procurement of waste management services and the options available to it in relation to one of its existing waste landfill sites.	Undisclosed
Tourism/ Leisure	Ulster Folk & Transport Museum: New Visitors' Centre (Department of Education)	Ulster Folk & Transport Museum	The firm acted as advisers to the Museum in connection with this project for the construction of a new visitors' centre at the museum in Cultra, Co Down. Following evaluation of the short-listed bids the project did not proceed by way of a PFI solution	£2m
Tourism/ Leisure	Hilton Hotel, Belfast	Laganside Corporation and NITB	The firm advised Laganside Corporation in negotiation of the grant funding package for the construction of the Hilton Hotel at Belfast's Lanyon Place.	Grant value – £6m
Tourism/ Leisure	McCausland Hotel, Belfast	Laganside Corporation	We also advised Laganside Corporation on its grant funding package for the McCausland Hotel in Victoria Street, Belfast which has been developed by Landmark Hotels Limited.	Undisclosed

Sector	Sponsor/Project	Client	Firm's Involvement	Capital Value
Tourism/ Leisure	Odyssey Millennium Project	Farrans (Construction) Ltd, Gilbert Ash (NI) Ltd	We advised the main contractors, Farrans (Construction) Limited and Gilbert Ash (NI) Limited in connection with Belfast's Odyssey Millennium project for the construction of a new arena and associated landmark facilities in Belfast Harbour.	£90m
Tourism/ Leisure	Odyssey Millennium Project	Laganside Corporation	The firm also acted for Laganside in its grant funding to the Odyssey Millennium Project.	Grant Value -£10m
Tourism/ Leisure	Armagh City Hotel	Dunadry Hotels Group	We acted for the Dunadry Hotels Group in their role as both consortium members and Hotel Operator in the new NITB funded Armagh City Hotel project.	Undisclosed
Defence	Waldorf I	Jarvis plc, Rotary Group Limited, Northern Builders	We represented Centurion Services (NI) Limited one of the short-listed bidders in the Ministry of Defence accommodation project.	Undisclosed
Defence	Waldorf II	Jarvis plc	We also represented Jarvis in the second MOD PFI project in Northern Ireland. The project is currently on hold.	Undisclosed
IT/Health	Royal Victoria Hospital HSS Trust	Bull Information Systems	We assisted D J Freeman in advising in connection with the award of a contract to develop a computer system for Belfast Linklabs.	Undisclosed
IT	Glasgow City Council	SX3	We have advised SX3 on its bid to provide IT services to Glasgow City Council.	Undisclosed
Inland Revenue/ Customs & Excise	STEPS: Transfer of the Property Estate to the Private Sector	Halifax plc	We are acting as Northern Irish legal advisors to Halifax plc in connection with the proposed transfer of the Inland Revenue/Customs & Excise property portfolio in the United Kingdom to the private sector. Halifax are providing funding to the preferred bidder.	Undisclosed
Energy	Refinancing of Kilroot Power Station	Kilroot Electric Limited	A number of years ago the firm acted as Northern Irish legal advisers to Kilroot Electric Limited, the issuer, in a bond issue to re-finance debt incurred in the acquisition of Kilroot Power Station, which was originally undertaken as part of the privatisation of the generating station in Northern Ireland. The project was probably the largest of its kind ever undertaken in Northern Ireland. Linklaters & Alliance were the principal legal advisers to the issuer.	£198.5m
Energy	Confidential	Financiers	We are currently advising on Northern Irish aspects of a project to link electricity connections between Ireland and Scotland by undersea cabling.	Undisclosed

Please note the information in this summary is confidential and is not to be reproduced or disclosed to any third party without our prior written consent.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
ALTNAGELVIN HOSPITALS HEALTH & SOCIAL SERVICES TRUST

26 April 2001

I refer to your letter to Mrs Burnside dated 21 March 2001 inviting comments on Pubic Private Partnerships.

Altnagelvin Trust is currently exploring whether a PPP option can contribute to part of the planned development of the Altnagelvin hospital site. Our actual experience of PPP to date is somewhat limited and has been concentrated on the use of operating leases for the purchase of major items of capital equipment. I would however offer your committee the following comments on PPP.

The benefits of PPP for an acute hospital are likely to be achieved where a service is marketable both to the hospital and to the private or other sectors. The economies of scale, accumulation of expertise and more easy access to capital resources for ongoing investment should be mutually beneficial with hospital gaining through lower running costs and service modernisation. As the expertise in acute hospital acute clinical services is mainly in the public sector and due to the increasing focus on clinical governance issues I believe investment in clinical services should not be subject to PPP consideration. The remaining non-clinical services could potentially benefit through a PPP solution and the business case for capital investment in any of these services should explore the merits of PPP as part of the option appraisal process. The key considerations to be borne in mind when evaluating a business case for PPP should be:

1. The cost of expert financial and legal advice needed to Evaluate a PPP option can be considerable. Significant negatory expenditure could be incurred if inappropriate schemes are subjected to PPP testing. Experience gained from previous schemes should be used to determine which type of scheme should not be tested. Important lessons could be learned and disseminated throughout the public sector by evaluating those schemes that were unsuccessful in attracting a PPP solution. This evaluation would best be carried out by a central expert team responsible for providing guidance and advice on PPP issues.
2. Schemes below a certain value would be unlikely to attract sufficient private sector interest and should be exempt.
3. The vexed question of funding and affordability needs to be resolved. The implications for both the capital and revenue funding streams need to be considered. Where capital funds are managed independently from revenue funds there is likely to be a conflict of interest whenever PPP proposals come forward for affordability consideration. It is essential that the rules governing decisions on affordability consider the overall funding impact of the scheme on the level of service provision, over the life of the scheme.
4. Schemes which can attract PPP funding should only be approved if their purpose is consistent with regional strategy and they are accorded a high priority within that strategy.

I hope you find these comments of benefit to your committee in their deliberations. I apologise for not replying by your deadline of the 20 April which was due to other commitments but I hope that the above comments are still of value.

NIALL SMYTH
Director of Finance

1 May 2001

I refer to your letter of 21 March 2001 concerning the above.

Please find enclosed comments from Altnagelvin Hospitals H&SS Trust. With regard to your second request, our PPP?PFI project is not sufficiently advanced to provide this information.

If you require any further information please do not hesitate to contact me.

1. The potential benefits of PPP/PFI are as follows:
   - Opportunities to generate additional revenue from schemes primarily through sale of additional capacity to other customers;
   - Another source of Capital Funding to proceed with Developments;
   - Better identification and allocation of risk;
   - Better incentives to perform;
   - A continuing commercial incentive for efficiency;
   - More potential to achieve economies of scale, through provision of assets and services to a wider range of customers.
2. Key Factors for a successful application of PPP?PFI:
   - Value of Money must be demonstrated for any expenditure by the public sector;
   - The private sector must genuinely assume risk;
   - Affordability must be recognised, PFI converts a previous one off capital expenditure into the recurring revenue expenditure stream.
3. The availability of good independent advice within the Northern Ireland context is extremely limited, and therefore potentially incestuous, an advisor may be on the bidder side in one scheme, and on the purchaser side, dealing with the same bidder, in another scheme.
4. The strategic importance of PPP/PFI schemes should be managed and prioritised in the same manner and by the same process as publicly funded schemes, until it becomes clear that the PPP?PFI scheme is more affordable in the short term in that it offers Value for Money and immediate access to capital funding.
5. The public perception of PFI/PPP as “the cheap and nasty” way of doing things need to be addressed, probably only by the successful implementation of a large scale scheme.
6. I am not so sure there are many alternatives to PPP of Publicly Funded Schemes.
7. I believe that government in NI needs to look critically at those schemes that have been successfully implemented throughout the UK and Ireland and identify the factors that allow a scheme to be successful as a PFI/PPP initiative. This checklist of factors should that the clearly monitored on all Schemes coming forward to ensure that only those schemes with a real chance of success proceed through the administratively burdensome and potentially expensive, in terms of management time and employment of specialist advisors, PPP/PFI process.
8. As an item 6
9. PPP/PFI is based on the ability of the private sector to achieve efficiency savings or generate additional income from an asset that the public sector would be unable to achieve, thus more than offsetting the higher financing costs of the private sector. There must also be a clear identifiable transfer of risk to the private sector.
10. Value must be assessed in an open and transparent manner via the Business Case process to ensure that all aspects have been considered, ie Capital investment, Revenue consequences, and service quality.

STELLA BURNSIDE
Chief Executive

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
BELFAST CITY HOSPITAL TRUST

10 April 2001

1.00 CURRENT STAGE OF PUBLIC PRIVATE PARTNERSHIPS (PPP) WITHIN THE TRUST

1.1 The Belfast City Hospital Trust successfully completed a full PPP project for the provision of renal services in a new Renal Dialysis Unit which has been operational since November 1998.

1.2 Currently, the Trust is exploring a PPP option in respect of the proposed Regional Cancer Centre at Belfast City Hospital.

1.3 A number of operating leases are in place to provide significant capital items (eg CT scanner, catheterisation equipment and sophisticated endo-vascular equipment).

2.00 GENERAL CONTEXT OF PPP

2.1 The main benefit of PPP is that private sector capital funding can be obtained to supplement the limited funding available through the traditional public sector route. This has to be balanced against the additional revenue costs which will arise to fund the PPP schemes. Where conditions allow for innovation there may be some mutual benefit to be derived for both the public and private sectors. These opportunities, however, we believe to be limited in a specialist area such as healthcare and are more likely to arise from other factors such as location of facilities.

2.2 The key factors for the successful application of PPP are:

- a well defined project;
- a competitive private sector market;
- a sensible allocation of risks between public and private sector;
- a ‘bankable’ project;
- a fully committed and well managed project structure.

2.3 Given the limited geographical area within our region, the local supplier market is limited. External suppliers can compete but may find it more difficult without a local base. The level of skills and guidance with regard to PPP has improved and is now more generally available, but at a price.

2.4 PPP will not be suitable in all circumstances. It should always be considered against VFM (Value for Money) criteria.

2.5 The principles underlying TSN (Targeting Social Need) should be applied, together with all of the normal public sector standards in terms of probity.

2.6 In general a full range of options should be considered for each scheme.

2.7 Initially all major capital schemes had to be tested under PPP. The test is now not required where the scheme is accepted as clearly unsuitable for this form of financing. The more pragmatic approach should continue to be applied in future in order to avoid nugatory expenditure.

2.8 Alternatives include the publicly funded route and the full range of financing available to the private sector (whether on- or off-balance sheet). Each project would require its own preliminary assessment.

2.9 PPP makes economic sense where the private sector can use its competitive edge over the public sector to offset its higher cost of capital. This competitive advantage is likely to arise from the degree of innovation which can be applied, the security of a long term project in a traditionally competitive market (which allows a lesser profit margin to be taken in return for a long term commitment) and the greater purchasing power of a large multinational company.

2.10 Schemes, however they are funded, are subject to a formal business case process which considers both the financial and non-financial costs and benefits. This system allows a VFM assessment.

3.00 SPECIFIC PROJECTS AND PROGRAMMES

3.1 The specific project considered below is the PPP project to provide renal dialysis services at Belfast City Hospital. This has been fully operational since November 1998.

3.2 The project was to provide a Dialysis Unit containing 40 dialysis stations and additional accommodation to allow the delivery of haemodialysis, CAPD training and related services. In addition to the building, the contractor is required to provide all equipment and a range of dialysis consumables to allow the delivery of a comprehensive dialysis service. Asset maintenance and replacement is also the responsibility of the contractor for the 15-year life of the project. Clinical services (eg clinical staff, pharmaceuticals, etc) continue to be delivered by the Trust.

4.0 BID PROCESS

4.1 The output specification concentrated on the services to be delivered. The Trust reviewed the proposed inputs and delivery mechanisms to satisfy itself that the contractor had clearly understood the output specification and was proposing to supply a service which the Trust believed, in its own experience, was feasible and deliverable. The responsibility for the delivery of the service remains firmly with the contractor.

4.2 The output specification has been a good representation of the actual operational requirements. This was largely the result of the level of involvement and commitment of the Clinical Director and front line clinical staff in the project process.

4.3 The market was fully tested for private sector interest. The nature of the project (a specialised unit on a land-locked site within the hospital campus) severely limited the potential for innovation by the private sector. None of the bidders came forward with radical proposals.

4.4 The contractor accepted the risks associated with planning, design, construction, general legislative changes, latent defects, suitability for purpose, cost/time overruns, cost uncertainties, technical obsolescence, demand risk (re: provision of consumables etc) and residual value risk.

4.5 The evaluation criteria process was undertaken under two headings (financial and non-financial). The financial appraisal considered value for money using discounted cash flow techniques and assessment of affordability for purchasers. Risk was also valued and considered in the appraisal. The non-financial appraisal considered quality of patient care, access for patients, integration with other specialities, functional relationships with support services, quality of environment, suitability for training and research, impact on staff recruitment/retention, flexibility, ease of implementation and impact on the Trust's estate strategy.

4.6 The business case considered the strategic context (including the regional review of Renal Services), formulation of options, the PPP procurement process, descriptions of the public sector comparator and PPP scheme, financial analysis, risk analysis, affordability, accounting treatment, legal structure of the project, implementation plan, monitoring and post project evaluation.

4.7 The public sector comparator took the form of a model to provide by the traditionally funded public sector route the same service proposed by the PPP contractor. It included the full capital costs of assets and their replacement/whole life costs over the project period and the revenue costs of the services provided over that period.

4.8 The Project Team included the Director of Operational Support, Clinical Director of Nephrology, Nephrology Directorate Manager and the Trust's Project Accountant. Advisers from the outset included Health Estates and Lovell, White, Durrant (Legal Advisers). Financial Advisers (Coopers & Lybrand) were appointed just prior to the issue of the Invitation to Negotiate document.

4.9 The main contractual issues were in relation to the agreement of an appropriate model of risk transfer as identified and issued in the Invitation to Negotiate document.

4.10 This project was undertaken at a time when PFI was still relatively new to the Health Service. The procurement timetable was broadly followed as planned and the tendering requirements were met.

4.11 The total cost of special advisers amounted to £95,000. This was met by the HSS Executive.

5.0 COMPLETED DEALS

5.1 Performance Management

5.1.1 The requirements and specification were based on outputs (ie the delivery of dialysis sessions). Bidders were encouraged to innovate but the characteristics of the project did not particularly allow for this. The quality of service targets and standards required were reasonable and are still being applied in practice.

5.1.2 The assumptions made in the business case were based on a draft project agreement which was finalised following completion of extensive negotiations. The estimates were therefore accurate. The payment mechanism and original costs remain intact.

5.1.3 The demand forecasts of the services required have also proved to be accurate. The forecasts were provided by the Clinical Director and the Dialysis Unit is functioning at full capacity as predicted by the Trust.

5.1.4 The performance measurement systems were designed to reflect availability, service quality and dialysis sessions delivered. These were linked directly to the payment mechanism which remains in place unchanged. Services have been provided to an acceptable, consistent level since the Unit opened.

5.2 Financial

5.2.1 The costs of the scheme reflect the original financial model. The bidder accepted the financial risks associated with the deal (eg inflation over indexation) and continues to do so.

5.2.2 The public sector comparator costs were designed to provide a direct comparison with the PPP solution and were thus directly relevant.

5.2.3 The rates of return within the financial model were assessed by our financial advisers. They reflected normal industry standards.

5.3. Contractual

5.3.1 The project agreement remains unchanged from the original agreement.

5.3.2 The risks were allocated as outlined in 3.3.4. the contract reflects this risk allocation.

5.4 Social

The Health & Social Services Council, patient advocacy groups, staff and staff organisations were kept informed throughout the process. Clinical staff remain the responsibility of the Trust and were therefore not required to transfer. The only staff grouping directly affected were Renal Technicians who remain Trust employees but are seconded to the contractor for the proportion of their time which relates directly to the project (eg machine maintenance).

5.5 Property

There were no property disposals or gains within the project. The land on which the unit is contained was made available to the contractor on the basis of a licence which is co-terminus with the project.

5.6 Construction

5.6.1 The construction costs were similar to the Public Sector Comparator.

5.6.2 The completed works fully matched the construction and property specification. The Trust’s Estate Services Department monitored the construction programme to ensure compliance.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
BELFAST INSTITUTE OF FURTHER & HIGHER EDUCATION

20 April 2001

I enclose a copy of the response from the Belfast Institute of Further & Higher Education to the Northern Ireland Assembly Committee for Finance and Personnel's Inquiry into Public Private Partnerships. This response from Professor Patrick Murphy covers the general points raised in your consultation paper and we intend to send you answers to the specific questions concerning our own PFI partnership early next week.

Please do not hesitate to contact me if I can be of further assistance.

DAVID A WEST
Assistant to the Director

BACKGROUND

BIFHE is currently involved with Northwin Ltd for the provision of a 22,660 sq ft new build campus at Millfield. Construction work has begun and is expected to be completed by June 2002. The Institute is also planning, in partnership with the University of Ulster, to begin the PPP process for £40 millions of the £70 million Springvale Educational Village Project.

GENERAL CONTEXT OF PFI/PPP

1. The benefits

The benefits are simple: whereas traditional capital investment by government is a long drawn out process – and one which is usually under-funded – PPP delivers the capital quickly (or as quickly as the rules can be negotiated by the user and the preferred bidder). It also introduces a degree of innovation to accommodation problems which is not normally found in the traditional process and it offers continuous maintenance over 25 years in a manner not usually associated with public new-build.

2. Key factors

On the user's side commitment to PPP is essential. Hoping that it will somehow go away or that government will arrive with sack-loads of money is understandable, but not very helpful. Willingness to accept innovation is also crucial – the old idea of simply replacing one building with a newer one needs to be dropped in favour of analysing the user's overall property stock and its potential development. Thus the key factor for the user is a willingness to abandon old ideas and practices.

For the provider the key factor is understanding the needs of the user. In the Institute's experience too many bidders saw PPP as a property development scheme which would make them rich quickly. The bidder which sought to understand education was successful because that gave Northwin an appreciation not just of current learning and teaching practices, it also allowed them to project future needs, especially in the field of Information and Communication Technology (ICT). The bidder must also be prepared to work in partnership with the user in the long term and to understand the link between the bidder's provision of services and the core educational provision.

3. Wider issues

The main issue here would appear to be public knowledge and perception. Many people have strong ideological views either for or against PPP, but not everyone understands the practical nature of the process. Like the debate on the 11+, the Assembly might also facilitate debate on PPP.

4. Assessment

Only a short term assessment is possible at present. Since the projects normally run for 25 years, it is only 25 years from now that a full assessment will be possible. However, it might be helpful if the Committee was to establish a monitoring process whereby every PPP project in Northern Ireland might be examined at intervals of, say, three or five years, so that a data base of performance might be developed. This would allow the Committee, for example, to compare performance across different services such as education and health or across different sizes or project, eg, those up to £20m, those from £20 to £40m, etc. A performance indicator model would be relatively straightforward to develop and its findings could be used to influence the nature and content of future PPP projects.

5. Social factors

In broad terms the ultimate social factor is whether or not PPP assists statutory bodies to provide a comprehensive series of social services in line with Assembly policy. For example, it might be asked if School X or Hospital Y is providing the quality of service expected of it through PPP. It can then be established if a school or hospital funded through traditional means – or not funded at all – is offering a comparable quality of service.

6. Alternatives

There would appear to be only two methods of capital funding in the public sector: (a) direct government funding and (b) funding from other sources within government guidelines. The former would appear to be possible only through the generation of additional government revenue, mainly taxation. This is a matter of political ideology and the Institute, as a publicly funded body, cannot express an ideological view. In any case the Assembly does not have powers over taxation and so the debate in the Northern Ireland context is irrelevant. The latter method has a variety of formats but they all ultimately fall into the PPP/PFI context.

Thus the choice is simple: government must fund capital development through increased taxation or find someone else to do it. There are alternatives within PPP which might be worth examining. For example, in the UK bidders cover all aspects of the contract from design to build. In the US I understand that bidders are invited to bid for providing an overall solution and then new bidders compete for the design contract. The difficulty with the UK model is that when marking bidders in competition, one might have a good overall solution but a poor design or vice versa. Although the Institute is very pleased with both the solution and the design in the Northwin case, it is conceivable in the forthcoming Springvale project that the best design might be turned down because of the solution context. Thus the Committee might wish to examine the PPP process in more detail.

7. Way forward

PPP is perhaps the most significant development in funding the welfare state since its foundations in the late 1940's. Like most aspects of social policy in Northern Ireland it has never been debated, it is poorly understood and, to the best of my knowledge, it has rarely been identified as a major item in any party political manifesto. Indeed it would appear that while most political parties are against it, the Assembly is for it. Thus the way ahead would appear to involve more public debate on the issue.

8. Alternative forms

Borrowing money from a bank does not appear to have been considered by government. It would appear therefore that PPP is considered by government to be more than a matter of simple finance – it extends into introducing the culture of the private sector into public service management. This can be seen as either a good thing or a bad thing depending on political perception and it is therefore a matter of debate which, because it is based on ideological belief, is unlikely to be satisfactorily resolved. But whatever the outcome of that debate, the point is that alternative forms and structures of finance can be considered only if the ideological nature of PPP is changed.

9. Economic basis

I am sorry but I do not understand the question. However, I would be happy to consider it if I can obtain clarification.

10. Value assessment

There are a number of performance indicators which might be used in this context. Within the Institute for example it is possible to look at PPP in the context of the specific PPP building and also to look at the impact of PPP on the overall organisation.

Thus we can examine the unit cost under PFI as opposed to traditional funding, eg, how much does it cost to progress a student in one building as opposed to another in terms of teaching, learning support (eg resource-based learning), environmental support (eg, catering facilities), maintenance, heating, lighting, etc. But there are some aspects which cannot be measured, eg, the atmosphere in a new building as opposed to one which is old and decayed. The impact which this has on the learning environment is obvious but difficult to quantify.

The impact on the overall organisation has been measured in terms of savings through the reduction of six major campuses to five and these figures formed part of the negotiations with Northwin and DHFETE. At this corporate level there is also the unquantifiable – the impact which a new building has on staff and student morale and on the Institute's marketing and image strategies. At the end of the day PPP is helping the Institute to train Northern Ireland's workforce to a higher quality than before and that is the real benefit of PPP.

The Institute has been involved in a PFI scheme to provide new accommodation on its Millfield campus. The project was one of five Pathfinder projects supported by the Department of Education. The procurement stage of the project began in 1997 and took three years to complete. Following the conclusion of the procurement process a contract was signed with the Northwin Consortium in July 2000. Immediately after this a two year building programme commenced with a completion and hand-over date of June 2002.

The Institute's comments thereafter reflect the experience to date of the PFI process which at this point is half way through the building phase.

BID PROCESS

The Institute had a very clear view of the output objectives for the project. The Institute's involvement with PFI followed a lengthy period where the organisations accommodation needs were carefully assessed and a full-scale economic appraisal was carried out. The Department of Education indicated that conventional capital funding would not be available to meet the Institute's needs and encouraged the Institute to be one of the Pathfinder PFI education projects. From the outset the advice received, both from the Department and its consultants ensured that the output objectives did not stray into inputs and delivery mechanisms. We are obviously not yet in a position to evaluate the quality of the requirements specification as compared to implementation and operational reality. However, the specifications did not throw up any major problems during the design stage or during the building stage so far.

The procurement process did produce a genuinely competitive scenario the most striking feature of which was in the balance of refurbishment and new build in the proposed design solutions. Some reasonably innovative solutions were forthcoming and the winning bid was able to offer a wholly new build solution the design of which enabled the Institute to occupy the existing accommodation on site during the building phase.

The PFI model utilised was the "design-build-operate" one. The private sector was therefore taking the risk with regard to these phases.

The evaluation of the bids was carried out using a model recommended by the consultants who were also involved in other Pathfinder projects. Details of the evaluation scheme and criteria are appended.

The Public Sector Comparator used by the Department of Education was in the standard format of adding capital costs of life-cycle costs over the 25 year period and reducing these to net present value. Further details of the PSC exercise for this project could be obtained from the Department of Education.

The initial Project Board was established by Belfast Education and Library Board at the inception of the project in 1997. At this time the Institute was still under the control of BELB. In April 1998 when the Institute became incorporated it took responsibility for the Project Board. The Project Team, which was set up by the Project Board, underwent some changes in personnel during its existence but at all times it consisted of key Institute personnel and the team of consultants who were under contract to the Department for the Pathfinder projects. The main advisers were:-

Eric Munro	-	Chesterton – Property and Contract
Niall Quinn	-	PWC – Financial
Mark Beardwood	-	Dibb, Lupton, Alsop – Legal

During the contract negotiations process the main contractural issues which took up most of the negotiating time were: the Surplus Land Agreement, risk assessment and insurance eg potential contamination of site, defect liability and title defect insurance. While some of these issues were identified as key issues from the outset of negotiations such as surplus land others only surfaced as crucial issues quite late on in the process.

The procurement process was a lengthy one, as was the case with all the Pathfinder projects. The timetable required many adjustments at different stages and the entire procurement process took much longer than was originally envisaged. The experienced gained, however, should ensure a much more streamlined and speedier process in any future projects.

OTHER ISSUES

Given the stage reached in the Institute's PFI project we are unable to comment on many of the issues relevant to completed deals. It is possible to comment on the social and property questions.

The question of staff transfer was an issue for the Institute from the outset. The bids were on the basis of the operator taking responsibility for the maintenance, caretaking and catering functions in the new building. These functions are currently carried out by Institute staff both in the current Millfield building and also in the other buildings to be disposed of under the terms of the deal. Appropriate numbers of these staff will transfer to the employment of the operator under TUPE regulations. The Institute has managed the transfer situation by not filling vacant posts in the relevant areas on a full-time basis and using agency staff where possible. This has had the result of ensuring that there will not be any staff eligible to transfer who will be surplus to the operator's requirements and therefore a redundancy situation will be avoided.

The Institution regularly updated the representatives of the staff involved through our own trade union liaison structures. During the negotiations at preferred bidder stage the Institute established a forum for negotiations with the union involved which also contained representatives of the operator. This forum will continue in existence up to the agreed transfer date.

The PFI deal involves the Institute vacating one of its main buildings at Ormeau and two smaller sites in East Belfast. These sites will pass to the ownership of Northwin after hand-over of the new accommodation. As part of the contract a Surplus Land Agreement was negotiated. This agreement involves provision for a profit-sharing arrangement following development of the surplus sites. Details of the way the arrangement will operate are appended.

TABLE 2: SERVICES - GENERAL AND SUMMARY EVALUATION

	Criteria	**Score 0-25**	**Weight**	**Adjusted Score**
	General:			
1	Quality of overall service proposals	12	12%	1.44
2	Degree to which proposals embrace the Institute's vision, goals and values	12	5%	0.60
3	Overall approach to flexibility and the degree of innovation offered in the service proposals	10	10%	1.00
4	Quality of the proposed management of the bidders' operational regime	10	10%	1.00
5	Extent of impact of non-Institute usage on the operation of the Institute		8%	0.00
	Summary of Service Specific Criteria:	**Average Score 0-25**		
6	Quality of proposed service methodologies	13.75	10%	1.38
7	Extent of service delivery (scope of service)	13.25	15%	1.99
8	Quality of bidders' proposals for establishing monitoring and liaison procedures	13.25	10%	1.33
9	Quality of service assurance through performance measurement, etc	12.88	5%	0.64
10	Extent to which the bidder is prepared to be responsive and adaptable to varying Institute requirements	11.75	10%	1.18
11	Extent of impact of non-Institute usage on the operation of the Institute	0.00	5%	0.00
		108.88		**10.55**

Assessment Criteria Scores	**Score**
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute requirements	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

TABLE 2A: BUILDING MAINTENANCE

	Criteria	Score 0-25
B11	Quality of proposed service methodologies	15
B7	Extent of service delivery (scope of service)	15
B8	Quality of bidders' proposals for establishing monitoring and liaison procedures	14
B9	Quality of service assurance through performance measurement, etc	14
B10	Extent to which the bidder is prepared to be responsive and adaptable to varying Institute requirements	12
B11	Extent of impact of non-Institute usage on the operation of the Institute	0
		70

Assessment Criteria Scores	Score
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute requirements	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

TABLE 2B: SECURITY

	Criteria	Score 0-25
C6	Quality of proposed service methodologies	10
C7	Extent of service delivery (scope of service)	10
C8	Quality of bidders' proposals for establishing monitoring and liaison procedures	13
C9	Quality of service assurance through performance measurement, etc	10
C10	Extent to which the bidder is prepared to be responsive and adaptable to varying Institute requirements	10
C11	Extent of impact of non-Institute usage on the operation of the Institute	0
		53

Assessment Criteria Scores	Score
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute requirements	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

TABLE 2C: CATERING

	Criteria	Score 0-25
C6	Quality of proposed service methodologies	22
C7	Extent of service delivery (scope of service)	23
C8	Quality of bidders' proposals for establishing monitoring and liaison procedures	16
C9	Quality of service assurance through performance measurement, etc	18
C10	Extent to which the bidder is prepared to be responsive and adaptable to varying Institute requirements	20
C11	Extent to impact of non-Institute usage on the operation of the Institute	0
		99

Assessment Criteria Scores	Score
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute requirements	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

TABLE 2D: PORTERAGE AND ADMINISTRATION

	Criteria	Score 0-25
P6	Quality of proposed service methodologies	6
P7	Extent of service delivery (scope of service)	10
P8	Quality of bidders' proposals for establishing monitoring and liaison procedures	15
P9	Quality of service assurance through performance measurement, etc	12
P10	Extent to which the bidder is prepared to be responsive and adaptable to varying Institute requirements	10
P11	Extent of impact of non-Institute usage on the operation of the Institute	0
		53

Assessment Criteria Scores	Score
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

TABLE 2E: CLEANING AND HOUSEKEEPING

	Criteria	Score 0-25
H6	Quality of proposed service methodologies	22
H7	Extent of service delivery (scope of service)	13
H8	Quality of bidders' proposals for establishing monitoring and liaison procedures	15
H9	Quality of service assurance through performance measurement, etc	15
H10	Extent to which the bidder is prepared to be responsive and adaptable to varying Institute requirements	10
H11	Extent to impact of non-Institute usage on the operation of the Institute	0
		75

Assessment Criteria Scores	Score
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute requirements	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

TABLE 2F: CHILDCARE/CRECHE

	Criteria	Score 0-25
CC6	Quality of proposed service methodologies	10
CC7	Extent of service delivery (scope of service)	10
CC8	Quality of bidders' proposals for establishing monitoring and liaison procedures	15
CC9	Quality of service assurance through performance measurement, etc	15
CC10	Extent to which the bidder is prepared to be responsive and adaptable to varying Institute requirements	10
CC11	Extent of impact of non-Institute usage on the operation of the Institute	0
		60

Assessment Criteria Scores	Score
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute requirements	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

TABLE 2G: TELECOMMUNICATIONS

	Criteria	Score 0-25
T6	Quality of proposed service methodologies	15
T7	Extent of service delivery (scope of service)	15
T8	Quality of bidders' proposals for establishing monitoring and liaison procedures	8
T9	Quality of service assurance through performance measurement, etc	9
T10	Extent to which the bidder is prepared to be responsive and adaptable to varying Institute requirements	12
T11	Extent of impact of non-Institute usage on the operation of the Institute	0
		59

Assessment Criteria Scores	Score
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute requirements	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

TABLE 2H: INSURANCE

	Criteria	Score 0-25
IN6	Quality of proposed service methodologies	10
IN7	Extent of service delivery (scope of service)	10
IN8	Quality of bidders' proposals for establishing monitoring and liaison procedures	10
IN9	Quality of service assurance through performance measurement, etc	10
IN10	Extent to which the bidder is prepared to be responsive and adaptable to varying Institute requirements	10
IN11	Extent of impact of non-Institute usage on the operation of the Institute	0
		50

Assessment Criteria Scores	Score
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute requirements	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

TABLE 1: DESIGN AND TECHNICAL EVALUATION

	Criteria	Score 0-25	Weight	Adjusted Score
1	Quality of the overall design proposals in meeting the Institute's user requirements	15	15%	2.25
2	Quality of the overall design response to the Institute's service requirements	18	10%	1.80
3	Degree to which proposals embrace the Board and the Institute's vision, goals and values	17	10%	1.70
4	Design impact, in terms of prestige, scale and image	22	5%	1.10
5	Operational control, in consideration of adjacencies and efficiency	16	5%	0.80
6	Totality of accommodation provision	14	10%	1.40
7	Potential for flexibility of use in response to curriculum requirements	14	5%	0.70
8	Degree to which the design solution complies with the Institute's environment and energy policies	16	5%	0.80
9	Siting of the building(s) in relation to other buildings, roads, noise sources, etc	14	3%	0.42
10	Siting of the Institute in relation to centrality within its catchment area	15	4%	0.60
11	Feasibility of bidders' proposals in terms of decant, disruption, etc	13	10%	1.30
12	Appropriateness and quality of the finishes to each area within the buildings	15	5%	0.75
13	Appropriateness and quality of the fixtures, fittings and specialist furnishings	12	5%	0.60
14	Likelihood of obtaining planning approval and any other necessary consents	15	3%	0.45
15	Extent to which the construction method statement and programme meets the Institute's requirements	15	5%	0.75
		231		**15.42**

Assessment Criteria Scores	Score
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute requirements	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

TABLE 1: DESIGN AND TECHNICAL EVALUATION

	Criteria	Score 0-25	Weight	Adjusted Score
1	Quality of the overall design proposals in meeting the Institute's user requirements	5	15%	0.75
2	Quality of the overall design response to the Institute's service requirements	18	10%	1.80
3	Degree to which proposals embrace the Board and the Institute's vision, goals and values	7	10%	0.70
4	Design impact, in terms of prestige, scale and image	22	5%	1.10
5	Operational control, in consideration of adjacencies and efficiency	8	5%	0.40
6	Totality of accommodation provision	4	10%	0.40
7	Potential for flexibility of use in response to curriculum requirements	8	5%	0.40
8	Degree to which the design solution complies with the Institute's environment and energy policies	16	5%	0.80
9	Siting of the building(s) in relation to other buildings, roads, noise sources, etc	16	3%	0.48
10	Siting of the Institute in relation to centrality within its catchment area	15	4%	0.60
11	Feasibility of bidders' proposals in terms of decant, disruption, etc	10	10%	1.00
12	Appropriateness and quality of the finishes to each area within the buildings	16	5%	0.80
13	Appropriateness and quality of the fixtures, fittings and specialist furnishings	13	5%	0.65
14	Likelihood of obtaining planning approval and any other necessary consents	15	3%	0.45
15	Extent to which the construction method statement and programme meets the Institute's requirements	14	5%	0.70
		187		**11.03**

Assessment Criteria Scores	Score
Poor – proposals do not meet Institute requirements	0-5
Barely adequate – some serious short comings in meeting Institute requirements	6-10
Generally satisfactory – Institute requirements are met	11-20
Good – Institute requirements are exceeded	21-25

BIFHE - SURPLUS LAND

1. Guaranteed Land Value

Templemore	£140,000
Willowfield	£27,500
Ormeau	£2,182,500
	£2,350,000

2. Gross Development Value

Gross Development Value is £7,850,000. The Gross Development Value will be indexed on an annual basis from 1 January 1999 using the Retail Price Index. Any amounts due to the Institute under these arrangements will be calculated and paid upon completion of the development at each site. Interest will be due on the accumulated share payable to the Institute.

3. Profit Sharing Proposals

Banding	Northwin Share
£0 - £750K	80%
£751K - £1.5M	75%
£1.501M - £2.25M	65%
£2.251M - £3.0M	55%
£3.001M - £3.75M	50%
>£3.751M	50%

4. Sale of Undeveloped Land

Depending upon the timing of any disposal, the Institute will be entitled to a share of any income above the Guaranteed Land Value on the basis set out in the table below:

Item	Ormeau	Templemore	Willowfield
Guaranteed Land Value	£2,182,500	£27,500	£140,000
Threshold for Northwin	£0.25M	-	£30,000
Timing and Northwin %			
Year 1	20%	20%	20%
Year 2	35%	35%	35%
Year 3	50%	50%	50%
Year 4	65%	65%	65%
Year 5 and thereafter	75%	75%	75%

In the event of partial disposal, the monetary threshold available to Northwin will be reduced on a pro rata basis based on the proportion of land being sold on (measured in acres). For the avoidance of doubt, neither the guaranteed land value nor the monetary threshold will be subject to indexation and Year 1 will commence with the first transfer of surplus land from the Institute to Northwin.

5. Commercial Development

In the event of any of the surplus land being sold on with commercial planning permission, then any proceeds above the guaranteed land values will be shared between Northwin and the Institute on the basis of the percentages set out below:

Northwin	-	55%
BIFHE	-	45%

6. Adjacent Development

Within the Surplus Land Agreement, the Institute will require that all of the valuations relate to the subject sites only and that any uplift in value arising due to marriage value or access to adjoining sites will be excluded from the initial calculation but included in the overall value.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
THE COUNCIL FOR CATHOLIC MAINTAINED SCHOOLS (CCMS)

INTRODUCTION

1. The Council for Catholic Maintained Schools welcomes the opportunity to participate in the Inquiry into Public Private Partnerships by the Committee for Finance and Personnel of the Northern Ireland Assembly.

2. The Council for Catholic Maintained Schools (CCMS) was established under the Education Reform (NI) Order, 1989 with the primary focus of raising standards in Catholic Maintained Schools and to provide an upper tier of management for that system of 527 nursery, special, primary and secondary schools. One of the main responsibilities cited in the 1989 Order is to:

   'promote and co-ordinate, in consultation with the Trustees of Catholic Maintained Schools, the planning of the effective provision of such schools.'

3. CCMS co-ordinates and prioritises New Build school projects for their sector and then pass their recommendations to the Department of Education (DE) for consideration.

4. CCMS's experience of PFI/PPP is confined to the St Genevieve's High School Project, which has a project objective of building a new secondary school for 1050 students on the Trench House site in West Belfast. The DE opened negotiations with the Trustees and CCMS in early 1996 in respect of a PPP/PFI solution to meet the needs of the school.

5. Consequently, St Genevieve's High School was chosen as one of four 'pathfinder' projects in the school sector. Complex and lengthy negotiations continued until July 2000 when the PPP/PFI-winning Operator moved on to the vacant site.

6. Since then, ten months of the 21 month construction phase has elapsed with a CCMS Officer acting as the Trustees' Contract Manager. Recently a second tranche of PFI/PPP projects has been announced by DE and CCMS will be involved with the Derry Diocesan Trustees on a 'bundled' project in Strabane and Derry with an estimated value in the region of £34 million.

7. To date, therefore, CCMS have not been included in a completed scheme and for that reason can not comment on all structured questions posed by the committee's Inquiry.

8. Council's response to the Inquiry is made in three parts:

   (i) views regarding general issues around the concept and experience of PPP/PFI to date;

   (ii) specific comments on PPP/PFI in schools; and

   (iii) response to the request for information as structured by the Committee for Finance and Personnel.

PART 1: COUNCIL'S VIEWS ON THE PPP/PFI EXPERIENCE

Background

9. The Private Finance Initiative was launched by the Government in November 1992 and essentially involves obtaining services using private sector capital investment instead of, or along side, public sector capital. The aim of PPP/PFI as described by the DE in its Circular 1996/15 "*is to bring the private sector more directly into the provision of public services, with the public sector as an enabler and, where appropriate, guardian of the interests of the users and customers of public services*". The emphasis of PPP/PFI is away from public funding; towards involvement in the design, build and operation of a capital asset by a service provider.

10. In June 1996 the Department announced the launch of a small number of 'high priority pathfinder projects' and on the basis of experience gained to establish in more detail how PPP/PFI would be systematically applied to address the major capital needs of the education service.

11. Since then, with the Council's involvement along with the Trustees of the Down and Connor Diocese in the St Genevieve's High School Pathfinder project, a degree of experience and expertise has been built up with regard to the Private Finance Initiative, its benefits and limitations.

Fundamental requirements for a PPP/PFI project

12. It is widely accepted that there are two fundamental requirements for a PPP/PFI project:

    I. the private sector must genuinely assume risk; and

    II. value-for-money must be demonstrated for any expenditure by the public sector.

Transfer of Risk

13. One of the key advantage points for PPP/PFI is how it allows the transfer of risk to the private sector. Council believes that the early identification of potentially non-transferable risks and the balancing of risk transfer versus value-for-money must be clearly detailed and understood by all parties prior to the signing of any project agreement. Based on the experience of the pathfinder projects it is essential that there must be a continuous adaptation of approaches, particularly during the negotiating stages, in order to redefine the best "offer" and thus achieve a greater ability to secure best value deals for the public purse through PPP/PFI projects in the years ahead.

14. The importance of flexibility, both in the contract and the asset itself cannot be understated. PPP/PFI schools are subject to long term contracts and they must clearly allow for future changes in requirements. The provision of educational planned services is complex and contains a high element of operational costs over the contract period. It must be accepted that there are those elements that are best fixed (subject to any agreed indexation) and those elements that are best suited to periodic review to continually ensure value-for-money in changing markets and to provide an opportunity for best value.

Value for Money (VFM)

15. While it is agreed that one of the advantages of PPP/PFI is that it is not necessary for the DE to pay the full capital cost of new buildings up front as would be the case with conventional procurement, it is essential that rigorous value-for-money tests are carried out to ensure that the public purse is protected. Presently this may be achieved by measuring each deal against a Public Sector Comparator (PSC) which represents a conventionally procured alternative. It is an obvious requirement that any successful private sector bidder who is to be awarded a PPP/PFI contract must price the job below that of the PSC. Council contends that greater rigour must be brought to the calculation of the PSC and that a stated percentage threshold should be applied above which no bid would be accepted. Achieving financial savings of a very low percentage below the PSC is not conducive to accepting the principle that PPP/PFI represents better value for the public purse in the medium and longer term.

16. The DE has asserted that it is possible to broker "viable" deals and individual PPP/PFI projects. The recent DE publication, "Information Memorandum on PPP/PFI in Schools", accepts that to date value-for-money bids have been marginal - in the order to 1-2% - when measured against the Public Sector Comparator. While the reason given is that the bundles or size of projects did not always offer a prospect of better value for money there is some suggestion that the private sector operating in a fluid and fast moving environment, if it does not generate a profitable business, then it will not survive. The reality is that the private sector market place exerts powerful influences on private sector management and employees to maximise efficiency and profit and take full advantage of business opportunities as they arise. This may be a reason for the marginal saving against the Public Sector Comparator. It is noteworthy that recently the Chief Secretary to the Treasury Andrew Smith reported that on average privately financed projects are delivering savings of 17% compared to public sector alternatives. This is a much more acceptable saving and one which should be aspired to in the PPP/PFI projects of the future.

17. In terms of resourcing PPP/PFI projects, Council would wish to be re-assured by the Government and the Department that traditional procurement finances will not be diminished in the interests of securing more PPP/PFI deals. While bundling of projects may be a way forward it is clear that small primary schools do not represent an attractive proposition to the consortia who may bid for PPP/PFI projects. The reality will be that only large secondary schools may be bundled together in order to achieve the breadth of interest that will be required from the Special Purpose Vehicles, also known as the consortia, from the private sector.

18. The Audit Commission has already warned the public sector that PPP/PFI consortia can make excessive profits from PPP/PFI. The Public Accounts Committee (PAC) has also added its voice to a growing concern. The PAC has pointed out that because the public sector client does not have to find the money up front to meet the initial capital costs, then in the short term a PPP/PFI deal may be more affordable than conventional procurement but the "buy now, pay later" financing of projects means that the costs are "higher than in a conventionally financed equivalent project".

19. The length of PPP/PFI contracts, in many cases 25 - 30 years, means that public bodies are often tied to service provision which may not be necessary or appropriate. Long contracts tend to restrict the flexibility of the public sector to decide how the services are provided and again, as the Audit Commission warns, they can limit the ability of public bodies to switch resources in the future. Council would agree with the concerns expressed.

PART 2: PPP/PFI IN SCHOOLS

Establishing criteria and innovation

20. Clear criteria must be established as to when PPP/PFI will be applied to new major capital projects. An such criteria must include factors such as, establishing the need, the scale and complexity of the project and whether it covers more than one location. PPP/PFI should encourage as far as possible new ideas for the design of assets and operational systems. It must also be determined how much scope there is to implement innovation in designing the infrastructure and operating procedures of such schools. As the legal owners of Catholic maintained schools, Trustees involvement at an early stage in discussions is an essential requirement.

Calculating the benefits

21. An accurate assessment of the value of the transaction must be determined before the process begins. PPP/PFI contracts are complex long-term arrangements and there will undoubtedly be significant costs associated with the transaction itself. This tends to make them more suitable for the larger value projects. It remains to be seen in Northern Ireland whether PPP/PFI can achieve the stated beneficial outcomes by improving value for money and even productivity.

22. There still remains inadequate project management and contract management skills for such a complex procurement process in the public sector as PPP/PFI represents. Public Sector employees have insufficient commercial knowledge and experience; in many instances even to select suitably qualified advisors. Often inflexible input specifications tend to reduce the scope for delivering better value-for-money through (for example) innovation and greater synergy between the design and operation of the school assets. Investment projects must be highly prioritised and it is essential that the Trustees and CCMS are involved with the prioritisation of schemes.

Evaluation

23. More needs to be done in terms of subjecting existing PPP/PFI projects to periodic and post implementation evaluation. Council believes that this applies as much to PPP/PFI projects as to conventional forms of procurement. The evaluation process would be the responsibility of the DE but with informed input from the Trustees and CCMS. A high level task force should be established to properly monitor and evaluate PPP/PFI schemes. Evaluation should be conducted on activities which have gone well in order to identify the ingredients for success as well as the route which would generate significant problems. Evaluation processes should also include arrangements to ensure that the necessary follow-up action is taken and of course would be necessary for performance monitoring activities to be regularly audited and released to all partners.

Impact on Capital expenditure

24. PPP/PFI projects involve the provision of services to the public sector and have the effect of converting what would have been capital expenditure for a public funded project into recurrent expenditure in the form of payments for operational and service delivery. Although this should help to make for a smoother flow of payments, it does have implications for affordability in the long run. Indeed, the economic benefits from PPP/PFI school projects are reflected in the better value-for-money they bring for the life time of the project, not in the immediate impact and expenditure aggregates as outlined in the DE's "Information Memorandum on PPP/PFI in Schools". For a conventionally procured project, capital expenditure controls the effect of

limiting long term capital commitments. With PPP/PFI school projects, the public purse must pay close attention to the commitments that are built up, which may run for 20-25 years or more into the future.

25. Increasing use of the PPP/PFI route instead of public conventionally procured provision will mean that the Education Sector will eventually need less capital expenditure provision and more recurrent provision than before. This implication of the PPP/PFI route must be taken into account in the annual expenditure surveys and in the setting of both capital and current provisions and expenditure targets. This has implications for the Education Sector across Northern Ireland and must be clearly identified before embarking upon wider PPP/PFI projects. It is claimed that PPP/PFI bundling models demonstrate that the elimination of the capital back-log could be achieved within 10 years or less. It still has to be taken into account whether the long term expenditure commitments will be higher than before. The claim in the DE's document that it is only with the accumulation of continued savings and the recurrent costs being reinvested as public sector capital requires further research and calculation.

Training and Resource needs

26. It is welcoming to note that the DE has taken steps to identify future training needs for staff and is committed to planning for appropriate training of project teams prior to procurement commencing in any future project. Council would wish to see further details of this pledge and would wish to be closely involved in who is nominated for training and determining which members and resources may be released without detriment to the on-going work of the Council. In order to protect the interests of the Trustees and the Catholic Maintained School sector it is essential that directly managed staff are provided with the range of expertise in order to successfully negotiate and manage PPP/PFI contracts.

27. Again Council fully agrees on the need to strengthen project management skills generally and that high quality project management expertise is essential in order to effectively manage resources in PPP/PFI projects.

School Management

28. It has been claimed that the transfer of the design, building, financing and operation of new facilities to the private operator away from schools' authorities including the transfer of public sector employees under TUPE provisions has the potential to reduce the management load of school principals. We are at the stage presently where the St Genevieve's project is ten months old and the construction stage is ongoing. To date, (including the pre-Project Agreement stage), Council's experience has been that the workload and involvement of the school principal and the senior management team has increased due to PPP/PFI. There is no evidence to suggest that in the negotiation and construction stages of PPP/PFI projects that the involvement and demands on both the Trustees, Boards of Governors and school management's are diminished by PPP/PFI. The position in terms of the operation stage of the twenty five year contract remains a concern.

29. The intention of PPP/PFI is to bring through competition a range of private sector expertise and finance into the provision of public services. In order to achieve value-for-money, new schools for the children of the Catholic Maintained Sector, the higher costs incurred by private sector involvement - for example in borrowing money - have to be more than outweighed by lower design, construction, management and operating costs. Whether PPP/PFI contracts generally offer value-for-money in terms of service delivery will become apparent once the services are being provided; only then is it possible to compare costs and services with those of similar PPP/PFI contracts and with those procured by other and traditional means. There is no formula that can guarantee better value-for-money from a particular scheme; each scheme, irrespective of size and type, has to be properly evaluated and controlled to ensure its successful procurement and operation. The Trustees and CCMS have an active part to play alongside the DE in ensuring that the backlog of projects in the Catholic Maintained Sector is removed. PPP/PFI, for all its deficiencies, remains an alternative at this time to assist in removing that backlog. Experience must be applied by all contributing bodies to improve and refine the PPP/PFI process.

PART 3: RESPONSE TO COMMITTEE'S REQUEST FOR INFORMATION

What do you see as the benefit of PPP/PFI? Are there identifiable benefits to the public and stakeholders?

30. Public Private Partnership, and in particular Private Finance Initiative agreements, have created much debate and controversy. In some instances clear signs of proven success are emerging and the UK government remains determined to press ahead with such partnerships and address the issues raised, with the DE in

Northern Ireland announcing on 1st March 2000 its intention to sign £70 million of PPP deals over the next two years.

31. Given that there is an acute backlog of new capital school projects in Northern Ireland which is estimated to be in the region of £500 million it could be said that PPP/PFI provides a solution to address the sub-standard accommodation and facilities that restrict the delivery of the Northern Ireland curriculum. Treasury guidance holds as a general principle that successful PPP/PFI deals delivers value-for-money in the form of cost effective, reliable and timely services at agreed prices and to agreed quality, consistent with legal standards, financial probity and management accountability while maintaining good client/supplier relationships.

32. It is too early in the pathfinder St Genevieve's project to identify the real benefit to either the public or stakeholders. Certainly the timescale is not discernibly shorter than conventionally procured projects and the time/personnel allocation is much higher.

What do you see as the key factors for the successful application of PPP/PFI?

33. The key factors will be summarised as follows:

- Clear and agreed objectives
- Thorough preparation in the early stages prior to the award of the contract
- Leadership
- Availability and expertise of advisers/consultants on a range of legal, technical, corporate finance and facilities management areas
- Careful determination of the Public Sector Comparator
- Agreed management structures to deliver the scheme
- Early appointment of Contract Manager
- Continuity of personnel

Are there any wider issues, limitations and constraints associated with the environment of the PPP/PFI that have been addressed?

34. Northern Ireland lacks the expertise base to sufficiently advise the public sector. The increasing complex transactional nature of the bundled schemes leave the public sector on the defensive in the financing of assets, the negotiation of details with a preferred supplier and monitoring of service performance over 25 years set in the framework of a private sector agenda which has the profit motive uppermost in mind.

Are there gaps in the supplier market?

35. The attractiveness of larger, bundled projects to multi-national private sector companies/consortia results in the marginalisation of local operators and the resultant cost to the local economy could prove debilitating.

Are the guidance and skills available?

36. While the steep learning curve experienced in the school's 'pathfinder' projects has grown a set of valuable skills there still remains in Northern Ireland a discernible lack of expertise in the key areas referred to in Paragraph 33 (above).

How should the strategic importance and prioritisation of PPP/PFI projects and the interrelationship with other schemes be assessed and managed?

37. To date the CCMS experience of PPP/PFI does not indicate that any clear, objective criteria are applied to the importance and prioritisation of PFI projects. CCMS would wish to see such a procedure established in an open and transparent manner so that the greatest need and better value-for-money in terms of the use of public funds can be met.

Are there any particular social factors that should be assessed and managed and how have PPP/PFI schemes impacted upon them?

38. Council would wish to see levels of social and economic deprivation assessed and taken into account in the prioritisation of future projects. This should also be carried out in keeping with New Targeting Social Need objectives and Equality requirements.

What alternative procurement options do you believe should be considered?

39. Whichever approach that is best suited to those circumstances which prevail, as measured by clear, objective, criteria should apply. The public perception is abroad that the main aim of PPPs is to secure better

value-for-money by promoting contestability and a diversity of providers. Such diversity should not lead solely towards PFI or Design, Build, Finance and Operate (DBFO) projects. In particular circumstances the Design, Build, Operate (DBO) model may be the best choice. A range of other PPP models are in operation across Europe and of course conventional forms of public procurement remain an option. The aim is to secure the best value-for-money option for each project and to encourage diversity of provision. If the Government were to clarify at every opportunity that this was the aim for PPPs it might dispel some of the suspicion around this policy.

40. ***How do you suggest PPP/PFI should be taken forward in Northern Ireland?***

- Clearer Government enunciation of policy;
- Compulsory rigourous testing of all capital projects against PPP/PFI;
- Respond to submissions from private sector

41. ***What are feasibile alternative forms and structures of Financing?***

- Conventional procurement by the public sector;
- Variations of Design, Build, Finance and Operate structures.

What do you see as the economic basis of PPP/PFI?

42. Value-for-money deals, incentivisation and effective and sustainable management of risk.

How can value in relation to capital investment and service improvement best be assessed?

43. Value-for-money comes firstly from a good and sustained competitive process. The dynamics of this process should ensure that the public sector secures the best deal available.

44. Rigorous monitoring and evaluation of the competitive process is required throughout the life of the project.

45. By use of a Public Sector Comparator there has to be a question asked: Have you really transferred construction risk if the public sector comparator is based on a fixed price quotation?

46. It is important that in seeking value in terms of capital investment and service improvement that a tendency to ‘painting the target after the arrow has landed’ is not fulfilled. Risk transfer valuation must not be undertaken late in the contractual process. Pressure can build on all participants to generate the required result ie a sufficient quantum of risk transfer to tip the balance in favour of the PFI solution.

COMMITTEE FOR FINANCE AND PERSONNEL INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY: EASTERN HEALTH & SOCIAL SERVICES BOARD

13 April 2001

I refer to the above and to your letter of 21 March 2001 seeking the Board's views on PPP including PFI.

The board has given its support to a number of schemes over the past few years which have been PFI in nature and funded from allocations specifically provided by DHSSPS.

The Board's role has been to examine the business case put forward by a Health and Social Services Trust in support of the PFI scheme and as such, our experience has been one step removed from the actual negotiation and agreement with the PFI provider. Accordingly, the Board has responded to the questions within the 'Request for Information (i)' and this is appended.

I trust that the information provided is of assistance to the Committee.

DR M PAULA J KILBANE
Chief Executive

ROLE OF EHSSB

The Board has examined Trust business cases to support operating leasing arrangements (considered to be a form of PFI), and two significant business cases put forward by HPSS Trusts in support of 'true' PFI schemes aimed at the provision of services (equipment and equipment/building construction). In relation to the major schemes, the Board gives support to the business case which is then endorsed or otherwise by DHSSPS. As such, the board is not directly involved in the negotiation and agreement with the PFI provider.

GENERAL CONTEXT OF PFI/PPP

1. What do you see as the benefit of PPP/PFI? Are there identifiable benefits to the public and stakeholders?

   Answer

   PPP/PFI allows the public sector to secure goods and services without an initial public capital outlay. The initial capital outlay provided by the private sector is repaid over a number of years. In addition, PFI may offer better value for money than a public funded option because:

   (a) The various elements of risk associated with a project are transferred to the private sector.

   (b) The private sector has greater incentives to secure efficiency gains compared to the public sector.

   (c) There is a greater likelihood that the full value of assets will be exploited.

   (d) The private sector often will have a different perspective on the provision of services. This may lead to innovative methods of service delivery being developed and implemented.

2. What do you see as the key factors for the successful application of PPP/PFI?

   Answer

   PPP/PFI schedules may offer different benefits depending on the nature of the scheme. However, the transfer of risk to the private sector is potentially a key factor in any project.

3. Are there any wider issues, limitations and constraints associated with the environment of PPP/PFI that have to be addressed? Are there gaps in the supplier market base? Are the skills and guidance available?

   Answer

   Each PPP/PFI scheme is likely to be different. The small number of relevant schemes in which we have been involved do not provide sufficient background on this point. However, as more schemes are developed in Great Britain this should help to provide guidance for the future.

4. How should the strategic importance and prioritisation of PPP/PFI projects, and the inter-relationships with other schemes, be assessed and managed?

   Answer

   PPP/PFI should be regarded as a method of funding not as a measure of strategic priority. The need for public sector funding is such that optimal use must be made of all potential funding sources.

5. Are there any particular social factors that should be assessed and managed and how have PPP/PFI schemes impacted on them?

   Answer

   Consideration of social factors (which can differ widely between projects) should be considered at the business case stage and be appropriately documented.

6. What alternative procurement options do you believe should be considered?

   Answer

   All appropriate procurement options, depending on the service to be secured, should be considered. Within the business case the provision of the Public Sector Comparator provides a guide to the costs of a conventional capital procurement option, but where other options are available and feasible, these should be considered.

7. How do you suggest PPP/PFI should be taken forward in Northern Ireland?

Answer

Currently PPP/PFI should be considered where there is a sound business case on the basis of value for money comparisons and where service benefits will also arise. A continued application of this approach should allow sound decisions to be taken.

8. What are the feasible alternative forms and structures of financing?

Answer

PPP/PFI allows for a number of financing approaches depending on the service procured, ie major schemes which include construction/redevelopment involving reagent rental agreements, cost per item and operating leases.

All options involved the 'repayment' of the initial capital outlay over a period of time using a pre-arranged method for the calculation of the repayments due.

9. What do you see as the economic basis of PPP/PFI?

Answer

In a suitable project, PPP/PFI may allow for a more effective and/or efficient way of allowing scare resources to provide for an improved delivery of services. The resources utilised are considered to arise from a future period and, as such, are not constrained to the level of resources currently available.

10. How can value in relation to capital investment and service improvement best be assessed?

Answer

Value in terms of capital investment can be considered technically by measurement approaches such as value for money, risk transfer etc. Value in terms of service improvement can be assessed with regard to patient benefit/outcome where a 'baseline' is developed prior to the introduction of the new investment and evaluated following project completion.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
THE FOUR NORTHERN IRELAND HEALTH AND SOCIAL SERVICES COUNCILS

27 April 2001

1.0 INTRODUCTION

1.1 The four Northern Ireland Health and Social Services Councils were established in 1991 to represent the interests of the public in all aspects of health and social services. The Councils monitor service provision, identify gaps in services and challenge planners and service providers to make services more responsive to patients, communities and the public.

1.2 Under the Health and Social Services Councils Regulations (Northern Ireland) 1991, Boards have a duty to consult Health and Social Services Councils on any proposals for substantial developments or variations in services within the Council's area.

1.3 To date Councils have had very little involvement in the use of Public and Private Partnerships (PPP) or Private Finance Initiatives (PFI), in the area of health and social services in Northern Ireland. The initiatives that we are aware of relate to the proposed Downe Hospital and the Renal Units at the Belfast City and Antrim Hospitals.

1.4 A number of other schemes would be regarded as PPP, but it is not clear if they are classified as such. These relate to leasing of equipment (for example, CT scanners) and the employment of specialist staff by suppliers (for example, stoma nurses).

2.0 BENEFITS OF PPP/PFI

2.1 The most obvious benefit (and this is true in the case of the renal units) is that unacceptable, inadequate facilities are replaced and the quality of patient care is improved. The Belfast City Hospital had been waiting for some time for public sector capital funds to replace a very old outdated facility where recommended standards of care were not being achieved.

2.2 Proponents of PPP/PFI projects suggest that they are more cost effective than the conventional alternative, but this is open to challenge, because cost comparisons are often not accurate.

2.3 Trusts cite the transfer of risk as another benefit. However, risk transfer is difficult to measure and the costs are estimated subjectively.

3.0 LIMITATIONS AND CONSTRAINTS

3.1 There is limited experience of PPP/PFI in health care in Northern Ireland and a limited supplier base. Therefore, bids will be external or will be by inexperienced consortia and the opportunity for competition is constrained.

3.2 The process of PPP/PFI is enormously expensive and time consuming for Trusts and the exercise may be fruitless. The cost of specialists' advisors for the Belfast City Hospital project amounted to £95,000 and is obviously not the total costs. The costs for the unsuccessful exercise undertaken by the Down Lisburn Trust was recorded as approximately £½ million, but when all the resources expended are included would be closer to £1 million.

3.3 Expert advice from accountants and lawyers is sourced from the private sector, which may pose an inherent conflict of interest.

3.4 The Councils also have concerns that some vital new services such as the Regional Cancer Centre could be delayed if the PPP route is to be explored.

4.0 SOCIAL FACTORS

4.1 Hospitals built by private consortia often contract out ancillary services. This detracts from the idea of co-operative working and shared objectives with staff working for different employers. The outcome of competitive tendering has been detrimental to staff morale and services in general. This is evidenced by the lack of ownership of hospital cleaning with the result that the Government is sending in inspection teams to help clean up ‘dirty hospitals’.

4.2 Consortia wish to maximise their profits by cutting costs and this is often achieved by a reduction in staff or adjusting their skill mix. Alternatively, spending on teaching and research may be cut back, or patients may be discharged earlier thus shifting the burden to community services and more importantly informal carers.

4.3 There is some evidence that PPP/PFI is more feasible and attractive where Trusts have valuable sites particularly in city centres. Deals involve the sale of surplus property and the transfer of sites from the Trust to the consortium.

4.4 PPP/PFI consortia look to increase profits by increasing costs to patients such as car parking charges and private patient facilities. They therefore are more reluctant to build in areas where there are lower incomes and where people are less likely to subscribe to medical insurance policies. Any distortion to hospital development has the potential to worsen the health of the poorest and would be contrary to the principles of Targeting Social Need (TSN).

5.0 OPENNESS AND ACCOUNTABILITY

5.1 As stated earlier the Health and Social Services Councils have had little involvement in PPP/PFI projects. In some instances, outline business cases have been shared and the Councils have had the opportunity to comment on these. However, there is no involvement nor consultation as the process moves forward and no opportunity to comment on the full business case, which includes the Public Sector Comparator.

5.2 Once the preferred consortium is selected, all negotiations are conducted in private with the Trust. This is done under the guise of “commercial confidentiality”. The Councils and the public are only informed when the deal is completed and there is no opportunity to comment.

5.3 The NHS Executive in England has produced guidance on “Openness and Public Involvement” in this process (Appendix 1). The Councils would wish to see this strengthened and issued in Northern Ireland if Public Private Partnerships are to continue.

6.0 CONCLUSION

6.1 The general public has consistently expressed their distrust of for-profit organisations. They clearly see the NHS as a public service, which is publicly funded and publicly owned. There has been no public debate on the subject and no genuine consultation on proposals.

6.2 PPP/PFI projects obviously reduce public sector borrowing for capital projects, but the schemes are paid for by revenue budgets and this could have a detrimental effect on an already pressurised service. In addition, these schemes are paid for over many years ranging from between 15-30 years.

6.3 Some companies are poised to move into non-acute care sectors such as primary care. Councils would have concerns that this could mean a further blurring of distinction between NHS and private services, particularly when these companies also provide GP medical insurance schemes.

6.4 The impact of these schemes cannot be effectively evaluated due to the length of the contracts. However, if they were to continue, Councils would wish to see exemplar models and clear specifications being utilised and also close monitoring arrangements to protect the interests of the public.

6.5 Openness and accountability are meant to be key features of the Health and Social Services and new proposals are to be based on partnership. Private Finance initiatives to date have compromised these principles and have focused on the needs of vested interests rather than the needs of patients and clients.

JANE GRAHAM (Mrs)
Chief Officer, EHSSCouncil
on behalf of the four Health and Social Services Councils

APPENDIX

11. OPENNESS AND PUBLIC INVOLVEMENT

Introduction

11.1 In the past PFI schemes have often been perceived as secretive and exclusive by the communities they serve. The degree of consultation and openness has varied between schemes.

11.2 Openness and public involvement are key features of the new NHS. PFI schemes usually involve major changes to the provision and location of NHS services. Local people and their representatives must be able to comment on and respond to options and proposals. Active communication and a continuing dialogue, including early discussion of any changes, should be a standard feature of all PFI schemes. The guidance in this chapter is intended to establish a more consistent approach to consultation, dialogue and the release of information.

Consultation and dialogue

11.3 A proposal for a major project requires the production of a Strategic Outline Case (SOC) to demonstrate the health service need for a major capital investment. In the SOC the Health Authority is required to set out its plans to communicate and explain its proposals to the local community throughout the process of developing the scheme, and to provide opportunities for views from the public to be expressed and considered. Under regulation 19(1) of the Community Health Councils Regulations 1996 [SI 1996/640] Health Authorities have a duty to provide local Community Health Councils (CHCs) with information about the planning and operation of health services in their area.

11.4 Ministers prioritise SOCs. Prioritisation indicates that a SOC has identified a health service need which has to be met, that there are some viable options and that the NHS Trust should proceed to fully consider and develop all the options for meeting that need in an Outline Business Case (OBC).

11.5 Under regulation 18(1) of the Community health Councils Regulations 1996 [SI 1996/640] Health Authorities have a duty to consult CHCs on any proposals which the Health Authority may have under consideration for substantial developments or substantial variations in services in a Council's district. This consultation period should begin when proposals are reasonably well developed so that there can be meaningful consultation, but clearly the consultation has to be conducted before any final decisions are made. The precise timing will be decided upon by the Health Authority.

11.6 The NHS Trust board should set up the project board (see chapter 7 of this section) once preparation of the OBC starts. Among the project board's roles are representing the wider ownership of the project and agreeing an internal and external communication plan. Whatever local arrangements are agreed upon by the Health Authority in the discharge of regulations 18(1) and 19(1) of the Community Health Councils Regulations 1996 [SI 1996/640], the project board's external communication plan should ensure that there are clearly agreed arrangements and mechanisms to keep CJCs and other interested external parties informed and updated about the service options being considered in the OBC.

11.7 After the OBC has been approved the arrangements and mechanisms agreed under the external communication plan should remain in place throughout the PFI procurement period, ensuring a continuing dialogue between the NHS Trust and interested external parties as the NHS Trust selects a private sector partner and develops a PFI solution which meets the service requirements identified in the OBC. CHCs and other external parties must have the opportunity to express their opinions and views and seek answers to questions on behalf of those they represent during the PFI procurement period. They must have a genuine opportunity to influence decisions before they are taken.

11.8 In making documents and papers available for the continuing dialogue described in Para 11.7, NHS Trusts must observe the guidelines on access to information which are discussed under 'Making information available' below. Certain information received from bidders or produced by the NHS Trust may be commercially sensitive and NHS Trusts must be clear about the exact nature and implications of any confidentiality or restricted access arrangements which they decide upon.

11.9 If the service element of a PFI solution differs significantly from that originally approved in the OBC, such that it is different from the proposals already consulted on, the Health Authority will need to extend the original consultation under regulation 18(1) of the Community Health Councils Regulations 1996 [SI 1996/640].

11.10 The checklist at Figure 11.1 at the end of this chapter sets out the requirements for consultation under regulation 18(1), information release under regulation 19(1), and a continuing dialogue, as discussed above. It also includes the requirements with respect to planning permission (see Para), establishment orders (see chapter 13 Section 3 "Technical Issues") and staff at the NHS Trust (see next chapter). In order to reduce uncertainty for the private sector and thereby optimise value for money, all the statutory consultation exercises (apart from those under TUPE and the provision of information to CHC(s), which will be ongoing) must be completed wherever possible before a scheme proceeds to OJEC and the private sector becomes involved.

11.11 The OBC and FBC must include a discrete section which summarises the statutory consultation exercise and subsequent dialogue. This must set out the major concerns and issues raised and how these were taken into account by the Health Authority and the NHS Trust. It will be a requirement of business case approval that the consultation, information and dialogue requirements set out above are observed.

Making information available

11.12 To be meaningful and effective the dialogue between an NHS Trust and interested external parties during the PFI procurement period must be based on valid and adequate information. A key requirement for managing the procurement process properly is a well prepared and widely understood strategy for the disclosure and dissemination of information.

11.13 The general principle to be followed by NHS Trusts is set out in the *Code of Practice on access to Government Information* (Cabinet Office, Second Edition 1997) which states that:

"the approach to the release of information should in all cases be based on the assumption that information should be released …except where disclosure would not be in the public interest or would breach personal privacy or the confidences of a third party".

This is also the approach taken in the NHS's own guidance document *Code of Practice on Openness in the NHS* (EL(95)42):

"There should always be a general presumption of openness and transparency on the part of an NHS organisation conducting a tendering process. Commercial good practice, while welcoming openness, demands some confidentiality to preserve the business interests of competing companies and to protect the position of the NHS organisation in current or future tendering activities. Nothing in the Code therefore requires NHS organisations to prejudice the legitimate commercial confidences of tenderers and contractors."

11.14 The *Code of Practice on Openness in the NHS* states that competitive tendering should not lead to any loss of public accountability for public service or loss of transparency in the spending of public money. The guidance lists the information which should normally be made public:

- the range of tender bids, where three or more are received;
- the identity of the successful tenderer (by agreement with tenderer);
- the nature of the job, service, or goods supplied;
- performance standards;
- the criteria for award of contract;
- the winning tender price (by agreement with tenderer);
- the general contract terms and conditions.

11.15 NHS Trusts must carefully consider the implications of these guidelines for the release of information for the continuing dialogue throughout the PFI procurement period. The application of these guidelines is a matter of judgement for individual NHS Trusts, but NHS Trusts should clearly set out their proposals for dialogue with external parties and their approach to making information available in the Memorandum of Information, which is sent to all those who respond to the contract notice placed in OJEC. As suggested in Section 2 of this guidance (Presentations and Interviews), the presentation is a good opportunity for the project team to discuss further with prequalified parties the NHS Trust's external communication plan and access to information.

11.16 Most of the information which could be regarded as genuinely commercially sensitive, in that its release during the PFI procurement period might jeopardise the competitive process and achievement of value for money, is provided in response to the preliminary and/or final ITN. Information provided in response to the preliminary

ITN in this category might include innovative design and construction points, methods of financing, risk allocation, treatment of surplus land or other specific features of the scheme. Information provided in response to the final ITN might include details of the financial model, the payment mechanism, the tariff and charging arrangements, methods of financing and sources of income.

11.17 To be transparent and fair, NHS Trust should seek to ensure that, as far as possible, the same level of information should be available on each bidder during the dialogue with external parties. NHS Trusts should use the presentation to establish a consistent and fair approach to the release of information with all the remaining bidders. However, NHS Trusts should take care to avoid a level of information release which simply accepts the lowest common denominator. Variations in the commercial practices and conventions of bidders is inevitable and, in any case, it is likely that further discussions and clarifications will need to be undertaken as the details of bids are developed.

11.18 Trades Unions representing staff at NHS Trusts who are anticipated to transfer to a potential private sector partner are entitled to hold meetings with shortlisted bidders to discuss staff issues. The information requirements for this process are dealt with separately in the next chapter 'Fair treatment of staff'.

11.19 It should be noted that these guidelines on the release of information do not provide an option on the part of NHS Trusts to refuse to release information regarding the particular outputs to be purchased under the contract, or the general terms on which the NHS Trust initially proposes or subsequently has agreed to do business. This means that, unless a genuine commercial sensitivity can be demonstrated, the NHS Trust should make available during the PFI procurement period the contract notice placed in OJEC; the Memorandum of Information; the Prequalification Questionnaire; and the Preliminary and/or Final ITN.

Release of key project documents

11.20 The release of the key PFI project documents is to ensure that a full and final record is in the public domain of the decisions for which the NHS Trust is accountable. The key PFI project documents are the OBC, the FBC and the final contract between the NHS Trust and its private sector partner. The Strategic Outline Case (SOC), required for projects with a capital value of £25 million or over, must be made publicly available in the same manner as the other key project documents.

11.21 Publicly available is defined as providing one free copy of each of these project documents as the following locations:

(i) the NHS Trust's premises for staff and patients to see;

(ii) with the Chairperson of the Trades Unions representing staff at the NHS Trust;

(iii) with the local Community Health Council(s);

(iv) with the local authority (only applies for schemes with a capital value of £1 million or greater);

(v) at the local main public Library where it must be available for viewing (only applies for schemes with a capital value of £10 million or greater);

(vi) in the library of the House of Commons (only applies for schemes with a capital value of £10 million or greater);

(vii) in the PFI Treasury Taskforce Library at HM Treasury (only applies for schemes with a capital value of £25 million or greater).

11.22 The addresses for sending copies to the House of Commons Library and the PFI Treasury Taskforce Library at HM Treasury are as follows:

House of Commons Library,
The Deposited Papers Clerk, Oriel Room, House of Commons, LONDON SW1A 0AA

Olga Morris, Treasury Taskforce(PFI Library), Private Finance Policy Team, Room 19A/G,
HM Treasury, Parliament Street, LONDON SW1P 3AG

11.23 One copy of each project document must also be lodged with the appropriate NHS Executive Regional Office.

11.24 Each project document should be made available in hard copy; NHS Trusts should also consider offering a CD-Rom version where possible. The Business Cases should include the name and address of a contact point at the NHS Trust and the Regional Office who can respond to queries.

11.25 NHS Trusts should supply further copies of their project documents upon request from any person, but are entitled to make a reasonable charge for them to cover photocopying/postage costs. NHS Executive Regional Offices are responsible for supplying further copies of the SOCs upon request (charging is at Regional Offices' discretion).

11.26 For PFI projects with a capital value of £10m or greater NHS Trusts must place an advertisement in their local paper at the time of publishing the OBC and FBC. This must explain that these documents are now available for viewing and where they have been placed.

11.27 The OBC and FBC must be made publicly available within one month of their respective final approval (which could be by the NHS Executive, HM Treasury or Ministers, depending on value). The final contract must be made publicly available within a month of financial close.

11.28 Current arrangements are that SOCs must be made publicly available within a month after the results of each national prioritisation exercise are announced. SOCs must be released irrespective of whether they were prioritised or not. If following the production of the SOC there were significant changes to the investment proposal considered by Ministers, an addendum should be added to the published SOC to show the changes.

11.29 As with the release of information for the consultation process, information released in the business cases and the final contract is subject to the same guidelines on commercial sensitivity. The amount and type of information which should be withheld from project documents which are made publicly available will in due course be governed by a standard agreement form which both the NHS Trust and its private sector partner will have to agree on and sign up to. This is currently being prepared by the NHS Executive. It will cover information contained in the OBC, FBC, and the new standard form contract.

11.30 Until this becomes available NHS Trusts should observe the guidelines set out in Paragraphs 11.13 and 11.14 above. NHS Trusts and their private sector partners should explicitly agree on what information should be withheld from the project documents to be released and it must be clearly stated in these documents what information has been excluded on the grounds of "commercial confidentiality". When the FBC is made publicly available the competitive element of the PFI procurement process will have been completed along with the value for money calculations and approvals. This means that certain information may no longer be regarded as commercially sensitive and should be included in the FBC.

11.31 NHS Trusts should be able to release their OBCs virtually intact. NHS Executive Regional Offices retain the right to edit Section 1 of the SOC as per current guidance (ie: references to the ability of NHS Trusts or other NHS managers which are considered sensitive).

11.32 Note that in all cases, information disclosed under the Arbitration and Conciliation Advisory Service (ACAS) code of practice for collective bargaining should always be deemed to be in the public domain and must be included in full in business cases made publicly available.

11.33 An operational guidance note was issued in December 1998 by the NHS Executive which deals with the position of NHS Trusts which already have signed contracts and/or approved Business Cases. This is available from PFI contacts at NHS Executive Regional Offices

Figure 11.1: Consultation, information and dialogue checklist

Stage of Scheme	Statutory
Develop Strategic Outline Business Case and/or Outline Business Case and prepare for procurement	Consultation on service change by Health Authority(s): CHC(s) consulted. Health Authority(s) provide CHC(s) with information (continues throughout procurement process). Establishment Order consultation between Secretary of State (NHS Executive Regional Office may conduct consultation) and CHC. Outline planning permission sought from Local Authority. Staff representatives and trades unions should be consulted by the transferor and transferee employers on proposed transfers under TUPE regulations no later than when ITN is being prepared (consultation continues throughout procurement process).
Stage of Scheme	**Non-statutory**
Develop strategic context and Strategic Outline Business Case and/or Outline Business Case and prepare for procurement.	HNS Trust alerts CHC(s) to its intentions and possible need for change in the Establishment Order. Preliminary discussions with Local Authority re planning permission. Dialogue about the scheme with other NHS Trusts, commissioners and other NHS bodies in the local health economy, staff representatives and trades unions, general public, CHCs, tenants of the NHS Trust, local authorities and voluntary organisations.
Advertise project in OJEC, shortlist and select preferred bidder.	Continuing dialogue with interested external parties, including CHCs: parties to be kept regularly informed and updated during the PFI procurement process and invited to present their views to project management.
Develop Full Business Case.	Outcome of formal consultation exercise and subsequent dialogue during PFI procurement process recorded in FBC.
Award contract and implement scheme.	Continuing dialogue with staff representatives and trades unions regarding ongoing human resource issues as scheme develops.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
HOMEFIRST COMMUNITY TRUST

25 April 2001

PUBLIC PRIVATE PARTNERSHIPS

Benefits can be gained by using the expertise that the Service does not possess. Commercial approach to potential problems (including funding initiatives) can lead to better assets utilisation such that the investor can reap benefit that helps underpin costs that would otherwise fall to the public sector.

This Trust has in the past successfully employed BP Energy to manage and run its energy programme for Holywell hospital, it has generated revenue savings from the benefit of automation which would not have been available to Homefirst.

In addition, the Trust has entered into long term lease arrangements with GPs to enable them to improve their centres to a level that the public funds could not have achieved, however, revenue costs have increased, but so has the quality of services to the public.

The key factors to a successful application is accepting that there will be a trade off between saving capital expenditure at the cost of increasing revenue expenditure, and the transfer of risk for obsolescence, repairs and replacement. Willing partners who can measure benefit to their participation are obvious keys to success, this requires the public service to accurately define its requirements in a changing environment.

The wider issues that impose constraints on both the public service as well as the participating partners, is the cost of preparing specifications on the one hand and the cost of response (without guarantees of success) on the other. Skills and guidance, whilst useful are not the main problem, what seems to be the major stumbling block, is Department acceptance of schemes and the revenue consequences. There are, in addition, supplier gaps particularly in the field of residential and private nursing home provision. For example, this Trust would be interested in transferring its statutory homes to the private sector, yet the private sector are concerned at the long term economic viability of their existing homes without taking on more commitments. The private sector clearly are only interested in schemes that enable them to make a profit to offset risk.

Managing PPP/PFI schemes in the context of other projects, depends on the extent of benefits that are to be derived from the respective schemes. Each has to be subjected to the same economic assessment process, including affordability and benefit to the service user. This can only be determined at the centre ie DHSS&PS/DFP.

Social factors would include employment, service quality, impact on service users/carers, availability of scarce resources, as well as the longer term impact of improving the benefit to the end user. Interaction with and sharing benefits with other public services as to gain advantage of maximised utilisation are features that cannot be ignored for the greater benefit – ie remove barriers of ownership, and imposed Departmental boundaries – ie education and health working closer together.

Alternative procurement options might range from PPP providing full services which the public service could buy into, to providing “assets only” for use by the public service. The limitations and scope are only defined by the extent of imagination, flexibility, resource consequences, and a willingness to consider a different way of providing a service. There is in the world many varieties of public service, yet there is a reluctance to incur expenditure to research other people’s approaches – funding special studies could reap large benefits. This should at least be considered.

PPP/PFI can best be taken forward on a collaborative basis. Northern Ireland is too small for there to be anything other than a collaborative approach. Economies of scale can be achieved that would not have otherwise been possible. PPPs are more likely to become interested in being involved if schemes are large enough.

At the creation of Homefirst out of the former Bannside and Loughside Unit of Management, the boiler plant in Holywell hospital was condemned by the former Bannside UOM estates department supported by an external consultant engineer’s report who put the replacement price at £880,000. The distribution infrastructure was also giving major problems.

Homefirst Trust together with DHSS&PS Estate Services in the absence of adequate capital funding, determined that a PFI approach be considered.

Expressions of interest were sought through the OJEC Journal to the provision of energy on the Holywell site and there were three respondents, with two short-listed. Each respondent was given the opportunity to,

- make a presentation explaining their approach, rationale and proposals;
- make available inspection sites where their proposals were being applied.

Assessments were made on a value for money and transfer of risk basis. As a consequence the proposal by BP Energy was adopted.

The most significant factors present in their proposal were:

- BP Energy invested significant capital in the boiler plant and infrastructure;
- BP Energy would accept the risk of operating the existing boiler plant backed up by an independent x-ray inspection of the boilers commissioned by BP Energy;
- BP Energy would accept financial penalty claims for non-delivery of energy;
- by making full use of automation, the boiler house would be de-manned;
- BP Energy's commitment to:
  - a partnership approach to develop energy efficiency on the site;
  - to procure fuel oils at a price at or below the current NHS contract price.
  - to provide expertise in a developing specialised field.

From the outset BP Energy have met their contracted obligations in full. They have proved to be reliable partners, have brought benefit to the Trust that has generated cash release savings.

A recent value for money study conducted by Internal Audit concluded that BP Energy had more than complied with their obligations under the contract.

Five years have now elapsed since this contract was signed and

- the boilers continue in operation;
- the automation that enabled the boiler house to be de-manned works exceedingly well;
- energy efficiency on this site has improved by 2.3%;
- the Trust generates part of its electricity requirements as a direct consequence of BP Energy's initiatives;
- savings have been derived from and through BP Energy fuel oil procurement.
- Trust resources that would have been committed to the maintenance of energy supply have been released to other service related business.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
NORTHERN IRELAND HOUSING EXECUTIVE

20 April 2001

1. Thank you for inviting the NIHE to make a submission to the Social Development Committee enquiry within the terms of reference that you have set down.

   "To investigate current proposals in Northern Ireland relating to the Rights of Housing Association Tenants to buy their own properties; to examine the benefits and disbenefits of such proposals and produce a report".

2. The document attached places the proposal in the context of present tenure patterns, the ability of housing association tenants to buy in England and Scotland, the scale of the housing association movement in Northern Ireland, and the impact of the NI Voluntary Sales Scheme on housing association stock.

3. In summary the NIHE believes that similar rights should exist between all tenants of the social rented sector including the Right to Buy (RTB) in whatever form it takes. The Committee should note that the Executive is currently reviewing its House Sales Policy and will be issuing its proposals for discussion in early summer.

4. Arguments against the principles of applying RTB to housing associations, who are now the providers of new social housing in Northern Ireland, are difficult to sustain. However, it is recognised that the Housing Association movement has reservations about RTB. Up until April 2000 only 14 out of 45 associations had sold to a total of 214 tenants; a small proportion of the 24,302 dwelling stock. However it must be recognised that because of the historic focus of the movement on supported/sheltered/elderly schemes there would be concerns about such property being available for sale. Under the current Housing Executive Sales Scheme they would be excluded from purchase.

5. In addition, housing associations will wish to see exceptions over and above those that apply to NIHE house sales. These include smaller associations where it is felt that house sales may threaten viability. 12 of the 45 associations have less than 100 units of accommodation. There is a view that the number of associations in Northern Ireland is too large in any event and that some consolidation would assist financial and housing management, and the achievement of performance standards. Consolidation could reduce the impact of exemption from RTB on the basis of size.

6. Similarly, it has been suggested that tenants more than 4 weeks in arrears should be excluded. This is contrary to the NIHE Sales Scheme, which obliges tenants in arrears to settle up before sale completion. It would be reasonable to apply the rules of the NIHE scheme (which has delivered over 90,000 sales to tenants) to housing associations RTB thus ensuring consistent treatment of tenants in the social rented sector.

7. Representations have been made that the RTB if applied to Housing Association Schemes would from a leader's perspective have a negative impact on the securing of private funding for existing or new schemes. There are several points to note in relation to this argument.

   - Most supported/sheltered schemes are 100% Housing Association Grant (HAG) funded with no private funding and would generally be excluded from RTB.
   - The new RTB would apply to housing provided for general needs purposes (which would previously have been provided by NIHE) and which is funded under mixed funding arrangements. We believe the financial arrangements to compensate an association for loss of its assets goes a long way to satisfying the concerns outlined in para 1.8 and 2.5 of the supporting report.

8. Finally, the Committee is asked to note that the NIHE is reviewing its house sales scheme. It is anticipated that proposals (which will deal with joint purchases, tenancy qualification, over 60s exclusion and maximum cash discount ceiling) will be available for consultation in the early summer. The scheme is currently subject to an Equality Impact Assessment under Section 75 of the Northern Ireland Act 1998.

P McINTYRE
Chief Executive

1.0 Introduction

The Northern Ireland Housing Executive is the Regional Housing Authority for the Province. It has strategic responsibility for housing in the Province charged with responsibility for assessing overall need and developing strategies, programmes and plans for meeting that need. It has responsibility for tackling poor housing conditions and unfitness (using Urban Renewal Home Renovation and Grant powers) and is the landlord of 120,000 dwellings. It no longer provides new build directly. This function is now carried out by the Housing Association movement. However, the Executive has the role of assessing the overall new build needs and in developing the programme for meeting this.

2.0 Current Funding and Investment Arrangements

2.1 The Executive's funding sources for 2001/02 are as follows:

- Rental Income/Miscellaneous £238.9m
- Capital Receipts £80.0m *
- Government Deficit Grant £210.8m

* The Executive expects to generate receipts of £100m with additional receipts declared to the DFP for allocation during the year.

2.2 The Executive's expenditure in 2001/2002 is as follows:

Capital	**£**	**Revenue**	**£**
Newbuild	3.2m	Loan Charges	224.6m
Land and Property Acquisition	20.0m	Maintenance to houses	108.1m
Capital Improvements to NIHE Stock	56.7m	Running Costs	64.7m
Accommodation & Equipment	3.5m	Grants	42.0m
Working Capital	1.5m	Miscellaneous	15.4m
Total	**£84.4m**	**Total**	**454.8m**

The Committee may wish to note the level of Loan Charges which services an overall loan debt of £1.7 billion which is, to a large extent, a product of significant capital investment in the 70s and 80s aimed at eradicating the very poor housing conditions inherited by the Executive.

The Committee may also wish to note the comparison between loan charges and Government Deficit Grant.

2.3 The pattern of Executive expenditure has also been changing in recent years with higher levels of investment in private sector Urban Regeneration and Home Improvement Grants and in Community Care and with a corresponding reduction in investment in Housing Executive stock.

2.4 The Department for Social Development directly funds the Housing Association programme by way of Housing Association grant (HAG). Proposed funding in 2001/2002 is £61m.

2.5 Private finance plays a key role in housing investment in Northern Ireland in the form of receipts from the sale of land and properties and private sector borrowing by the Housing Association movement. This is referred to in more detail in paragraph 4.

3.0 Investment Needs

3.1 Each year the Housing Executive publishes an Annual Review of the Housing Market. A copy of the most recent publication (November 2000) is included with this submission.

3.2 Whilst significant progress has been achieved in improving housing conditions in Northern Ireland over the years (the substantial reduction in unfitness being one indicator) there is, nevertheless, an ongoing need for investment both to maintain the current quality of the asset and to deal with backlogs which currently exist.

3.3 Investment needs are crudely as follows:

Private Sector

- 44,000 dwellings which are unit (Grants) Annual Programme £36m
- Urban Regeneration (Belfast) 5 year Programme £63m
- Assisting the Disabled (Grants) Annual Programme £6m

Social Sector

▪ 10,000 unimproved dwellings	5 year Programme	£200m
▪ Heating Replacement	15 year Programme	£186m
▪ Replacement of Components (Kitchens/Bathrooms only)	10 year Programme	£180m
▪ Neighbourhood Renewal	5 year Programme	£32m
▪ Replacement of Rural Cottages	5 year Programme	£14m
▪ Maintenance of Assets	Annual Programme	£80m
▪ Assisting the Disabled (Adaptations)	Annual Programme	£20m
New Provision		
▪ 1500 dwellings per annum (Housing Associations)	Annual Programme	£75m

3.4 Estimates in the last Annual Review of the Housing Market suggest that over the three year planning period covered by the review, some £1.0 billion of investment is required. Planning figures for the next three years suggest investment across various programmes will be £0.9 billion giving a shortfall of £100 million over the period.

3.5 It is widely recognised that investment in housing has a positive impact on health, education, employability, tackling social deprivation and on area regeneration and renewal.

4.0 Private Finance Flowing Into Public Housing Provision in Northern Ireland

4.1 There are two main flows of private finance into the housing system in Northern Ireland. These are:

- Capital Receipts generated by the Housing Executive from its Right to Buy Scheme and from the disposal of land. Between 1994/95 and 2000/01 £500m of receipts have been generated from this source. Of this sum £133m were additional receipts generated and declared to DFP for allocation. NIHE benefited directly to the sum of £49m with the balance of £84m redistributed to other public expenditure programmes.
- Since 1991/92 the Housing Association new build programme (general needs only) has been funded by the Department by way of Capital Grant, known as HAG – Housing Association Grant – at a rate of 60% of the development cost. The remainder is funded by private borrowings. Under this arrangement some £155m, has been raised in Northern Ireland since mixed funding was introduced.
- There are no PPP/PFI Housing Schemes or projects in Northern Ireland.

5.0 GB Comparisons – Investment Trends, Needs and Response

5.1 Throughout the 80s and 90s investment in public sector housing in GB was significantly reduced. The Government's policy focus was mainly on promoting owner/occupation and on reducing the local authority role as a new provider or landlord.

5.2 By the time the current Government came to power, it was estimated that there was a £20 billion investment backlog in local authority stock.

5.3 Successive Spending Reviews have significantly increased the level of public sector resources going into housing. (News Release 492 DETR 24 July 2000, for example, suggests a doubling of the amount of Government investment). The Government has set a target of reducing the investment backlog by 2010 with substantial inroads made by 2005.

5.4 In England and Wales, under the current Government, a Green Paper on Housing was issued in 2000 for consultation and the Government response was issued recently. This envisages four main routes for local authorities to take in dealing with the investment backlog.

These include:

- Current arrangements funded by public expenditure resources.
- Large Scale Voluntary Transfer which has, to date, been the most significant option with some 400,000 dwellings transferring to registered social landlords who are able to borrow outside the public sector borrowing requirements. In this case, ownership transfers from the local authority to a newly created vehicle which will be a registered social landlord, subject to regulation by the Housing Corporation.
- Arms-length Management Companies which are newly created bodies (none yet exist) arising from the Green Paper. The arrangement is that a local authority separates its strategic functions from its management function

and creates a company owned by the Authority. The Company would have freer borrowing powers but funds borrowed will still count against PSBR.

- Housing PFIs – A number of Pathfinder Housing Investment PFIs have been introduced in England. They are very much at pilot stage. These are discussed further in paragraph 6.

6.0 PFI and Social Housing

6.1 PFI is a developing vehicle for the provision of new housing and for investment in existing housing in GB.

6.2 The 4 Ps commissioned a report in 1998 which looked at the potential for increasing private sector investment using PFI for social housing. This remains the substantive work in this field. (It was published by the Local Government Association.)

6.3 The Report indicated that, in contrast with most other service areas, private finance is already used to increase investment in social housing stock either by way of Large Scale Voluntary Transfer or by Mixed Funding for Housing Association new build. In addition, housing projects tended to be smaller in value than typical PFI projects.

6.4 The view expressed in the Report was that PFI might generate additional value by:

- introducing greater competition into the regime for replacing or refurbishing existing social housing and
- introducing a new class of competitors into the market for Government support to help to provide new social housing **without being landlords**.

6.5 The typical PFI for housing will be of the design, build, finance and operation model (DBFO). The term new build would include refurbishment. The local authority would either grant a long lease to the provider with a reversion to the local authority at the end of the lease or, alternatively, the local authority would enter into a service contract with the provider carrying out the investment and managing and maintaining the stock. Tenants remain local authority tenants.

6.6 There are currently eight Pathfinder Projects at various stages in England. They are mainly either direct new provision or clearance of old dwellings and replacement. The enclosed DETR bulletin gives a flavour of the Projects.

6.7 In addition, the DETR has recently announced a further twelve Pathfinder Councils focusing on refurbishment. These Councils will now be required to submit detailed PFI schemes to secure endorsement from the Government's Project Review Group.

6.8 Finally, the Chancellor in last year's budget announced tax incentives to leasing companies to make the leasing of a range of assets to the public sector. A number of local authorities in GB are using this to install central heating in social housing stock. (This could be potentially applied in Northern Ireland.)

7.0 Inquiry By The Social Development Committee

7.1 The Social Development Committee is currently carrying out inquiries on a number of matters relating to aspects of the forthcoming Housing Bill. One of the areas covered is Large Scale Voluntary Transfer. The Housing Executive's submission is enclosed with this document. You will note that the Housing Executive/DSD have commissioned a joint study by Consultants on issues to do with investment needs and how these might be funded.

8.0 Conclusion

8.1 The Housing Executive's view is that:

- Substantial amounts of private money have been and continue to be utilised into the housing system by way of capital receipts (sale of assets) and private funding for new build.
- Whilst housing conditions have improved significantly in Northern Ireland there remains a continued need for investment.
- The conditions which have led to alternative models for investment in GB do not exist to the same extent in Northern Ireland.
- PFI for housing investment is one of a number of these models but compared to others in GB remains small scale and marginal with significant doubts about the willingness of lenders to engage in schemes when compared to other large scale investment routes such as LSVT.
- The Housing Executive, in conjunction with DSD, has commissioned a review of investment needs and options for Northern Ireland which will report later this year.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
NORTH EASTERN EDUCATION & LIBRARY BOARD

19 April 2001

1. The Board

1.1 The North-Eastern Education and Library Board is the local education and library authority for most of County Antrim and the eastern part of County Londonderry comprising the District Councils of Antrim, Ballymena, Ballymoney, Carrickfergus, Coleraine, Larne, Magherafelt, Moyle and Newtownabbey. The Board serves a population of approximately 400,000 people including 75,000 school children and provides services to 300 schools and over 500 youth centres and manages 35 public libraries.

1.2 The Board employs approximately 11,000 staff in full and part-time capacities and manages a budget of £250 million including capital and earmarked funding.

2. Background

2.1 The Board has yet to produce a capital asset through the PPP/PFI process. There were no 'pathfinder' projects within the North-Eastern Board area. In 1994 the Board in partnership with the Northern Ireland Transport Holding Company did begin a PFI process to procure a library and bus station in Antrim. Unfortunately this has not yet been completed.

2.2 Most recently the Board has received approval from the Department of Education to 'bundle' a number of schools capital building projects and seek to procure them through a PPP/PFI route, but this is at a very early stage.

2.3 The PPP/PFI route has also been used by the Boards to procure IT services – such as an Accounting System, Classroom 2000 and ELFNI – the Electronic Libraries for Northern Ireland project.

The North-Eastern Board is the lead Board for ELFNI, but there is still some way to go before a contract can be signed.

2.4 The comments therefore outlined below are based on limited experience of operating the PPP/PFI process especially in the development of the Board's estate. All the projects which are in the course of acquisition by the Board have either yet to be completed or are at the early stages of initiation.

3. PPP/PFI in an Educational Context

3.1 There is a potential for the injection of private sector finance to address the difficulties associated with the schools estate. It is well known that there is a huge backlog of major and minor (those under £300,000) capital projects; which if funded by the normal route of capital allocations would take decades to address. The introduction of partnership arrangements could resolve this issue in a much shorter period.

3.2 In principle therefore we welcome a system which addresses the challenges facing the education estate by changing the capital payment up front to ongoing recurrent expenditure and ensures value for money.

3.3 The PPP/PFI approach is fundamentally different in concept from the normal route. The normal route with its planning and design phase lets a contract to a provider, whilst the PPP/PFI sets the private sector an objective and seeks their expertise in resolution of the objective. This should lead to a more creative, innovative solution and we welcome such an approach.

4. Some Issues

4.1 There are however a number of issues which face the public sector in general and the education service in particular.

(i) The present system seems overly bureaucratic, involving immense amounts of officer and consultancy time. The lead-in time can often be lengthy and expensive with no guarantee of a successful conclusion.

(ii) There are difficulties in property ownership especially when governors of schools want maximum and flexible use of the building, but the private sector wants to generate income.

(iii) There is at present a lack of contractual expertise amongst officers.

(iv) Not all projects are suitable or appropriate for PPP/PFI and criteria should be established to help identify such projects eg: small scale/cost projects are unlikely to attract private sector interest.

(v) Very few PPP/PFI projects have been completed within the education sector and no evaluation has been carried out of the process and outcomes.

(vi) In a schools context there are management issues in 'privatising' some of the services which are presently managed by the school.

(vii) Contract management is a major ongoing element of the PFI process. It is important that the public sector develops these skills.

(viii) Once a service has been 'contracted out', the contractor must deliver the service to the agreed performance standard. Once 'contracted out' the ability of the public sector to take back that service is seriously impaired.

(ix) Getting the specification correct from the outset is key to the delivery of a high quality product/service. It has been noted that the private sector provides what is the basic specification.

5. Some Recommendations

5.1 In the light of limited experience we would make the following recommendations:

(i) The system of procurement of PPP/PFI projects should be simplified.

(ii) An expertise in the procurement process and contract management should be built up amongst officers, supported by a central advisory unit.

(iii) Adequate resources should be made available to manage the procurement process and the Intelligent Customer Function.

(iv) Flexibility should be introduced to allow NDPBs to raise capital, establish companies etc.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
NORTH WEST INSTITUTE OF FURTHER & HIGHER EDUCATION (NWIFHE)

NORTH WEST INSTITUTE OF FURTHER & HIGHER EDUCATION

The North West Institute of Further and Higher Education is involved in the first major PFI for the FE sector. The following comments are based upon the experience of the Institute gained during the planning and implementation of the Pathfinder PFI scheme for the procurement of new teaching and staff accommodation. A purpose built facility comprising

4 storeys and 7500 m^2 of mixed teaching accommodation has been completed at the Strand Road site and has been operational from 7th February 2001. The PFI/PPP contract also includes the facilities management of the remainder of the Institute estate.

REQUEST FOR INFORMATION (1)

General Context

From the point of view of a Public Sector client there is resentment of the assumption that it is the Private Sector which is most innovative, more efficient and most capable of achieving true value for money. However it is obvious that PFI is a reality and will continue irrespective of future government. The challenge for all of us now is to make it work.

1.0 With reference to our own experience we would make the following comments.

1. Benefits

We see the key benefit of PFI/PPP as being a better planned and implemented project where risks are allocated to the party best able to manage them.

We look at some of the Institute's existing buildings that were built in the 1960s and 1970s and that are now in need of urgent upgrading and replacing. These were procured for the lowest capital cost, without much forethought into their long-term maintenance. Even if maintenance of these older buildings had been carefully planned, public expenditure constraints meant that the money was not there to be spent.

Our new building is operated and maintained by the private sector for 25 years. They have a contractual obligation to ensure that the building remains in good condition for the duration of the contract, and the money to ensure that this is achieved was committed by the Institute and DHFETE at the outset of the contract for the entire duration. If the private sector fails to maintain the building to the agreed standard, the Institute does not pay – a far more accountable use of public funds. The Institute also has identifiable and predictable accommodation costs from the outset, which are index-linked, and make for easier financial management.

We can only really comment on the use of PFI/PPP in the education sector. As far as we are concerned, the development of educational facilities has clearly identifiable benefits for the public and stakeholders. Education continues to develop on the basis of life long learning. This places demands on the sector to provide facilities that are much more adult-oriented and akin to the facilities that people would expect in the workplace. Employers are more demanding in terms of educational institutions delivering vocational skills that mean their new employees can 'hit the ground running'. By encouraging additional investment and development of new teaching facilities, we consider that the wider benefits are clearly demonstrable in both economic and social terms.

2. Key Factors for Success

From our own experience, the single most important key factor for success is planning of the project. Where the project involves the delivery of accommodation services, the public sector should:

- Have a clear understanding of its physical and service requirements, in output terms
- Identify and secure the site for the development, if it does not own it already

- Ensure that there is a ‘clean’ legal title to the site
- Consult with all project stakeholders and the public generally
- Obtain Outline Planning Permission in relation to the identified site

3. Wider Issues

Related to the point above, we are not convinced that the current Town Planning process is sufficiently flexible to deal with the complex procurement and operational issues involved in PFI/PPP. This is why we have indicated that it should be the public sector that identifies a site and seeks agreement in principle to the use on that site, in the form of outline permission. The site for our own development was already zoned for educational use, but procurement delays were still experienced as a result of the Town Planning process.

As far as the PFI/PPP market is concerned, we found that there was significant interest in the project from potential private sector partners. The Department of Education (at the time) procured a consultancy team to work with the Institute. Advice was sought and taken from the Department and H M Treasury, including the ‘Standardisation of Contracts’ document that was produced during the procurement process.

4. Prioritisation

Whilst the Institute does not have a role in the current process of assessing the strategic importance and prioritisation of PFI/PPP and other projects, we consider that the Department of Finance and Personnel, if it has not done so already, could develop a series of evaluation criteria that would determine whether a project might successfully be procured by PFI/PPP.

Prioritisation should be on the basis of need, regardless of the procurement route. PFI/PPP could be used in larger scale projects with an intensive service element to them, leaving existing public sector capital budgets to be used for smaller, more discreet projects. We see PFI/PPP as a means of accelerating a programme of social and economic development – an additional string to the bow of public sector procurement rather than a recipe for all situations.

5. Social Factors

As far as the Institute is concerned, the most important social factor than needs to be assessed and managed in the context of PFI/PPP is labour relations. In our case, the project involved the transfer of staff from the public to the private sector under TUPE. Early and regular consultation with all staff and Trade Unions was deemed vital to the success of the project.

6. Alternative Procurement Options

We understand that the term PPP can be applied to a variety of structures where co-operation is sought between public and private sectors. In some cases, private finance may not be necessary, but the public sector will still wish to benefit from the whole-life ethos that a PPP approach brings to the project. We feel that a scenario should be explored whereby the private sector partner designs, builds and operates a facility, but that funding is conventionally arranged by the public sector. There may also be circumstances when it is more appropriate that the public sector operates a facility. In such cases, it should still be possible to capture an appropriate level of risk allocation if the private sector designs, constructs and maintains the asset, but the other services are retained by the public sector.

7. The Way Forward

There needs to be a central pool of resource and expertise in the public sector that can co-ordinate and learn from all work on PFI/PPP projects to date. We feel that Northern Ireland needs its own equivalent of the former Treasury Taskforce, so perhaps this team is best situated in DFP. The NI taskforce should develop the information that is brought forward as part of this Inquiry and provide detailed guidance on the applicability (or otherwise) of PFI/PPP as an appropriate method of procurement when capital projects are being considered.

8. Alternative Funding

If individual projects were large enough, conventional or public sector bond financing would seem appropriate. This could also be applied to a number of smaller but similar projects, bundled together in a single procurement. It should also be possible for the public sector to take an equity stake in Special Purpose Companies set up to contract for the delivery of services, either on an individual basis or through a public equity investment fund. In general, the public sector should be allowed to take a more commercial view of risk and reward.

9. **Economic Basis**

As far as we are concerned, the economic basis of PPP/PFI is the allocation of risk to the party best able to manage it, combined with a whole-life approach to the procurement of public services that require the development of assets in order to deliver the service. It is this long-term consideration of value for money that provides the economic basis for PFI/PPP.

10. **Assessment of Capital Investment Value and Service Improvement**

It will be difficult to assess the value of capital investment and service improvement without an appropriate benchmark. In our own case, it may be possible to derive performance measurement criteria for a privately operated educational facility against one that is still managed by the public sector. Such criteria might include programmes of planned maintenance, response and rectification times in respect of standards of service, and customer satisfaction surveys.

The success of a PFI consortium in winning several contracts gives rise to concern as to its obligations elsewhere and the effect of any potential failure on one site having repercussions throughout its remaining projects.

A review of any consortium's continuing obligations should be taken into account, comparing the value of those projects against their obligations to give an early warning of potential difficulties, such as their total exposure being higher than their nett worth. This could result in some contractors wishing to improve their ability to sell on projects to create scope for developing new ones.

As contractors become more experienced at negotiating PFIs and gaining essential feedback from previous contracts, they will become experts in the PFI process. They in turn will be dealing with new clients in the public sector who will not have the necessary knowledge to be able to deal effectively with the consortium. It will be essential therefore that experienced support teams are established to advise and assist in negotiating contracts.

REQUEST FOR INFORMATION (2)

2.0 The Pathfinder project for the procurement of new teaching and staff accommodation for the North West Institute of Further and Higher Education was initiated in 1996.

2.1 Some of the outputs were not expressed in PFI terms at the outset of the project for obvious reasons but developed throughout the negotiations stage and were only substantively completed late in the process. Throughout the negotiation the Institute resisted being drawn in to allowing the contractor driven objectives being defined as outputs. This also applied to delivery mechanisms with pressure being applied by the contractor to have the Institute agree to specific inputs.

2.2 This project was the first of its kind in Northern Ireland and no one had experience in negotiating PFIs. Perhaps because of this the selection process for a preferred bidder proved exceptionally turgid.

2.3 No enquiries were made as to potential private sector interest or associated development. At the time there was a widely held perception that the procuring agency should not impose complications or restrictions which could potentially limit the bidders' creativity.

2.4 Risk transfer was identified primarily to do with the maintenance of the facility which included all furniture, fittings and fixtures. There was a reduction in directly employed staff who were transferred to the contractor who now has responsibility for security and cleaning. A certain degree of flexibility in respect of the deployment of staff has been lost as a result of the transfers.

2.5 The Institute considered existing guidance and advice from its consultants when setting evaluation criteria. A pre-qualification exercise was first carried out in accordance with the EU Procurement Regulations. A long list of potential partners was then prepared and each was issued with an Invitation to Submit Outline Proposals (ISOP). Bidder's proposals were received in presentation and written form. From these proposals, three bidders were short-listed to receive an Invitation to Negotiate (ITN).

The ITN contained information on how the bids would be evaluated, in terms of design and construction, service delivery, financial proposals and legal issues. The Institute's Project Team formed bid evaluation groups under each of these four titles. Each group devised specific evaluation criteria and weighted them, taking account of available guidance. These specific evaluation criteria were shown in the ITN for the benefit of bidders, albeit without the weightings established by the Institute's evaluation groups.

2.6 The key feature of the business case was that the innovative new-build solution proposed by the private sector on the existing Strand Road Campus provided better long-term value for money than the public sector solution, which was the refurbishment of an existing building off-Campus. By including the delivery of certain non-core services (such as cleaning, portering and security), the long term cost savings meant that a new building was affordable to the Institute.

2.7 The Public Sector Comparator took the form of a discounted cash flow analysis over the 25 year life of the project, taking into account the capital and revenue implications of each option. NPVs of each were then compared to allow ranking in terms of Value for Money. Discounting was carried out at the standard Government cost of capital – currently 6%.

2.8 The Western Education and Library Board appointed external consultants to assist in the preparation of the specification and the legal and accounting services. Architectural advice was obtained in-house by the Western Education and Library Board. The following were the consultants appointed.

Project Consultant	Chesterton/Katalysis PLC
Legal Advisers	Dibb, Lupton & Alsop
Accounting	Price Waterhouse
Contractor	Farren, Graham, Braidwater
Finance	Bank of Ireland

2.9 The key contractual issues included the Service Commencement date which was agreed very late in the negotiation stage.

Planning consent was applied for subsequent to the selection of the preferred bidder. This proved difficult to obtain and extended the period from selection of the preferred bidder and the signing of the contract. An element of the bid was lost as planning permissions did not allow for a pedestrian access from Northland Road. This altered fundamentally the principle of circulation within the building.

2.10 The procurement timetable was grossly underestimated both in the selection of the preferred bidder, which overran by approximately twelve months, primarily due to the failure of the contractor to obtain planning permission within the anticipated programme.

2.11 The Department of Education paid all of the advisers and made a contribution towards the cost of Institute staff time.

2.12 Requirements and specifications were appropriately output oriented with innovations encouraged by avoiding restrictive requirements. The quality of service targets and standards is considered reasonable.

2.13 The service commencement date was 12 February 2001 so no comment can be made as yet be made regarding the accuracy of the demand forecasts of the service requirements. Nor can comment be made regarding the performance measurement systems and associated payment regimes.

2.14 Payment under the Institute's PFI/PPP contract is made on the basis of the facility being available and performance of services to predetermined standards. The contract has a very detailed performance measurement system as part of the payment mechanism. As service commenced only a few weeks ago, it is too early to assess the effectiveness of the performance measurement system, although we are happy with what was negotiated as part of the contract.

2.15 The Institute received detailed financial models from the short-listed bidders part of the procurement process and worked together with their advisers to ensure that these were accurate and complete. Detailed clarification questions were issued to each bidder as part of this appraisal process in order to understand the assumptions made.

2.16 The Public Sector Comparator costs included were not very relevant. In our particular case they compared the costs of the operation of the Tillie and Henderson building with a new build on-site. It was felt that this was not comparing like with like.

The PSC was calculated on a net of VAT basis. In fact Further and Higher Education Colleges are partially exempt and so would suffer a high proportion of irrecoverable VAT, which is a real cost to colleges.

2.17 During bid evaluation and negotiation, the Institute had regard to market rates of return on debt and equity. Information was made available by the Institute's advisers, who had experience of other similar PFI/PPP projects in the education sector, and this information formed the Institute's standpoint when bringing the deal to financial close.

2.18 The Contract contains a change mechanism in accordance with Treasury guidance. No significant variations have been invoked to date. Although it is still early in the operational phase of the contract, the Institute regards the contract provisions as being complete, appropriate and enforceable.

2.19 Negotiation of risk allocation was undertaken on the basis of a detailed matrix containing over 100 separate risk areas. The principle adopted by the Institute was a close examination of the type and extent of the risk, insurability, and who was best able to manage it. Constant reference was made to the Treasury Taskforce Guidance – Standardisation of Contracts – that provides detailed explanation and suggested drafting on key risk areas. The final pattern of risk allocation closely followed the models suggested by this guidance.

2.20 Staff transfers were affected by the changes in personnel during the course of the project up to the Service Commencement date and further complicated by other contracting bodies whose staff also had a right of transfer. A constant updating of staff affected by the transfer is essential to allow the contractor to agree exact terms for individuals in relation to conditions of employment.

2.21 The transfer of ownership of the Tillie and Henderson building to the contractor was integral to the contract and reduced the total payment to the contractor. In the event of the contractor selling on the building, a threshold was set whereby any money obtained by a sale above this figure would be shared with the Institute on a 50% clawback basis. Subsequently the building has been sold just below the threshold level.

2.22 The construction costs were considered comparable with estimates in the public sector comparator.

2.23 The completed building is considered to have achieved the standards set in the construction and property specification.

2.24 A project evaluation report has not yet been completed.

From a personal point of view, based on approximately 2 months' experience in the building, I feel that at last we have been provided with an excellent facility. The calibre of the building makes an important statement and I can say that this has already facilitated business transactions for the Institute with a number of key players in the private sector. Staff morale has risen significantly.

There is still however a myriad of small matters which seem to take an exceptionally long time to get corrected. Hopefully this will improve over time.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
THE ROYAL HOSPITALS

30 April 2001

Thank you for your enquiry seeking views on PPP.

I understand from contacts with your office that this response is sufficiently timely to inform your briefing to the Committee, nonetheless I would offer my apologies for the delay.

The enclosed paper illustrates some of the benefits and disadvantages associated with PPP. You may be aware that one of the motivating factors for the development of PPP was that it led to "off Balance Sheet" accounting, thus removing such investment from the Public Sector Borrowing Requirement. Whether such an imperative should drive policy on the nature of debt-financing is questionable, but is obviously a matter for government policy. To date, such policy has prevented exploration of the potential advantages over PPP of, eg, raising public debt to finance major infrastructure investment. PPP must remunerate shareholders of private sector companies if such investment is to be maintained.

One of the oft-quoted advantages of PPP is the implicit purchase of private sector expertise ranging from Information & Communications Technology (ICT) through property development, to construction.

On the grounds that Health sector experience of property development is limited, one might single out projects with significant property development elements as part of an overall project development project as suitable for PPP. On the other hand, it may be debated whether private sector expertise exceeds that in the pubic sector in the design and construction of hospitals.

As regards ICT, the public sector has found it difficult to recruit and retain scarce expert resources in this area, faced with competition from the private sector. This may mitigate for PPP involvement in "cutting-edge" ICT projects.

Mr Sean Donaghy and I would be happy to discuss such issues further wit your office or with the Committee should it be deemed helpful.

W S McKEE
Chief Executive

Since the launch of the Private Finance Initiative (PFI) in May 1993, the HPSS has been encouraged to exploit the benefits of collaboration with the private sector in developing capital investment projects.

Operating Leases

The inception of the Governments Private Finance Initiative opened the NHS market to private sector funds, including leasing. Prior to this, leasing was regarded as "unconventional finance" and could rarely compete with Government funding. This Trust uses leasing finance solely for equipment purchase. The NHS laid down strict guidelines regarding leases:

- The lessor retains most of risks of ownership of the asset
- The lease premiums payable by the lessee must be less than 90% of the value of the leased asset. This is made possible by the Leasing Company taking a residual value on the lease, and therefore, ensuring a reduction in the over rentals to the Trust.

The Royal Group of Hospitals first engaged in operating lease finance early in 1994. This took the form of leases for equipment with a third party leasing organisation. Within the last two years, due to the necessity for intense asset replacement, within the Trust, there has been a proliferation of capital purchasing funded through operating lease finance.

Currently, the Trust has assets with a capital value of some £6.6m financed through operating leases. These are mostly financed for a period of 5, 6 or 7 years, depending both on the anticipated useful life of the particular assets and the equipment replacement strategy for the service in question.

It is also intended that the new equipment required for the Trusts Phase 1 redevelopment will be partially funded via operating lease finance.

Advantages the Trust has been afforded through Lease Financing

In entering into operating leases as a means to purchase capital assets the Trust has been afforded several benefits:

- The capital value of the leased assets is not counted against the Trusts EFL allocation, although, against this, the annual revenue costs to pay the lease rentals need to be identified.
- The Trust has greater access to capital equipment than it would have had under EFL funding alone and allows greater flexibility in the way in which it funds equipment and resultantly develops services.
- Risks are evidently shared with the private sector.
- Rentals payable by the Trust are reduced through the lessor taking a residual value on the asset, and as such, enables the lease to provide "best value" as against a cash purchase.
- Equipment, which has been leased does not incur any capital charges, and does not appear on the Trusts capital asset register.

In general terms the Trusts' leasing experience has been a very satisfactory one, both, as an effective means to finance capital assets that may not have otherwise been possible, and as an efficient use of the limited resources at our disposal.

Private Finance Initiative (PFI) Contracts

With the last number of years the Royal Hospitals Trust has entered into a number of PFI contracts. There are two main such contracts currently operating within the Trust. They are for:-

1. Provision of equipment for the Anaesthetics, Theatres and Intensive Care Services (ATICS) within the Trust.
2. Provision and management of staff/visitor car parking within the Trust.

It is intended that this document concentrate, for the purposes of the inquiry, on the Theatres and Intensive Care and Car parking PFI's, as it is from these agreements that the issues impacting most significantly on PFI contracts are best demonstrated. It is also through these contracts that most learning has been afforded to the Trust on how to best to set up, operate and manage public private partnership agreements.

Through both of these projects it has become evident that for PFI to work most effectively, it is imperative to get the scope of the project right from the inception. If major unforeseen changes to service levels are required it may prove problematic in renegotiating the contract and agreeing terms for future activity.

Theatres and Intensive Care Services

As with a complex and dynamic service, such as Theatres and Intensive Care, it is not always possible to predict how, and to what volume, the service will be delivered at a point in the future. It is also difficult to accurately predict how influences (such as Government directives) external to the control of the Trust effect future levels of service required.

At the time the PFI contract was being negotiated, some of the changes to the service within theatres and Intensive Care Unit (ICU) could not have been predicted. This was especially so with regard to the significance of the changes resulting from a Chief Medical Officer report, recommending a major increase in the number of ICU and high dependency unit (HDU) beds being provided.

As can be seen from the table below, in 1995, there were 8 ICU beds and no HDU beds with a projection for potentially 14 ICU beds and 5 HDU beds. After commencement of the PFI contract the Chief Medical Officer reported that the appropriate planning basis was for a complement of 20 ICU and 20 HDU beds.

Year		Number of ICU Beds	Number of HDU Beds
1995	Negotiation of PFI	8	
1996		8	
1997		11	
1998		14	
1999	PFI Agreement Commences	14	
2000	CMO report recommends planning for 20 ICU and HDU beds	14	5
2001		16	5
2002		16	5
2004		20	5
2005		20	20

This significant change to the service involves not only much greater activity than predicted but also necessitates procurement of major equipment items and IT systems. These issues are not allowed for within the agreed PFI contract currently in place. This contract set, as a parameter for change in cost, an activity threshold of +/- 30%, with agreed savings and costs attaching to those thresholds. The Trust is content that the agreed arrangements represented good value and an appropriate sharing of risk.

These parameters are not sufficient to deal with the extent of change, which has occurred over a relatively short period, resulting in the need to renegotiate the current contract with the supplier. This removes the element of competition from the process, thereby potentially undermining the assurance that competition provides that any such costs represent best achievable value for money.

Car Parking

The Trust entered into a 25-year agreement with a private sector partner for the provision of car parking capacity. The capital value of the investment was estimated at £3.2m. The car parking is funded by charged levied by the operator.

There was substantial disruption to services on the introduction of the new arrangement following industrial action in opposition to the levying of charges on both staff and patients/visitors for parking. Following resolution of the dispute, the service operated efficiently for the period up until late 1999.

During negotiations with the supplier, the Trust had built allowance for an additional 40% of capacity for parking into the contract. This was to allow for future expansion and was expected to easily meet the Trusts needs over the period.

However, a Department of Health decision to transfer fractures and maternity services to the Trust has meant that recently demand marginally exceeds available capacity for car parking, most especially at peak times ie visiting times and at times of busy outpatient clinics.

The Trust through engaging with the contractor has succeeded in getting some additional spaces at low cost to ease the pressures on parking at the peak times. Relationships with the contractors are good, and they worked positively with the Trust in the provision of this marginal increase. However, it is now clear to the Trust that, realistically, in order to properly meet the future car parking needs that another "deck" be built onto the current two-storey car park.

The private partners contends that to provide such a significant increase in the Trusts' parking capacity would not be within the terms of the original contract. The subject is currently being negotiated with the partners and legal advice is also being sought in order to determine an appropriate way forward. The outcome of these deliberations is unknown, as yet.

It may well be said that the appropriateness of a Trust engaging in a twenty five-year lease terms for what was a relatively low capital cost is debatable. It may be more appropriate, for this particular type of scheme, to be funded by public capital. However public capital at the time was not available and by engaging with a private sector partner the Trust was able to effect an essential and effective development to its infrastructure.

Outside of this, the Trusts PFI experience has been a good one, allowing major capital and key service developments to be implemented and professionally managed at a time of acute capital rationing within the HPSS.

The Trust has, over time developed good working relationship with the PFI suppliers. They act very much as partners to the service and are jointly delivering services, which are relatively flexible, equipped to modern standards and effectively managed.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
ST GENIEVIEVES

5 April 2001

INTRODUCTION:

As Principal of a Catholic Maintained School, I suppose that I represent the 'End User'. Since the school will not open until March 2002 my observations are limited to the process of procurement rather than to evaluating the outcome.

Ref: General Context

1 **What do you see as the benefits of PPP/PFI? Are there identifiable benefits to the public and stakeholders?**

Benefits:

To date the benefits are difficult to discern. The design is pleasing but the accommodation does not appear to be significantly superior to schools of similar size obtained through Public Procurement.

2 **What do you see as the key factors for successful application of PPP/PFI?**

In a school setting -

(a) An injection of funding to the school to help address the additional bureaucracy,

(b) The appointment of a 'dedicated V.P.' in addition to the normal staff structure,

(c) A pool of expertise in the form of a department within CCMS,

(d) Building Branch in D.E. being made aware that the Building Handbook and Schedule of Accommodation should not be a restrictive tool, merely the minimum standard, and that comparability with other schools publicly procured is not an issue.

None of the above factors were present to support this project.

(e) A body of Consultants made available to the Trustees.

3 **Are there any wider issues, limitations and constraints associated with the environment of the PPP/PFI that have to be addressed? Are there gaps in the supplier market base? Are the skills and guidance available?**

The concept of 'availability' needs to be addressed. In an academic climate which encourages 'out-of-school' learning, restricting access seems contradictory. Even more important 'affordability' <u>at school level</u> needs urgent consideration. PFI may be a cheaper option from the public purse but 'top-slicing' the school budget seriously limits other spending at school level.

4 **How should the strategic importance and prioritisation of PPP/PFI projects, and the inter-relationship with other schemes, be assessed and managed?**

The approach should balance a qualitative and quantitative approach. The hidden costs of implementation and evaluation should be included in any 'value for money' assessment eg large amount of data being sought from the school particularly for services, usually not an issue under public procurement.

The additional management tasks to be addressed in the school could seriously erode the educational provision eg. for the 18 categories of services being provided there are over 300 Performance Indicators precisely defined with attendant penalties for under-performance. Although the school pays for a Help Desk provided by the Operator, it would be unwise to rely on self-evaluation. Both CCMS and the school will need funding to monitor performance.

5 **Are there any particular social factors that should be assessed and managed and how have PPP/PFI schemes impacted on them?**

Most schools being considered for 'new build' are already in a situation of deprivation. Is it helpful to further deprive pupils - eg. the attention of the Principal being focused elsewhere for a considerable period of time? This method of procurement should only be adopted for schools not already in a state of crisis with respect to accommodation.

I am not sufficiently informed to comment on 6,7,8, 9.

10 **How can value in relation to capital investment and service improvement best be assessed?**

Only assessed with great difficulty without considerable contribution from the school - more bureaucracy?

Response to Request for Information (2): *(using questions provided to structure response)*

Bid Process:

1 **Were the output objectives of the project clear and established in relation to needs? Did any of the objectives stray into inputs and delivery mechanisms?**

Output objectives were stated in a volume referred to as the 'User Requirements' and largely drawn up by the school. This was subsequently greatly modified and I felt that constant references by Department of Education to the prescribed Schedule of Accommodation for the school and the somewhat outdated Building Handbook greatly restricted any innovative response from the Private Sector. There was consequently a very great shift from output approach to input approach.

2 **How good was the specification of requirements compared with implementation and operational reality? Please summarise the differences.**

Too early to assess.

3 **Did the project benefit from any initial enquiries into private sector interest and were potential areas of innovation identified?**

Innovation was not encouraged by DENI.

4 **What areas were identified for risk transfer?**

Risk Transfer - any response from me would not be comprehensive. I take refuge in examples - Security, identification of Furniture and Equipment which the Operator had to supply <u>and</u> maintain (should ensure quality).

5 - 9 I did not have a key role in these aspects.

10 **How realistic was the procurement timetable and tendering requirements?**

Procurement Schedule would appear to have been unrealistic, since we had hoped to occupy the school more than a year ago.

11 **What were the sources and amounts of funding and payments required to deliver the PPP/PFI?**

This information is not available to me.

Completed Deals

Performance Management

12-15 Impossible to assess at this stage

Financial

16-18 Not a precise response to these questions but I feel it worthy of note to call attention to the drastic increase in the recurring expenditure (Unitary Payment) aspect of the School Budget. That this commitment is long term (25 years) is most disconcerting.

Contractual

19-20 Unable to comment.

Social

21 **What staff transfer and TUPE issues were present and how were they manages? Are there any lessons to be learnt about consultation with stakeholders and others affected by the PPP/PFI?**

The issue of staff transferring was addressed eventually but with some hesitancy; the ELB seemed unprepared for the implications. The issue of staff not transferring, but yet affected, was only lately addressed eg. Auxiliary Staff and restrictions on holidays, Teaching staff and Structure of the School Day etc. Some issues are as yet unresolved.

Property and Construction

Unable to comment.

OVERALL COMMENT:

In early July ’96 I was informed of the school’s participation in the Pilot Scheme.

In early August ’96 I participated in a two-day Training Session.

To date (02.04.01) I have attended 152 meetings at various levels - Project Board, Project Team, Trustees, Liaison teams etc. Most meetings lasted approximately three hours, but some extended to one or even two days eg. interviewing Bidders, evaluating responses etc.

In addition meetings in the school with key personnel made great demands on their, and my, time.

Consequently, my availability to pupils, parents and staff was eroded over a period of five years - so a school which was already deprived in terms of accommodation, was further deprived of the leader.

Nor do I feel that the investment of our time and effort will be rewarded by the acquisition of a very superior building with attendant services. Strict adherence to the Building Handbook, and to the Schedule of Accommodation identified for our school by Department of Education, greatly restricted any innovative response from the Bidders. Worse, the encouragement to the school to present a User Requirement based on ‘outputs’ was a completely time-wasting exercise involving all key personnel in the school.

Although I received tangible support from CCMS, the belated appointment of a Project Manager (four years after the programme had commenced) was not helpful. With respect to monitoring and evaluating, the on-going performance of the project would, I suggest, demand a department within CCMS dedicated to these schemes eg. catering and maintenance are no longer the responsibility of BELB; security and availability are no longer controlled by the school.

All PFI schools need an additional Budget allocation to cull and provide monitoring and evaluation data and to liaise with the Bidders ‘Site Manager/Help Desk’.

Finally, have we lost sight of the educational service that is the mission of the school? Would that I had devoted as much time and energy to Curriculum or Pastoral issues as I have to this project.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
SOUTH EASTERN EDUCATION & LIBRARY BOARD

15 May 2001

Further to your letter requesting views on PPP/PFI please find enclosed the Board's response to the 'Information memorandum on the Private Finance Initiative in Schools' issued by the Department of Education in September 2000. While the document welcomes the outcomes of the PFI/PPP process in that our young people can benefit from much needed new school buildings the Board also expresses concerns on this procurement process. These concerns are detailed at 2.4. Implicit in this section of the response is the question of where the 'risk' in PFI/PPP actually lies.

As well as this the Board has difficulties with the PFI procedure of employing Legal Consultants and Consultant Architects when this expertise is extant within this Board. What is missing is PFI expertise; the process, then, in itself generates a huge consultancy industry which is extremely costly to the public sector and may not be seen by some as value for public money. The Board would welcome sight of actual costs over the 25 year period, including consultancy fees, involved in the acquisition of the 'Pathfinder Projects' and other projects in Scotland and England. In addition information on the administration of the heavily detailed legal contracts in existing PFI projects would be valuable. There also appears to be a dearth of post-PFI project analysis in England, Scotland and Northern Ireland which is vital in assessing the success of the development. This needs to be produced. In the absence of such information and statistics it is difficult to offer informed opinion on the initiative.

You will also be aware that a PFI/PPP 'bundle' comprising Bangor Academy and Comber High School has been announced for this Board. The Board is pleased that the young people of the Comber and Bangor area will benefit from this announcement. It is also of the view, however, that the Northern Ireland Assembly has an ideal opportunity for examining less expensive and less 'risk' laden means of acquisition. In particular the Board would ask the Assembly to consider the possibility of the Board raising mortgages to fund some new builds as alternative 'New Ground Projects'. It is felt that, subject to the Assembly's scrutiny of costs and risks to the private sector of PFI projects already in place, this latter option may well be preferable.

I look forward to the outcomes of the inquiry.

J B FITZSIMONS
Chief Executive

1. INTRODUCTION

1.1 The Board welcomes the opportunity to respond to the Memorandum. The Board also welcomes the strong commitment within the document to the modernisation of the school estate through the ‘elimination’ of the capital backlog. That this backlog needs to be addressed is beyond question. In addressing this, the Board supports the Department’s commitment to a mixed PFI/traditional procurement policy. The emphasis on the traditional route for the majority of procurements is especially supported.

1.2 The document describes the consultation process and the likely outcome in the 2001 announcement of a PFI capital investment programme. If traditional procurement is not feasible, the Board would wish to be fully involved in this. There are three major schemes within the Board that are at an advanced stage in the appraisal process and therefore could be brought forward in this way if the application of the Public Sector Comparator would so indicate.

1.3 The Board has a realistic view of the value of PFI as an alternative means of acquiring modern schools for our young people in a fast developing educational world. The Board, however, also has concerns on PFI procurement which would need to be addressed if the high quality of estate provision which has been achieved in recent years is to be sustained.

2. CONCERNS

2.1 Bundling

The Board would support the concept of ‘bundling’ but only within individual board areas. It is the view of the Board that bundling involving more than one Board would be neither an efficient nor effective way forward. Experience indicates that the management of single project PFI contracts has proved to be complex resulting in a three to four year pre-contract period for the pathfinder projects.

It is the view of the Board that, in a ‘bundled’ PFI contract where more than one Board has an interest, the complexities of the contract processes will be further compounded in attempting to reach agreement amongst the various interests, owners, and managers. The Board feels that time spent on reconciling the various interests would slow progress and expand the pre-contract period beyond the four years taken for the pathfinder projects. It is the view of the Board that this would not represent value for money.

The Board believes that there are sufficient projects of sufficient value within this Board area to allow for a ‘bundle’ which would be attractive to the private sector.

2.2 Training/Skills Development

There is limited PFI experience within any of the boards. The need for an intensive training programme for all members and officers who would be involved in the development is essential. The Board asks the Department to address this concern.

2.3 Staffing

The Memorandum acknowledges the costs arising from lack of appropriate experience and the use of Board staff on an abstraction basis. In the pathfinder projects the lack of experience and permanent staff resulted in the need for heavy consultancy support. Where PFI solutions are agreed the Board endorses the need for dedicated additional staffing which will need to be resourced by the Department of Education.

2.4 Risk Assessment

The Board commends the Department’s openness in highlighting the critical nature of risk assessment. This is also, possibly, the most controversial aspect of PFI. In the Memorandum there appears to be an assumption that the overwhelming brunt of the risk is borne by the private sector. The Board has grave concerns on the methodology employed in the calculation of risk.

The Board considers that there are a number of risks to the public sector as detailed below:-

- The handing over of large chunks of the public sector to the private sector is a risk to the long-term viability of the public sector within estates management, school meals, cleaning and ground maintenance.
- Where PFI procurement increases over time, the risk to the non-PFI school buildings and services increases as PFI projects will be contract bound and will have to be allocated priority funding over any non-PFI procurement and service. The PFI schools and services will enjoy a protected status which other schools will not.

- There is a risk of equality issues arising in relation to the differential in treatment of PFI schools and non-PFI schools. The Board seeks assurance that PFI policy has been subject to an equality impact assessment.
- A critical stage will eventually be reached where the depletion of the public service through the Transfer of Undertakings Protection of Employees Regulations (TUPE) arrangements and the reduction in boards' workload will result in the withdrawal of the public sector from the entire estates sector. At this stage the skills base of the public sector would be depleted. The situation then could be drastic if, at the end of the twenty five year PFI period, the private sector were to withdraw from schools.
- It is also important to recognise at the outset that PFI represents more than an alternative procurement route. It marks a permanent shift away from the public sector for schools acquired in this way. At any level of implementation of the initiative there is therefore the risk to the public sector and schools of a reduction in value for money through a reduction in economies of scale. As each PFI school is opened the ability to achieve economies of scale is increased for the private sector operators and decreased for the Board and non-PFI schools. Services offered to non-PFI schools are likely to increase in cost and the increase will have to be borne by school budgets. In funding these additional costs other aspects of the teaching and learning process may have to be reduced. This is a direct risk to the Board and schools which needs to be calculated.
- The initiative also affects a school's flexibility in the management of its budget. In a PFI solution, where services are removed from a school's budget, funds will be automatically drawn down from a school's budget to pay for these services. There will therefore be a reduction in flexibility in how a school manages its budget.
- The greater the number of projects within any one bundle the higher the risk to the public sector in terms of the accretion of power within a more limited number of private companies. Bundling therefore increases the risk by reducing the spread of risk. It is not difficult to envisage an eventual scenario where a very limited number of companies in effect 'own' the Northern Ireland Education estate. This is a very high risk to the entire educational system which needs to be addressed at the outset.

2.5 **Quality/Value for Money**

The document appears to accept that PFI solutions offer value for money and higher quality than traditional procurements. PFI is in its infancy. There is insufficient evidence to allow for a comparative calculation of quality levels and value for money as against traditional procurements.

The documents also refers to a considerably faster rate of construction with PFI projects. It is not made clear why this should be the case.

It is important that the full cost of PFI solutions inclusive of consultants' fees, legal fees and Department and Board officers' time is fully attributed to the cost of projects. Without this comparators of PFI as against traditional routes may be invalid.

In the Memorandum there appears to be the assumption that heavy consultancy costs in the pathfinder projects were attributable to the novelty of the process within Northern Ireland. It is anticipated that such future costs could be controlled and would not reoccur. However, where the skills and experience of Board staff is limited relative to those of external consultants, it is likely that the latter will continue to be required. The Board asks the Department to address this.

2.6 **'Silting Up'**

The Department acknowledges the possibility of 'silting up' in the PFI/traditional dynamic over time. This is where, after some years, PFI projects exhaust the Department's entire capital baseline until about year 30 when all PFI funding has been completed. How the 'silt' is to be cleared at the time of 'silting' is not fully explained.

As well as this, this part of the document appears to demonstrate a static notion of capital need. It seems that the Memorandum focuses on the Department of Education's current Capital Priorities List and does not adequately take account of those projects not yet listed. There are, for example, a number of projects currently being generated by major shifts in population within the Board area.

At this stage the need is within the primary sector. The assumption is put at 13,24 that the capital baseline and estimated operating costs will remain constant. If a significant number of such category 1 projects were to enter the Department of Education's lists then the curve at 2 may be somewhat different. This needs to be considered.

3. CONCLUSION

3.1 The Board appreciates the dilemma of increasing backlogs coupled with inadequate funding to renew the school estate. If traditional procurement is not feasible the Board supports the announcement of a single bundle of PFI projects for the South Eastern Education and Library Board area.

3.2 While welcoming such an initiative the Board has, in this response, highlighted a number of major concerns which it would wish to address in close co-operation with the Department.

3.3 The Memorandum supports the PFI procurement route. The emphasis is so strong that there is a danger that alternative and less complex approaches to development may not be considered. These could include changes in the law to allow boards to raise mortgages on new properties, the funding of developments through PP by a board or, indeed, increased pressure for more realistic levels of capital funding. The Board would wish the Department to consider each of these as ways forward as soon as possible.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
THE SOUTHERN EDUCATION & LIBRARY BOARD

1 May 2001

DRUMGLASS HIGH SCHOOL

1.00 INTRODUCTION

1.00 The provision of a new Drumglass High School for the Southern Education and Library Board was identified as one of four new “pathfinder” schools to be provided under the Private Finance Initiative. The Outline Business Case was approved by the Department of Education in March 1997.

1.02 The Board signed a contract with Campus Projects Ltd, Bruce Street, Belfast on 29 June 1999 for the provision of the new serviced school.

1.03 The new school opened in September 2000, the first PFI procured school in Northern Ireland. Contracts have since been signed for the other pathfinder school projects – Wellington College, Balmoral High School and St Genevieve’s High School, equating to capital expenditure of over £35 million.

1.04 The Drumglass High School pathfinder project being the first delivered school’s project of its kind in Northern Ireland, proved that it is possible to negotiate a reasonable deal with the private sector for school provision and to establish the service within the agreed time frame. However at this point in time very little is certain beyond that fact. It is not known how the private sector provider will handle this contractual obligations over the next 25 years.

1.05 The limited experience so far would indicate that value for money deals are achievable if only marginally so, however PFI/PPP may facilitate substantial progress on the reduction of the Major Capital Works backlog at initially lower costs in the earlier years.

2.00 OVERVIEW/GENERAL CONTEXT

2.01 Time Management

Only by setting overall target dates and sticking with them rigidly was any degree of time control achieved. Drumglass High School, being the leading pathfinder project and being relatively straightforward in terms of scale and degree of complexity, appeared to be delayed by difficulties experienced on larger more complex pathfinder projects due to commonality of the Consultancy team. This fact would certainly be a major concern for individual Boards in any future bundling of PFI projects.

2.02 Consultant Management

There will be significant continuing Consultancy resourcing requirements in future PFI projects.

2.03 Project Management

There is an urgent need to develop suitable in-house project management capabilities to drive forward PFI projects.

2.04 Design

- There is little evidence of real innovative design in the context of marrying functionality with aesthetics within user and costs limitations. The Drumglass High School project illustrates the use of economical building forms combined with a choice of materials and finishes to reduce future maintenance liability as far as possible.

- The design process allowed for a considerable degree of consultation with end users especially the School Principal and staff. There are obvious benefits in this approach as it provides an opportunity for user needs to be met more precisely and also engages the future commitment of the end user. However, there may also be disadvantages in that the clarity and objectivity of the design process may be diluted in the effort to accommodate a range of conflicting needs and objectives.
- The overall design approach is driven by economics to a degree and consequently the outcome is often minimalist and concerned with benefits to the operator rather than to education. This is particularly evidenced, as would be expected, in the development of the site.

2.05 Services

- Initial indications are that the standard of service being provided is at least as good as that provided by the public sector. At this early stage in the process there is close monitoring of key services which helps to maintain standards.
- User response to the general range of services being provided is encouraging and the perception would be that the standard of cleaning in particular is high.
- TUPE undertakings have been honoured. The standards being demanded by the private sector could result in transferees not remaining long in post.
- School meals are being provided very successfully at a commercial rate. There is evidence that the operator is carrying out considerable market research and meeting customer needs effectively.
- The financial provision within the PFI contract for furniture and equipment was understated with resulting difficulties. Arrangements whereby furniture and equipment could come on a stream over a period of time would be beneficial to both the school and the operator.

2.06 Finance

- The interest shown by Corporate Banks would indicate a potentially healthy funding stream. However, future interest rates are crucial to the corporate banking sectors continuing interest in and viability of individual projects.
- The commitment of funders to date should give Boards/Department a fair degree of comport from the value of money point of view and also in terms of 'step in' provisions.
- Tax advantages to the private sector within PFI contracts appear to be significant. The public sector currently has little understanding of the value or implication of such tax advantages.
- The financial arrangement whereby the school's LMS budget is partially used to fund the PFI project results is considerably decreased financial flexibility for the school's management. This could be a significant factor as funding the PFI project must take precedence over other educational financial needs.

3.00 TERMS OF REFERENCE

3.01 Under the terms of reference of the inquiry into the Public Private Partnership for the provision of public section services in Northern Ireland the extent of any deficit of investment in Public Sector Services is to be considered.

The extent of deficit in terms of investment could be summarised in two major components:-

(a) lack of capital to sustain a meaning/major capital programme

(b) backlog of maintenance within the Boards estate.

4.00 BUNDLING OF SCHOOLS PROJECTS

4.01 The Private Finance Initiative in schools information memorandum issued by the Department of Education in October 2000 introduces the concept of project bundling in order to increase value for money. This may have other advantages including:-

- reducing very high consultancy costs over and above design consultancy costs contained within contracts.
- Creating well resourced project teams as well as developed effective project management.
- Developing effective post contract award management processors.

4.02 The introduction of bundled PFI contracts totalling up to 30% of overall major capital expenditure may contain projects from across administrative and sectional boundaries. This will necessitate the development of appropriate project and contract management arrangements on major issues which will affect Board, CCMS and other voluntary school authorities.

Current uncertainty about the content of future bundled contracts impacts negatively on long term planning of Major Capital programmes.

5.00 SPECIFIC PROJECT PROCUREMENT ISSUES

5.01 Definition of needs and output objectives

The purpose of the project was clearly defined in the Invitation to Negotiate documentation with the procurement process and legislation fully explained only fully compliant bids were considered which:-

- provided the necessary accommodation for 500 pupils
- recognised a contract term of at least 25 years
- respected the sitting requirements for the new school
- standards were set which recognised the Board's minimum user and service requirements

Generally specifications were output based, however approved schedules of accommodation, minimum building size and minimum site area were quite specific.

5.02 Delivery of output objectives

The User requirement document set out general design considerations for the new school including 31 centrally timetabled classrooms, one sports hall, one assembly hall etc together with catering and dining facilities.

The intention that a complete range of curriculum activity would be provided in the new accommodation was reinforced by the Department and subject of specific user requirements. This information was buttressed by the detailed advice and guidance on the planning and design of new school premises published by the Department of Education.

The contractual solution recognised these requirements and the strength of the user requirement document.

While it is still very early in the life span of the contract the set service level standards continue to be met. This range from Building Maintenance Services, Catering Services, Cleaning/Housekeeping, Telecommunications etc. Information Technology were only implemented to a limited extent due to the impact of Classroom 2000.

5.02 Potential innovation/variant bids

The project was advertised in the Official Journal of the European Community (OJEC) IN April 1997 in accordance with European Union and UK Public Procurement rules.

This was followed up by the issue of an information memorandum in May 1997 with a number of organisations invited to present their proposals to the Board's Evaluation panel with the purpose of reducing this to a shortlist of three bidders. There were few areas of innovation identified during the procurement process with little evidence of sustainable value for money variations. Bidders were not inclined to submit variant bids demonstrating benefits which might accrue to the Board from adopting a variant bid.

5.04 Areas identified for risk transfer

A risk register was included as part of the invitation to negotiate documentation. The bidders were required to complete the risk matrix as part of their bid submission. The risk allocation tables covered:-

1. Pre Contract risk
2. Design risk
3. Construction risk
4. Planning, Environmental, Safety etc
5. Service, Operating and Maintenance risks

6. Utilities
7. Non-board staff
8. Fixtures, Fittings and Equipment
9. Project Financing
10. Insurance
11. Contractual
12. Board and Government
13. Income generation

A total of 131 risks were identified with the Consortia indicating whether they accepted or shared the risks.

5.05 Evaluation of bids

The Board evaluated the bids received to establish what was considered to be providing the most economically advantageous solution in accordance with the rules governing PFI and the negotiated procedure of the Public Works Contracts Regulations 1991.

The evaluation process was divided into four separate sections namely:-

- Financial and economic standing
- Technical capability and experience
- Relevant project finance experience
- Resources available and general approach

5.06 Key features of business case

The Department of Education approved the Outline Business Case on 28 March 1997 with notice of the project being published in the Official Journal of the European Communities on 11 April 1997. The full business case was submitted for approval to the Department on 30 July 1998, the key factors being:-

- An update of the Outline Business Case including a review of the needs analysis which indicated there was still sufficient demand for the school, the quality and standard of the existing accommodation was restricting the Board of Governors intention to increase the school's involvement in the community and deficiencies across the teaching and ancillary accommodation identified by Department inspectors had not been resolved.
- A Report on the tendering process for the new High School and associated services. The Project Board received a Report on the evaluation of the best and final offers which indicated that the preferred bid satisfied the requirements of the Board in terms of design and service provision.
- Risk Allocation/Payment Mechanism – A detail analysis of the risk matrix was carried out. Following identification of the best value for money solution all elements of the bidders proposals relating to risk were re-examined.
- The payment mechanism for the project was structured in such a manner that it reflects the performance provided in the areas of service, quality and the availability of the school accommodation.
- Evaluation Reports and Implementation Plan – Following completion of the evaluation reports the evaluation groups were content to recommend that the bidders proposals represented a reasonably robust operational regime for the new school. The implementation plan chartered progress to financial and contractual close and subsequent commencement of the service provision.

5.07 The nature, form and features of the public sector comparator?

The public sector comparator was developed from the preferred option identified in the original economic appraisal and included in the Outline Business case.

The original revisions included identifying the costs and benefits which were related to the school only and the inclusion of building maintenance.

The original PSC was further refined at numerous points during the procurement process.

- The revised PSC had a NPV of £9.3m while the economic appraisal PSC showed and NPV of £9.5m.

- The capital costs were indexed to first quarter 1998 while demolition costs were revised to include new land fill taxes.
- The Valuation and Lands Agency provided an estimate of the open market value of the existing site and buildings excluding any temporary buildings.
- Revenue costs were reviewed including building maintenance, school meals, energy costs which were rounded down to allow for a more energy efficient design solution. Cleaning and caretaking was included at actual spend rates.
- Auxiliary staff including clerical and secretarial support who were not transferring, the associated costs were not included.
- An allowance was made for central management towards the running of the school.

5.08 The advisers, Contractors and Financial organisations involved

The following advisers were retained by DENI and the Board to advise on the procurement process.

Legal Advisers
Dibb Lupton Alsop
Victoria Square House
Victoria Square
BIRMINGHAM
B2 4DL

PFI and Financial Advisor
Price Waterhouse Corporate Finance
Royston House
34 Upper Queen Street
BELFAST
BT1 6HG

PFI and Property Advisers
Chesterton Consulting
36 Castle Street
EDINBURGH
ED2 3HT

5.09 The procurement timetable

The Board wished to set a realistic but challenging timescale, which would require effort on behalf of the bidders and the Board. The Board was keen to ensure that bids were based on proposals which met its requirements and arranged to consult with bidders on key aspects of their proposal before bid.

The anticipated timetable for the bidding process identified structured liaison meetings initial bid submission deadlines together with invitation to submit best and final bids. The target for delivering of the new serviced facility of September 2000 was met.

5.10 The sources and amounts of funding and payments required to deliver the PPP/PFI

All bidders costs were the sole liability of the relevant bidders. The Board did not accept responsibility for any such costs.

5.11 Service targets – required standard

As part of the PFI procurement process the Contractor is obliged to provide certain core facilities management services to the Board on behalf of the school. Under each service requirement a series of performance measures were identified which are intended to encourage delivery of a quality service. Initial indicators are that the service targets are appropriate.

6.00 OVERALL CONCLUSIONS

6.01 The development of standard PFI/PPP procurement methodologies and standard contract terms should simplify the procurement process.

6.02 As a means of procurement PFI/PPP may facilitate substantial progress in the reduction of the Major Capital Works backlog.

6.03 As an alternative process PFI/PPP encourages review and further assessment of other traditional processes.

6.04 The use of PFI/PPP over a considerable proportion of the Board's estate may encourage financial 'silt-up'.

6.05 Equality issues may arise in relation to differential treatment of PFI and non PFI schools.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
SOUTHERN BOARD

26 April 2001

INQUIRY INTO PUBLIC PRIVATE PARTNERSHIPS

The Southern Board is pleased to respond to the inquiry into the use of Public and Private Partnerships detailed in your letter of 21 March 2001. This Board has not been directly involved in any such partnerships as our need for capital is small in comparison to that of Trusts, but we have been involved in assessing such initiatives for the development of services and the replacement of equipment. As a commissioner of services for 310,000 people we are interested in this issue as it could involve the future purchasing power of any allocations that we receive and so impact on our ability to provide services both now and in the future.

The enclosed paper details this Board's views. If you require any further information please contact Mr Sean McKeever (028 3741 4580) or myself (028 3741 4600).

B P CUNNINGHAM
Chief Executive

1 BACKGROUND

The Southern Health and Social Services Board is one of four area health and social services boards. It commissions health, social care and family practitioner services for the 310,000 residents of Armagh, Dungannon, Banbridge, Craigavon and Newry and Mourne council areas. The Board has an annual budget of approximately £350 million.

2 INVOLVEMENT IN PPP/PFI

The Board has not been directly involved in any PPP/PFI. However, it has been involved in assessing such initiatives which have been used to provide new services such as renal dialysis or to replace equipment, such as central heating boilers on an acute hospital site. The Board is interested in this issue because the introduction and/or improvement of services can lead to better outcomes for patients and clients, but may involve additional costs in future years. Such costs can affect the Board's purchasing power and have knock on effects on other services.

3 BENEFITS OF PPP/PFI

The benefit of PPP initiatives is that they provide access to capital that would not be available from current capital allocations. This means that selected projects can proceed when it would not have been possible for this to happen if there had been reliance on existing sources of capital. The obvious benefit to the public is that there is a service available that would not have been there if PPP/PFI had not been used. In addition the public sector should also benefit from private sector expertise and from the new and innovative approaches that the private sector can bring.

4 LIMITATIONS OF PUBLIC PRIVATE PARTNERSHIP/PRIVATE FINANCE INITIATIVE

There are a number of limitations to the use of PPP/PFI. These include:

4.1 Reluctance of Suppliers

Suppliers may not wish to become involved for a variety of reasons which could include limited capacity, lack of economies of scale due to there being no other such schemes in the Province and limited potential for profit.

4.2 Shortage of Suppliers

In many cases there will only be a limited number of suppliers available for the equipment or service that is required. In these circumstances the shortage of suppliers may not be in the public interest to proceed with a PPP/PFI scheme.

4.3 Integration

Many suppliers may only be able to provide a part of the overall package eg equipment, but have not the expertise to provide a building and staff. In these circumstances there is a need to form linkages and the project becomes a consortium. This can lead to problems and affect the timescales for project completion even if all parties can agree to a consortium approach.

4.4 The cost of proceeding with PPP/FI

The cost of proceeding with a PPP/PFI project may be prohibitive not only in terms of the potential on-going revenue consequences but also due to the large requirement of staff resources to proceed with the project. In addition the public sector body may not have the necessary skills and knowledge available to embark on such a scheme.

5 COST OF PUBLIC PRIVATE PARTNERSHIP

Private sector companies require an adequate return on capital in order to become involved in these initiatives. This cost can be significant and can extend over a number of years with a drain on valuable resources. Once the primary contract period has expired there is the option to continue or to look at alternative ways of providing the service, and this can lead to additional costs that were not apparent at the outset.

In addition to the actual cost it is necessary to consider economic cost. If an organisation cannot afford to proceed with a scheme due to lack of capital is it in order for it to enter into a PPP/PFI arrangement that will place increased pressure on future revenue resources? This question needs to be addressed in a wider context and is one that the Committee may wish to explore.

There is also an issue of prioritisation. Some schemes could proceed due to the availability of PPP/PFI while others may not because such interest does not exist. The equity and equality of such a position needs to be considered in overall terms.

6 TAKING FORWARD PPP/PFI IN NORTHERN IRELAND

In seeking to move the agenda of Government forward there is a potential role for PPP/PFI. However, it should not be seen as a substitute for existing capital funding as such an approach would have an adverse impact on future revenue streams.

Expertise is crucial and the cost of each public sector organisation developing such skills would be extensive. It would be better to have one central resource that is adequately skilled to offer advice and specialist skills to all public sector organisations who wish to investigate and/or proceed with PPP/PFI schemes.

CONCLUSION

Current capital allocations are insufficient and these must be increased rather than being met by alternative finance such as PPP/PFI. There is a role for PPP/PFI but it is limited and it should be subjected to strict controls to ensure that the public sector gains a benefit.

It is also necessary to develop a base of knowledge and skills that will allow the public sector to enter into such schemes knowing that they can benefit an individual organisation at an economic cost. In this way the public can be satisfied that their funds are being used to achieve maximum gain for them and not to return increased profits for private sector interests.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
SOUTH & EAST BELFAST HEALTH & SOCIAL SERVICES TRUST

20 April 2001

Introduction

South and East Belfast (HSS) Trust is a large community Trust with an annual income in excess of £100m. The Trust provides Health and Social Services to a population of 201,000. The opportunity to express views on PPP and PFI is welcomed. While the Trust has no experience of implementing a PFI project it has considerable experience of working in partnerships with other organisations in a variety of ways. It is this experience which has been used in formulating this response and it is the view of the Trust that partnerships will continue to provide opportunities to develop and improve services in the future.

1. Benefits of PFI/PPP

The benefits of PFI are not always clear in the Community setting as some of the critical success factors outlined in 2 below are not always present. However partnerships with the private sector are delivering benefits to the public and stakeholders.

- **Technology** – Person Centred Information Systems (PCIS) and Home Technology such as electronic monitoring of clients in their own home by healthcare professionals are two areas where development with European partners taking forward these issues. PCIS has been procured by this Trust and is currently being developed and implemented in partnership with the private sector. The final product will be available commercially with the public sector sharing in the benefits arising from any commercial success.
- These are examples of areas where the public sector is at the forefront of developments and strategic partnerships with the private sector can lead to benefits to clients, create employment opportunities for the wider community and result in financial benefits to both the public and private sector.
- **Construction Projects** – With regard to small-scale community construction projects PFI may not be possible but partnerships with for example Housing Associations may offer solutions that meet clients needs.
- For larger construction projects where a public sector organization has existing assets long term partnerships or joint ventures with the private sector, subject to the necessary probity safeguards, would seem to offer the benefits of PFI. In addition partnership arrangements should also allow the public sector to influence aspects of the project which otherwise may be simply developed to maximize commercial benefit without due consideration of the social implications.

2. Critical Success Factors for the successful application of PFI/PPP

Given that there are additional costs incurred in advisers fees that the private sector incurs a higher cost of capital than the public sector there are several key factors required for the successful application of PFI –

- The project should be of sufficient size so that expenditure on legal and financial advisors fees does not jeopardise value for money (VFM)
- The scheme should offer genuine opportunities for the private sector to innovate, achieve efficiencies and ideally offer potential commercial opportunities that the private sector can exploit. Often it is the inclusion of services that allow the private sector to achieve efficiencies.
- Affordability must be assured early in the scheme. Often PFI schemes require the transfer of capital monies to revenue and this may be problematic.

The above factors should allow for a genuine transfer of risk to the private sector to ensure VFM is achieved. Risk transfer may be easier to achieve for construction projects when a new asset is being constructed.

Given that Community schemes are often small in-scale, involve refurbishment and perhaps extension to existing buildings on constrained sites, PFI may not always be the preferred option. This is often compounded by the lack of services that the private sector could provide and by experience elsewhere which (Health Architects advise) shows that design needs to be clearly owned by the Health Sector body who understands the intricacies of the service.

For a partnership model to be successful the critical issue is for the public sector to have an asset either in the form of intellectual property or physical assets which can be developed in a partnership arrangement.

3. Guidance & Skills Available

In a rapidly changing environment it is often difficult for definitive guidance to be issued. However PFI has reached a stage where guidance could be reviewed, consolidated and tailored to suit local circumstances. Other associated guidance relating to for example business cases require updating to take account of the latest thinking in PFI. PPPs due to their diverse nature are more difficult to provide guidance for but for both PPPs and PFI mechanisms could be improved to facilitate the sharing of the knowledge and expertise that is undoubtedly building up within the public sector.

4. Strategic Overview

There is undoubtedly a need for an overarching regional strategy that gives a sense of where priorities lie. However there is also a need for flexibility so that those delivering the service can innovate and in conjunction with users and carers decide upon the best option to meet service need. Organisations taking forward schemes should also be required to discuss the proposals with other related organisations and groups so that a co-ordinated scheme can be delivered which perhaps offers wider benefits than was first envisaged.

5. Conclusions & Recommendations

- Given the additional costs associated with PFI, consideration should be given to introducing de minimus levels below which PFI is not seen as an option.
- Where a public sector organisation has developed expertise in an emerging technological market, it is this Trust's experience that partnerships may offer more benefits than PFI.
- For construction projects where the public sector has existing valuable physical assets, partnerships should be fully explored.
- Sharing of experience of PPPs and PFI should be actively promoted.
- Innovation in organisations should be encouraged within a broad regional strategic framework in line with user and carer requirements.
- Consultation with other interests organisations and groups should be continually promoted to realise the widest possible benefits from projects.

R S FERGUSON
Chief Executive

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
UNITED HOSPITALS TRUST

12 April 2001

Thank you for inviting this Trust to respond to the major inquiry into the use of PPP/PFI being undertaken by the Committee for Finance and Personnel. While our experience of PFI has so far been limited to one project, for the provision of a new Renal Unit at Antrim Hospital, I hope our comments are of use to the work of the Committee. Given our limited involvement to date I have followed the framework set out in your Request for Information (2) format as this appears to be more project focused and therefore more appropriate.

By way of introduction perhaps some outline of the main points of the PFI agreement would be useful. In 1997 the Trust was asked by the Northern Health and Social Services Board to submit a proposal for the expanded provision of a renal dialysis service. At that time the Trust was already providing 6 'stations' (ie dialysis machines) using an interim arrangement within Antrim Hospital. The planned expansion to 14 stations (but with potential to increase to 16 stations) could not be accommodated within these interim arrangements and various options were explored in the Outline Business Case prepared by the Trust. The OBC concluded that a new, standalone unit close to the main hospital building was the preferred option and this was endorsed by the NHSSB as commissioner. The OBC was a detailed and thorough assessment of all the relevant costs and benefits and provided a rigorous comparator for the next stage of the process, the 'PFI Test'.

BID PROCESS

Output Specification

1. The Trust took great care to ensure that the PFI specification focused on the outputs associated with the service to be provided. This was kept as simple as possible to allow for innovation and different approaches to be put forward by the private sector. In summary, the Trust asked for a building capable of accommodating 14-16 stations (later amended to allow, if required, expansion to 20), operating 6 days a week with 3 shifts (ie morning, afternoon and evening) per day. The bidders were asked to submit a <u>single</u> price per treatment session covering all aspects of what was covered within the scope of the PFI proposal ie building, equipment, maintenance, dialysis consumables, technical and reception staff. The Trust decided at an early stage that it wished to retain control of all clinical areas (medical staff, nursing, pharmacy etc).

   The Trust established overall quality standards by reference to guidance issued by the British Renal Association and the Department (mainly Health Technical Memoranda, HTM, on building design). However within these broad parameters bidders were encouraged and facilitated to devise their own solutions.

Specification: Implementation v Operational Reality

2. The specification proved to be very robust and required only minimal changes eg varying the ratio of beds to chairs within the unit. In fact, all the changes required were easily accommodated within the negotiating framework set out by the specification and other related contractual documentation. The eventual contract has been running successfully for one year and we believe this reflects the benefit of the time spent in preparing the specification and other tender and legal documentation.

Benefits from Initial Private Sector Enquiries

3. Looking back, we feel the involvement of private sector interests at an early stage obliged the Trust to be more precise about what it wanted to achieve through the PFI process. This probably related more to the interpretation of the specification where private sector firms wanted the scope of the project to be very tightly defined from the outset. In many ways this was related to be some uncertainties regarding the future development of renal services regionally where commissioners were still considering future planning issues. The impact of this was that there were several periods when the PFI process was put 'on hold' for a few weeks until the exact position had been confirmed.

Risk Transfer

4. The risk transfer issues were clearly identified, defined and quantified in the Full Business Case and covered in the following areas:

Risk Allocation			
Risk Category	**Trust**	**Shared**	**Bidder**
Planning Risk			X
Design and Construction Risk			X
Operating Risk		X	
Technological Risk			X
Demand Risk			X
Financial and Legislative Risk			X

Evaluation Criteria

5. The evaluation criteria were grouped into the following main categories:

	Weighting
Project Cost	25%
Financial Viability	15%
Quality of Design and Construction	25%
Quality of Equipment	15%
Quality of Service Proposals	10%
Contractual Arrangements	5%
Risk Allocation	5%
	100%

A weighting and scoring process was applied with input from all members of the Renal Project Board (Trust officers and external advisers). Essentially the external bids were evaluated against the specification which had been issued to the bidders.

The evaluation criteria took into account the ability of the company/consortia to deliver, including analysis of structure, financial health and track records in this area.

Key Features of Business Case

6. The full Business Case was a like-for-like comparison of the public sector comparator against the external bids. All associated costs were profiled as cash flows over the life of the contract and analysed in net present value terms. Risks were identified and quantified and presented as a key part of the business case. All qualifying bids had already been assessed as clinically and technically acceptable.

The full Business Case also took into account residual values (for Trust owned assets) and any asset options offered by the private sector bidders.

The key features of the full Business Case were the better value for money offered by the successful bidder (and before risk transfer was factored in), its financial strength and its world-wide reputation for this service.

Public Sector Comparator

7. The PSC was a direct, like-for-like comparison which showed how much it would cost the Trust to provide the same volume and level of service as that offered by the private sector bidders ie building, equipment, maintenance, consumables, reception and technical staff.

Advisers

8. The Trust appointed legal advisers (London firm of Berwin Leighton with local support from Tughan & Company) and corporate finance advisers (PriceWaterhouseCoopers). External advisers were recruited through a tendering

process at an early stage of the project and deployed only when required. It should be noted that the Trust had no prior experience of PFI at this stage. The Trust also had enormous support from senior staff in Health Estates.

Key Contractual Issues

9. The actual service delivery aspects proved, by and large, to be relatively straightforward. However, the key contractual issue was the negotiation of the performance regime to be operated within the contract. The Trust placed great emphasis on the reliability and punctuality of the service to be provided as renal patients have to travel to the unit two, or more usually, three times per week. The Trust felt strongly that it was essential that an effective renal dialysis service would always be available without any unnecessary delay to our patients. Therefore we insisted on a rigorous performance regime with stringent penalties for significant service delays or failures. This took quite some time to negotiate.

Procurement Timetable and Tendering Requirements

10. The Trust found the timetable to be satisfactory although we understood from our advisers that our PFI experience was particularly quick. The Trust was equally comfortable with the tendering requirements. For your information the Trust placed its initial PFI advert in OJEC on 12 September 1997 and the contract was signed on 1 April 1999. The unit opened just over a year later.

Funding and Payments

11. The PFI deal represents a total contract value of some £11 million over 15 years. The Northern Health and Social Services Board will be responsible for funding the Trust to meet this and the other non PFI elements of the renal dialysis service at Antrim Hospital.

Performance Management

12. The Renal PFI deal was a relatively straightforward project which was closely managed by the Trust within a well defined quality and performance framework. The scope for significant innovation was therefore limited.

13. The assumptions made in the business case were well tested and challenged internally within the Project Board before inclusion in the business case. Similarly, project and service costs were carefully analysed and evaluated internally before external scrutiny by the NHSSB. Additionally, the Trust requested its external auditors to undertake an independent review before any contract was signed. We believe this greatly strengthened the preparation of the business case and experience to date has confirmed its robustness.

14. While the Trust was well aware of rising demands for renal services, healthcare commissioners had already determined the output volumes when setting the original proposals. However, both the Trust and commissioners were keen to build in flexibility and adaptability into the PFI deal with the result that the unit can accommodate up to 20 renal stations. The Trust is only contractually bound to pay for 14 stations and only if the individual dialysis session is actually commenced. This emphasises the demand/usage risk transferred to the private section.

15. As mentioned above (para 9) the Trust was insistent that a rigorous performance regime, with hefty penalties for non-compliance, was agreed as part of the contract. The associated payment regime is relatively simple with a predetermined unit price for each treatment session within agreed volume levels. This means that as the Trust makes more use of the service the average unit price decreases. The marginal reduction is not large as the Trust did not want the bidder to recover its fixed costs over relatively small service volumes.

Financial

16. The Trust prepared very detailed financial models which set out all the costs attributable to the renal service. Having already operated a small renal unit for some years previously, the Trust had developed a good knowledge of the cost structure of this service. This level of experience was also valuable in that it meant there was a low reliance on assumptions.

The private sector bid had a lower net present cost before the pre-risk public sector comparator. Therefore, factoring in the quantified risk value confirmed and increased the better value for money to be obtained from the private sector bid.

17. The Public Sector Comparator costs allowed a like-for-like comparison with the private sector bids. This was because of the clear definition of the scope of the PFI project and the level of detail provided by bidders in their proposals.

18. As part of their submission, the private sector bidders were required to state the rates of return and provide the supporting calculations. The Trust was advised that the final agreed preferred bid was acceptable. The preferred bidder funded the project from its own internal resources and no third parties were involved.

Contractual

19. The contract provisions were comprehensive and have proven to be robust. However, this was because the Trust and the preferred bidder invested considerable effort to ensure completeness and clarity of the legal documentation. The contract provisions are intended to be fully enforceable by both parties to the agreement.

Only a single variation, concerning the frequency of liaison meetings between the Trust and the private firm, has been required to date.

20. The allocation of risk is shown in the response to paragraph 4 above.

Social

21. No staff transfers were required. Throughout the process the Trust endeavoured to keep relevant stakeholders involved although the commercially sensitive negotiations did impose some boundaries to this.

Property

22. The Trust has leased the land occupied by the unit for 30 years. The renal contract will last 15 years and at the end of this first period the Trust has various options (buy the building at a pre-determined value, allow the private sector firm to continue using the building for an approved use or permit its transfer to another supplied). There are subsidiary clauses giving the Trust ‘step-in’ rights in the case of serious default by the contractor.

Construction

23. The construction costs of the preferred bidder, as shown in the bids submitted to the Trust, were significantly higher than the estimated costs of the Trust building the unit itself. However, as noted elsewhere, the risk in this regard rested with the preferred bidder and the complete PFI option was judged to be better value for money over the contract period.

24. The Trust defined a broad construction and properly specification based on Health Technical Memoranda and the private sector partner was then free to develop its own designs within this. The Trust was formally consulted throughout and a patient representative group also had an input. However, the Trust always stressed that the private sector firm was responsible for ensuring an effective design which met our stated needs.

25. The Trust has plans to complete a project evaluation report now that the first year of operation has just passed. At this stage the preliminary assessment, based on continuous monitoring throughout this period, would indicate a successful first year with high levels of performance and user satisfaction.

I hope these comments will be of some value to the Committee. Should you require clarification of any point, please do not hesitate to contact me.

As requested, a copy of this response has also been forwarded by email.

J B MITCHELL (MR)
Chief Executive

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
WESTERN HEALTH AND SOCIAL SERVICES BOARD

23 April 2001

Inquiry into Public/Private Partnerships

I refer to your letter of 21 March 2001 regarding the Inquiry by the Committee for Finance and Personnel into the use of PPP and PFI in Northern Ireland. I welcome the opportunity to contribute to the Committee's Inquiry on behalf of the Western Health and Social Services Board.

Background

The Western Health and Social Services Board is one of the four area Health and Social Services Boards in N Ireland and commissions a comprehensive range of hospital and community health and person social services for a population of approximately 280,000. The Board covers an area of almost 5000 sq km from Limavady in the north to Enniskillen in the south and has an annual budget of over £290 million.

Involvement in PPP/PFI

Although the Western Board and its local Trusts have not at this time been involved in taking a PPP/PFI scheme through to completion we have had some experience in PPP/PFI process with regard to a proposed Services Centre at Altnagelvin Hospital. Additionally, we would also like to make some general comments on the scheme.

Benefits of PPP/PFI

PPP and PFI can offer the Public Sector access to capital investment beyond what is affordable from current capital allocations, enabling important developments to proceed, that would otherwise be blocked because of lack of available public funds. In theory, risks can be shared with private sector partners and their drive to secure efficiency gains can benefit the public sector. The partnerships offer the public sectors the opportunity to benefit from new and innovative approaches developed by the private sector and to benefit from private sector expertise.

Where non-clinical services are included, the opportunity may arise for some capacity to be marketed outside the public sector, giving savings benefiting the public sector in running costs. In general, it is believed that if the right circumstances prevail, the opportunity can arise for a private sector organisation to work with a public sector partner to invest in and develop a service to the benefit of both parties – giving a profit opportunity to the private company and financial savings and other benefits to the public sector partner.

However, it must be emphasised that appropriate circumstances do not arise in every area nor for every public sector investment project. Therefore, whilst PPP/PFI may be a possible option in the right circumstances, it should not be seen as the best option in all circumstances.

Key Success Factors

A successful PPP/PFI project must involve a genuine transfer of risk to the private sector. It is also essential that there is a well developed output specification and that expert legal and financial advice and support is obtained. It must be pointed out that the costs of obtaining good legal and financial advice on PPP/PFI schemes are considerable and these should be factored into any cost comparator.

Environmental Limitations

Whilst a substantial range of guidance and expertise on PPP/PFI is available, this is a very complex area and presents a significant challenge for any public sector organisation embarking on a PPP/PFI scheme. The knowledge and skills are not available in each organisation and the cost in cash and opportunity cost in terms of training and developing staff is high. There may be benefit in developing a central role in Departments, pooling and drawing on existing expertise and knowledge. There would also be benefits in pooling skills across the public sector departments in N Ireland. For example, Health would probably have a great deal to learn from the experience gained in Education.

Local Northern Ireland companies may not be of sufficient size to take on significant PPP/PFI schemes and there is evidence that GB/international companies are only interested in major schemes. Schemes that may attract private sector interest in GB are not attracting interest in N Ireland. This factor should be taken into account in setting thresholds for testing PPP/PFI interest if serious delays or wasted expenditure in pursuing PPP/PFI without results is to be avoided.

Strategic Context

The strategic aim is to secure the best service outcome by achieving the optimum mix of public capital and private sector investment in pubic sector schemes. However, there are serious risks that the availability of private sector investment in specific schemes, but not others, results in some schemes "jumping the priority list", and subsequently tying up future revenue cash flows. This can result in strategic plans and priorities being frustrated.

There is also a risk that such an approach may also commit future development funds for years to come and run contrary to the Executive Committee's Programme for Government Priorities. Despite efforts to shift risk contracts may tie in public sector bodies to outdated approaches and technologies. This may be particularly relevant to the Health and Social Services where technological developments are moving a pace.

Social Factors

Evaluation of the social factors, TUPE, TSN, equality etc is an integral part of any business case. However, past experience of partnerships with private sector companies for the provision of support services has shown that this approach leads to the forcing down of wages and terms and conditions. PPP/PFI schemes that involve a build and run package are akin to a combination of a capital investment and a competitive tendering of support services.

Taking Forward PPP/PFI in Northern Ireland

PPP and PFI are viable solutions for financial Public Sector investment and should be considered where a sound value for money case can be demonstrated. However, PPP/PFI should not be used simply as an alternative means of securing capital funding in excess of the available capital budgets. Although PPP/PFI schemes might provide a short-term solution where there is an overall shortfall in the level of public capital, it must be remembered that immediate capital expenditure is avoided at the cost of a commitment to a stream of future revenue payments. PPP/PFI schemes can be extremely costly to the public purse, as they can lead to revenue flows being tied up for very long periods, and interest being paid at rates well in excess of those available to the Treasury.

It is important that all PPP/PFI schemes are examined in the context of the overall capital investment plans of the Department, publicly and privately funded, and that decisions are based on the assessment of both the impact on the Departmental capital budget and on future revenue commitments. This requires an integrated approach to capital and revenue planning.

I also believe that PPP/PFI testing should not be compulsory for schemes where the scale or nature of the investment is unlikely to attract private sector interest.

Alternative Forms and Structures of Financing

The annual capital budget for the HPSS has for some time proved to be inadequate to maintain fixed assets – estate, equipment and IT – and to invest in new hospitals and new technologies. The capital budget has been enhanced in recent years, but without further public funding for capital schemes, the service will be forced to look to the private sector to meet pressing capital investment needs, and in doing so will tie up vital revenue funds for extended periods, limiting future service development and investment in doctors, nurses and other professional staff.

I believe that there must be over a period a significant increase in the public capital investment budget for the Health and Social Services and I believe that the public would be willing to see a greater share of other funding (such as that available from the National Lottery) going to investments in hospitals and equipment for the HPSS.

I hope you find the contents of this letter helpful. Should you wish to discuss this matter any further, please do not hesitate to contact me.

STEVEN LINDSAY
Chief Executive

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
WESTERN EDUCATION & LIBRARY BOARD (WELB)

25 April 2001

I refer to your letter of 21 March, inviting organisations to submit views to your Committee's Inquiry into Public Private Partnerships.

The comments attached reflect the Board's experience of PFI gained through its involvement with a project to provide new accommodation at the North West Institute of Further & Higher Education, one of the six original pathfinder education projects in Northern Ireland. The Board is also the lead Board for Classroom 2000, a project to provide all primary and post-primary schools in Northern Ireland with an Integrated Communications Technology infrastructure in support of the N.I. Education Technology Strategy.

I trust the Committee will find these comments helpful and the Board would be willing to give oral evidence to the Inquiry, if required.

JOSEPH MARTIN
Chief Executive

REQUEST FOR INFORMATION

The general comments section below were issued by the Board in November 2000 in response to the Department of Education's Information Memorandum on The Private Finance Initiative In Schools.

1. General Comments

- It will be important for the Education Service to proceed cautiously with school PFI projects while monitoring the success of the current six pathfinder education projects in Northern Ireland. Most of these projects and other early PFI education initiatives are still at an early stage of development and much has to be learned yet about their operational effectiveness.
- There need to be clear criteria for the selection of schools projects to be progressed through the PFI route. This must be done in consultation with the Education and Library Boards and other school authorities so that local issues can be addressed, particularly sensitivities regarding strategic decision making and, most particularly, in relation to school rationalisations.
- There is a very strong feeling that the concept of bundling small schools to create an attractive PFI package is wrong. While it provides an opportunity to create PFI packages of considerable value, the Board feels it will present many more complex difficulties which will militate against the long term success of PFI. N Ireland is, relatively, a small area but because of the diverse cultural differences here there could be difficulties in bringing projects forward on a collective basis. PFI projects would be better managed on a single school basis or, in certain circumstances, in cases of rationalisation with projects of a significant size.
- It will be important to establish the true cost of PFI. The full cost of bringing forward any one of the six pathfinder projects is not included in measuring that deal against the Public Sector Comparator. The cost of specialist legal advice, consultants and in-house staff's time has been excluded on the basis that the pathfinders were part of a learning situation. However, there will be a need to resource the future use of this procurement method and the true cost of this is, as yet, not known. There were significant cost consequences with the pathfinder projects which were not envisaged. There will be a need to establish project teams in Boards and a PFI Unit in the Department of Education. All of these developments will have to be resourced and the costs taken into account.
- There is also an important issue within PFI which will affect Local Management of Schools. On the one hand, certain services are removed from the schools' responsibility with PFI. However, there will be a draw down of funds from the schools' budgets to pay for these services and thus a reduction in flexibility in how a school manages its total funding. This may cause problems for schools when facing difficult circumstances particularly in cases of falling rolls.
- In order that provision of quality services to schools continues, Service Agreements will need to be tightly negotiated regarding levels of performance standards and much effort needs to be invested in getting this aspect of deals right.
- The issue of accumulation of payments across the Northern Ireland, with a number of PFI projects coming on-stream in the next few years, is referred to as 'silting up'. There is concern that this may mean that future investment in school buildings will be gridlocked for many years. The need for improvement in school facilities will continue and priority projects in the future must continue to have access to the necessary funding.

II a. Specific Project – North West Institute of Further and Higher Education

Note: The Board had responsibility for initiating this project prior to the Incorporation of FE Colleges on 1 April 1998. Following incorporation the North West Institute took sole responsibility for this project. There are, therefore, some questions that the Board cannot answer as up to date information is now with the Institute and the Department of Further and Higher Education, Training and Employment.

BID PROCESS

Questions

1. The objectives of the project were clear – provision of 7,500m2 of additional accommodation to respond to the needs of the Institute. However, it was important for the Board to make specialist inputs to ensure that the Department of Education's schedules of accommodation were met.
2. The new accommodation at the North West Institute only became operational in January 2001. The Board does not have the necessary information to answer this question and the matter should be referred to the North West Institute.
3. The Department of Education carried out the initial investigations into the potential level of interest from the private sector.
4. Some of the main risks to be transferred to the private sector were as follows:

   Initial design proposals
   If the Institute failed to gain DENI approval to proceed with the PFI scheme
   Any cost/time overruns in construction
   Archaelogical finds/site conditions
   Project Management
   Problems with the supply of labour and materials
   Industrial Action
   Extreme weather conditions
   Construction team insolvency
   Latent defects after building work was complete
   Vandalism
   Utilities – cost increases, energy efficiency etc
5. Evaluation Criteria :

   Design Impact - Centered on the value of the new building to the Institute, students and the public in terms of prestige, size and corporate image.

   Operational Control - Viewed for the ability to organise and manage the Institute in consideration of location and efficiency.

   Accommodation - The overall provision and value of the accommodation proposed.

   Flexibility - The ability to organise various functions, exhibitions, open days, examinations and large gatherings.

   Wider Implications - Consideration of the general arrangement of spaces and departmental groupings.

   Services - Consideration of the level and totality of the services proposed.

   Environment/Energy - This factor examined the statement of policy provided by each bidder in terms of understanding and commitment to environment/energy issues.

   Siting - The siting of the building in relation to other buildings, roads and the proximity to sources of noise.

   Materials – Durability - The general quality based on bidder's specifications and proposals.

   Feasibility - The practicality in terms of decant, disruption, planning service requirements and timescale.

   All criteria were given weightings prior to evaluating the bidders' proposals.
6. Key Features of the Business Case:

   Description of the Institute's accommodation needs
   Outline of User Requirements
   Works Negotiated Procedure Notice
   Risk Transfer Test
   The Bids and the evaluation
   Public Sector Comparator
   Economic Appraisals

Draft Heads of Agreement
Post-Project Evaluation

7. A full economic appraisal was carried out and was used as a Public Sector Comparator.

8. At the start of the process the Board formed a Project Team which consisted of:

Senior Management	WELB
Senior Principal Architect	WELB
Finance Officer	WELB
Cleaning Contract Manager, Administration Staff	WELB
Director, Deputy Director and other senior staff	NWIFHE
Management Consultants – Chesterton	
Legal Consultants – Dibb, Lupton and Alsop	
Financial Consultants – Price Waterhouse	

The contract was eventually awarded to the Northwin Consortium

9. Key Contractual Issues:
   - The ability of the preferred consortium to deliver the project
   - The legal structure of the contract
   - The residual value of the new accommodation at the end of the PFI contract
   - TUPE issues
   - The transfer of surplus land/buildings to the successful bidder, at a fair value, at the outset of the PFI contract
   - The affordability of the contract payments
   - The inclusion of services

10. The Board's initial procurement timetable was unrealistic – particularly from the stage of selecting a preferred bidder to the signing of a contract, where the initial schedule overran considerably.

11. Much of the funding required to deliver PFI was managed and funded by the Department of Education.

COMPLETED DEALS

Performance Management

12. (a) It was essential to make sure provision met the curriculum needs. The specification was, therefore, appropriate. However, within this there was scope for innovation and this was encouraged.

    (b) The quality of service targets and standards was set at a reasonable level.

13. There was little amendment to the Business Case – only minor changes were required to the initial assessment.

14. The Board does not have the necessary information to answer this question. The matter should be referred to the NWIFHE for a response.

15. The Board does not have the necessary information to answer this question. The matter should be referred to the NWIFHE for a response.

Financial

16-18 As the contract negotiations continued for at least twelve months after Incorporation, the questions relating to financial details can best be dealt with by the North West Institute, the Department of Education or the Department of Further and Higher Education, Training and Employment

Contractual

19. Contract provisions were complete. The only change was a variation required to the Media area and this was agreed after specialist advice had been taken.

20. Risks Allocated in Contract:
   - Knowledge of the site
   - Statutory approvals – planning was a shared risk

- Health & Safety (CDM Regulations)
- Temporary arrangements for continuation of teaching (decanting)
- Availability of land
- Condition of land
- Public Health issues

Social

21. Staff Transfer/TUPE Issues:
    - Consultation and negotiation were important issues prior to transfer.
    - There was a need for all parties – transferors (the Board/NWIFHE), transferring staff, management and Trade Unions to work in partnership within the PFI contract.
    - All parties needed to have the interests of employees at heart; otherwise the PFI contract would not have worked.
    - The situation at present is changeable – there could be different interpretations of the law. Matters are being determined on a day and daily basis by court cases.
    - Trade Unions have argued that it is mostly manual and lower grade staff who are mainly affected or are being transferred and therefore could be potentially disadvantaged longer term by PPP/PFI.

Property

22. Redundant factory premises were transferred to the private consortium as part of the PFI deal. The inclusion of the disposal of this property reduced the level of annual payments due under the PFI contract.

23-25 The new building for the North West Institute was only completed in January 2001. It is too early, therefore, to have a project evaluation report available. These questions should now be addressed to the Institute.

II b. Specific Project – CLASSROOM 2000 Project.

The CLASSROOM 2000 Project is ongoing and has the remit to provide, to all primary and post-primary schools throughout Northern Ireland, an integrated ICT infrastructure, including hardware, software, connectivity and associated managed services, in support of the NI ET Strategy. The Western Education and Library Board is the lead board in the procurement of these services for all five Education and Library Boards.

The procurement strategy employed within this Project involves a Public/Private Partnership approach that is reviewed and updated within the Procurement Strategy Overview of the Northern Ireland ET Strategy. (Attached as an Annex)

ANNEX

Education Technology Strategy for Northern Ireland
Procurement Strategy Overview
February 2001
Version 1.2

Education Technology Strategy for Northern Ireland
Procurement Strategy Overview

Contents

Paragraphs

I Introduction

1.1 This paper sets out an overview of the procurement strategy now being adopted to provide the necessary infrastructure, software and services to deliver the Education Technology Strategy for Northern Ireland which will assist in the realisation of the potential benefits for teachers and pupils.

1.2 The recent withdrawal by Trilith from the negotiations on the provision of services to pupils has necessitated a review of procurement strategy to ensure that the overall objectives of the ETNI Strategy can still be achieved.

1.3 This paper sets out briefly the background, summarises the overall objectives and potential benefits and recommends a revised procurement strategy.

Background

1.4 The implementation of the ET Strategy is co-ordinated by the Educational Technology Strategy Management Group (ETSMG) chaired by Mr Gordon Topping, Chief Executive of the North Eastern Education and Library Board. There are 3 major strands to the delivery of the strategy, namely:-

- delivery of necessary infrastructure/services to meet pupil requirements via the CLASSROOM 2000 Project which has its own Project Board;
- delivery of Teacher Education which is overseen by the Teacher Education Group (TEG) and which incorporates the NOF Teacher Training scheme and the provision of infrastructure for teachers via the Facilitating Teachers' Use of ICT project; and
- the Curriculum and Assessment group which focuses on the role of ICT in the NI curriculum. This group also has an interest in ensuring that assessment arrangements take appropriate account of the potential of ICT. This group links closely with CCEA.

1.5 **The ETNI Strategy is about two main issues:-**

- the first, and of paramount importance, is to ensure that the young people going through Northern Ireland schools and colleges acquire the knowledge and skills they need for the emerging Information Society. This will require raising **pupil competence** in ICT; and
- the second and parallel issue is the need to ensure that the teachers in NI's educational institutions have, at the very least, an equivalent level of ICT knowledge and skill. This will require enhancing **teacher competence** in ICT.

1.6 The remainder of this document sets out the strategic context and the recommended procurement strategy to the provision of infrastructure and services for pupils and teachers to facilitate the required development/ enhancement of pupil and teacher competencies.

II Strategic Context

2.1 The Education system in Northern Ireland has been undergoing a number of major reforms introduced as part of the previous Government's wider initiatives in Education throughout the United Kingdom. The major aims of the reforms were to make the education system more open to parents and more responsive to them and their children's needs.

2.2 These aims remain valid today under the present Government which has launched further significant initiatives including:-

- **the National Grid for Learning (NGFL) consultation paper** which envisages providing a way of finding and using on-line learning and teaching materials which will support teaching, learning, training and administration in schools, colleges, universities, libraries, the workplace and homes;
- **the Strategy for Education Technology in Northern Ireland (ETNI)** which recognises the convergence of computers, video and telecommunications and the need for education to respond to better prepare young people for a society in which technology will be pervasive;
- **School Improvement – the Northern Ireland Programme** which stresses the importance of Education with the objective of improving performance in all schools and, in particular, addressing underachievement and low achievement wherever they occur;
- **the Information Age "Leapfrog" Initiative** which recognises the need for an environment supportive of the knowledge-based economy if Northern Ireland is to prosper in the future; and

- **the Government's Comprehensive Spending Review** which involves a complete review of Departments' spending plans for future years assessed from a zero base.

2.3 Additionally the ELBs' recently completed IT sub-strategy report emphasises the need for a continuing clear development strategy for teacher/pupil systems which builds on the current arrangements which have proved very effective. Each of these strategic initiatives is discussed in more detail below.

NGFL Consultation Paper

2.4 The Prime Minister launched this consultation paper which foresees technology as a key factor in assisting the Government realise its objective of lifting educational standards in Britain to the level of the best in the world. The Grid will support the Government's programme for school improvement set out in the White Paper 'Excellence in Schools' and similar initiatives in other parts of the UK such as the DE School Improvement Programme.

2.5 It is envisaged that the NGFL will allow the harnessing of new technologies to raise educational standards especially the new literacy and numeracy targets. The NGFL aims to stimulate public/private partnership and to ensure that nothing is provided at public expense, which otherwise could be provided commercially of good quality and reasonable cost.

2.6 The Government see the challenge to industry to be the development of a range of competing managed ICT services aimed initially at schools, offering curricular, training and administrative facilities with a timetable to have all schools, colleges, universities and libraries connected to the Grid by 2002.

Strategy for Education Technology in N. Ireland

2.7 This report was produced by the Strategy Group on Educational Technology (SGET) which was established by DE to advise them on the strategy to be pursued for educational technology and on the action plan required.

2.8 The report sets out the vision and guiding principles of the strategy in detail but at its core is that "the effective use of ET in the classroom can measurably enhance the learning environment and enrich the educational experience of all our young people".

2.9 The strategy highlights that **realising the potential benefits will increase the need for competent and committed teachers** and while being a tool to complement established pedagogic methods will, nevertheless, alter the nature of the interaction between teacher and learner but in a way which is positive and beneficial for both. The strategy was accepted in October 1997 by the then Minister who indicated Government's intention to seek vigorous implementation of the report.

School Improvement – the N.I. Programme

2.10 The School Improvement Programme sets out a wide range of measures which are intended to support schools in making improvements. The programme has seven separate, but related, elements including:-

- a School Support Programme, which offers a period of intensive support to those individual schools which need and can benefit from this type of approach;

and for **<u>all</u>** schools it sets out:-

- a strategy to improve standards in **literacy and numeracy** addressing, in particular, the needs of boys as learners;
- a strategy for promoting and sustaining **good behaviour** in schools, which is a pre-requisite for effective teaching;
- measures to improve the quality of **school leadership**;
- guidance for schools on the **development planning** process;
- guidance on effective **target-setting**, as an integral part of development planning; and
- guidance prepared by the Education and Training Inspectorate on school **self-evaluation**, which is the starting point of the development planning process.

The Information Age - "Leapfrog" Initiative

2.11 This initiative is to create an environment within Northern Ireland which is supportive of the knowledge economy. Specifically there is an objective to enhance the ICT skills base with a recommended review of the "ICT Curriculum" and initiatives to assure ICT teaching quality including staff development.

2.12 A critical element in the achievement of these principles will be provision of information to allow monitoring of progress to determine if the desired improvements in education standards are being achieved.

2.13 All of the above Government Initiatives have a variety of distinct aims and objectives but underpinning all of them is the strategic mission to improve the quality of teaching and learning in the classroom to better equip the young of today for the challenge of the future.

2.14 The critical role of information and communication technology in the achievement of these aims needs to be recognised and addressed.

Assessment of Need

2.15 These Government initiatives have changed and are continuing to change the relationship between schools and the ELBs and DE. The implications of these changing relationships are devolved accountability and responsibility to schools. Information systems have played and will continue to play a critical role in the successful implementation of these policies.

2.16 The ICT needs of schools in facilitating the implementation of the policies can be divided broadly into the need to support administrative and MIS functions and the requirement to support curricular delivery. This latter requirement is relevant in regard to the role of teachers and is discussed more fully below.

Curricular Delivery

2.17 The key needs in this area are to provide the technology infrastructure, software and access to resources to meet the aims of NGFL and the Education Technology Strategy in Northern Ireland.

2.18 It is not intended to reproduce fully the aims, objectives and needs of NGFL and ETNI in the body of this report as they are set out in detail in published documents. The key requirements however which impact information and communications technology in schools are drawn from these documents and are summarised below:-

Pupils

- the pupil experiencing ICT in all areas of the curriculum;
- pupils experiencing a range of applications and media and gaining an understanding of their use in support of their own learning;
- schools adopting, as an initial target, an average of 10% of a pupil's weekly timetable for the pupil to have use of ICT facilities to support learning across the curriculum.

Teachers

- **the need for teachers to have personal ICT skills and know-how** at least on a par with, and preferably ahead of, those expected of school leavers; and
- the need to superimpose on these ICT skills an understanding of, and professional competence in, the practical application of ICT to support and enhance teaching and learning.

2.19 DE's strategy paper states that "raising the level of teacher competence is probably the single most important factor in providing the impetus for ICT development in schools".[1] The Stevenson Committee in GB also reached this view of the priority need for teacher training.

2.20 DE's strategy goes on to conclude that early and decisive action is needed to enhance the competence of teachers in the use of ICT. The report recognises the need for **all teachers** to have adequate access to ICT facilities and the requirement for "hands-on" usage at times convenient to the teacher and outside pupil-contact time.

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1 DE Strategy Report

2.21 The report stresses the need for schools to examine “the potential for permitting teachers the home-use of school equipment, including the provision of portable computers for this purpose.” The document highlights the importance of such provision based on available evidence elsewhere which has shown that teachers’ confidence in ET increases rapidly when they have direct personal access to suitable equipment.

2.22 The satisfaction of these needs to meet the stated strategic objectives will require investment in resources for teachers and pupils. This business case is addressing purely the resource requirements to provide teachers with the necessary tools to develop the required ICT competencies and to support whole class teaching in the interim. Section four of the Education Technology Strategy report which highlights the key role of teachers is set out for convenience as Appendix C to this Business Case. It should be noted that it was recognised in paragraph 413 of that report that:-

“Experience elsewhere has shown that teachers’ confidence in ET increases rapidly when they have direct personal access to suitable equipment. A number of models of provision are possible and have been used by education authorities in other countries. Possible models include:

leasing arrangements

a “loan pool” of computers from which teachers can draw, and

‘’assisted-purchase’’ schemes to encourage teacher ownership.”

It should be noted that the approach to the provision of access to equipment being followed in the Facilitating Teachers’ Use of ICT Project is, in effect, the “loan pool” approach.

Potential Benefits

2.23 The provision of facilities for pupils will encourage a more participative and independent approach to learning, thereby laying the foundations for lifelong learning and personal development. More specifically, ET can:-

- facilitate a differentiated pace and level of learning that takes account of individual pupil abilities, including those who are more able;
- help provide appropriate support and scope for greater independence – for those children with special education needs;
- facilitate access to sources of information well beyond the normal capacity of the school or college;
- foster the development of information skills that teach pupils to be discriminating in their use of information and to be able to shape and present it in ways appropriate to the context; and
- increase motivation to learn, especially for children from disadvantaged backgrounds.

2.24 The provision of a personal information and communications technology service for teachers in Northern Ireland will:-

- allow the teaching profession to familiarise themselves with the capabilities of ICT;
- create the skill base within the profession to allow teachers to facilitate the maximum use of any pupil provision; and
- maximise the use of ICT within the delivery of educational services.

2.25 The provision of facilities to teachers is an integral part of the overall strategy and the development has always been recognised by ETSMG as critical in drawing together the various strands of NOF training, school readiness and pupil provision.

2.26 The next section sets out the revised procurement strategy to achieve the overall ETNI strategic objectives following the withdrawal of the Trilith consortium who were in negotiations to supply the pupil provision via a single managed service contract.

III Procurement Strategy

3.1 The current organisational structure for the delivery of the ETNI strategy is depicted at Figure 1. The ETSMG has overall responsibility for the delivery of the three strands of the ET Strategy and a quality assurance role for NOF teacher training. It links with the other relevant parts of the ELBs involved in policy and delivery in this area are also shown. This diagram reflects the co-ordinated integrated approach being adopted.

3.2 Within this model the Classroom 2000 Project has the responsibility for the procurement of all infrastructure, software and managed services necessary to deliver the teacher and pupil requirements that have been identified if the overall objectives are to be achieved.

3.3 The original procurement strategy is summarised at Figure 2 and covers the 3 main strands of the ETNI strategy. The diagram also summarises the services being provided by external providers and those services being provided by NIES staff.

Teacher Training Element

3.4 The approach here was to use a framework agreement with a range of approved suppliers. This was publicly advertised and is based on NOF National Board contracts and following an open competition four approved providers have been appointed for Northern Ireland and this contract runs to March 2003 when NOF funding ceases.

3.5 The division of responsibilities is as depicted and this contract allows schools to select their preferred supplier once the ELBs have assessed the school's readiness and the school can then call-off their training entitlement. This contract is in place, is working effectively albeit school uptake to date has been less than required to meet the established targets. However there are plans now in place to accelerate uptake and it is considered that the existing contractual arrangements are adequate to facilitate the delivery of the required teacher training.

Teacher Provision

3.6 In respect of teacher provision the objective is to provide one laptop for every teacher (1:1 ratio) based on the "loan pool" model. Taking account of funding restrictions it was accepted that this provision would have to be phased in over a period of time.

3.7 It was recognised that it would be necessary to prioritise requirements and initially this was the provision of one device to every school for the teacher leader in that school, some 1200 devices. These machines were provided in early 1999 following a competitive procurement using the CCTA GCAT contract and arrangements.

3.8 Accepting that the CLASSROOM 2000 Procurement for pupil provision would need to be progressed and that funding for this was a priority it was agreed to set up a 3 year framework agreement as this would provide the flexibility to progress the teacher provision if there was slippage in the pupil provision and/or additional funding became available.

3.9 Consequently a framework procurement for laptop computers was advertised in the Official European Journal on 1 July 1999. Thirty-nine companies responded and a suppliers' open meeting was held on 1 September 1999. Firm proposals from 19 companies were evaluated, 3 were shortlisted, and the contract was awarded to SX3, a local company.

3.10 A number of laptops were purchased under this contract last year which brought the ratio of devices to teachers to 1:3.5 against the objective of 1:1. The agreement still has 21 months to run and it is recommended that any further teacher provision in that period uses this contract. On the contract's expiry in October 2002 a decision can then be made whether it is necessary or not to set up another framework agreement.

Pupil Provision

3.11 In respect of pupil provision the strategy was to provide these via a single PPP/PFI full managed service covering all aspects of hardware, software, technical support, systems integration, connectivity and maintenance and support services.

3.12 The procurement commenced on 13 November 1998 when the Authority submitted an advertisement in the Official Journal of the European Communities, using the negotiated procedure of the Public Services Contracts Regulations 1993.

3.13 The procurement followed recommended good practice with the distribution of a Project Prospectus and Request for Qualification to all organisations expressing an interest. Following evaluation 3 private sector suppliers were selected and issued an ITT but following the withdrawal of one supplier and with the remaining 2 forming a joint venture company only one submission, from the Trilith SPV, was received.

3.14 Negotiations with Trilith continued until December 2000 when Trilith withdrew from the procurement exercise. The terms being offered to the Authority were unacceptable as they were not TTF compliant and did not represent VFM or adequate risk transfer. Trilith chose to withdraw rather than make the necessary adjustments to their position.

3.15 Trilith's withdrawal has necessitated the development of a revised approach to the pupil provision and this is illustrated at Figure 3. As can be seen in the revised approach more of the services are to be provided in-house and a number of contracts will be awarded to external providers, rather than the single PFI contract envisaged under the Trilith model.

3.16 The revised approach will provide all the services required and while there will be more retained risk in this model, with the provision of more services in-house and integration risk, to an extent, being shared, initial analysis indicates that not only will it deliver services sooner, and consequently provide earlier benefit realisation, but it will also offer much improved VFM in comparison with the Trilith approach or the PSC.

3.17 The main differences in regard to the services being retained in-house are:-

- the provision of technical support to the administration systems as well as business support;
- greater involvement in service management, service development and systems integration particularly in respect of the administration services;
- provision of first line helpdesk services for all schools covering all aspects of the managed services as well as in-house services; and
- extended contract management and monitoring with more contracts to be established and monitored.

3.18 In terms of the outsourced services there could be up to 6 contracts as illustrated in Figure 3. This reflects the need to break the project into lots, thus preserving competition and providing flexibility and choice while retaining commonality of solution and economies of scale where appropriate.

3.19 In terms of the provision of school infrastructure, it is proposed now to provide this using the BECTa Managed Services arrangements. Following a competitive procedure BECTa have established a list of approved managed service providers for the provision of such services to schools including an approved list for Northern Ireland.

3.20 It is proposed to invite all N.I. approved providers to bid for school infrastructure provision based on the agreed CCTA contract for such services that BECTa has negotiated with all its approved suppliers. The provision of these services has been prioritised in line with the Project Board's guidance and would commence with the very small primary schools (VSPs) and small primary schools (SPs), then the medium and large primaries and finally the post-primary and special schools.

3.21 It should be highlighted that while school infrastructure will be tendered as three separate lots this does not preclude any supplier from bidding for, and potentially winning, all three elements. It is, however, not considered a problem if different suppliers are successful in winning each of the lots.

3.22 It is considered that there are potentially significant economies of scale in obtaining the curriculum content licences required for Northern Ireland schools collectively rather than separately through the school infrastructure lots. Whether all software is purchased through one of the infrastructure lots or through an existing framework agreement has still to be finalised but the procurement advisors have stated either route can be used without creating any procurement issues.

3.23 LAN services will be provided via a Framework Agreement which will be administered by the ELBs and will involve the establishment of a list of approved cabling suppliers. These services will include the installation of power as well as trunking, cabling and termination services with the power provision being funded outside the Classroom 2000 Project.

3.24 The final procurement will be for the required connectivity, communications and prime integrator services for all schools. While elements of this could be provided via the BECTa Managed Service providers not all the required services would be available via this route. Thus using the BECTa contracts would result in not only likely loss of economies of scale but also significant erosion of the seamless, integrated approach. Retaining the connectivity elements within a single contract for provision to all schools will preserve a significant element of the fully integrated approach.

3.25 It is proposed to advertise this element of the requirement in the EU Journal to maximise competition and to procure under the Public Services Contracts Regulations using CCTA's TAP procedure and the CCTA form of contract.

3.26 While there is additional complexity in this procurement approach it has a number of advantages over the Trilith model while still meeting all the service requirements. These include that it:-

- is highly likely to offer improved VFM and be affordable;
- allows earlier delivery of services to schools and consequently earlier realisation of benefits;
- preserves competition and provides higher degree of flexibility and choice; and
- reduces risk of technology obsolescence as the BECTa contracts are of a 3 year duration and consequently infrastructure would be replaced on each subsequent renewal.

3.27 However it needs to be recognised that in this model the public sector has more services to deliver internally and more contracts to administer which results in more retained risk. Nevertheless, taking into account the lessons learnt from the Trilith procurement and the needs of schools this is considered to be the most appropriate way forward.

3.28 This approach has been presented to the CLASSROOM 2000 Project Board who agree unanimously that this was the preferred approach for moving forward and recommends it to the Department.

Figure 1

Figure 2: Original Procurement Strategy

	ETSMG Strands		
	Teacher Training	**Teacher Provision**	**Pupil Provision**
Form/Type of Contract	Framework agreement with range of approved suppliers.	3 Year call-off contract with selected provider.	Single PFI contract with selected consortia.
Out-sourced Services	Training entitlement in ICT for all teachers and school librarians from NOF approved training providers from 1999 – March 2003 against national outcomes which incorporate teacher computers, eg objectives from ET Strategy.	Provision of laptops, operating software, curriculum application, office productivity software, hardware maintenance and second line help-desk	Provision of full managed service incorporating hardware, software, LANS, connectivity, hardware maintenance, software maintenance, system integration and help desk services.
In-house Services	"Connecting Teachers" initiative to train ICT teacher-leaders and teacher cohort in all schools. Tutorial support within and beyond the NOF funded provision.	First-line help desk Curriculum business support (CASS) Cross-curricular advice and support for all teachers beyond the NOF funded training.	Administration software licences Administration business support (CLASS) Procurement and contract management/monitoring Service strategy development Curriculum business support (CASS)

Figure 3: Pupil Provision Revised Approach

	Schools Infrastructure using BECTa Managed Service Contracts		
	VSPs and Sps (600 sites)	**Medium/Large Primaries (360 sites)**	**Post-primaries and Special Needs Schools (290 sites)**
Out-sourced Services	Curriculum Content for all schools (N.I. Regional Licences)		
	LAN Services (Power and Cable)		
	Connectivity, Communications, Prime Integrator Services for all schools.		
In-house Services	First line Help Desk Services		
	Administration Systems (Licences, Business and Technical Support) (CLASS)		
	Curriculum Systems Business Support (CASS)		
	Procurement and contract management/monitoring		
	Service strategy development		
	Service management, development and some integration		

Figure 4: Procurement Timetable

	2001											
	Jan	**Feb**	**Mar**	**Apr**	**May**	**June**	**July**	**Aug**	**Sept**	**Oct**	**Nov**	**Dec**
Lot 5 Communication & WAN Integration Service												
Lot 4 LAN Services												
Lot 3 Post Primary/Special												
Lot 2 Primary Phase B												
Lot 1 Primary Phase A												

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
BUSINESS SERVICES ASSOCIATION

- PFI/PPP projects are a major element in the Government's drive to get the best value for money in the provision of public services and BSA members have been in the forefront of the development of the regime.
- Historically, PPPs have responded primarily to the problems created by years of under investment and a lack of public capital. However, they also represent the start of the cultural change within the public sector and the realisation by the government that the best way to deliver Government's objectives may be through a combination of the private and public sectors.
- The public sector should examine carefully what service delivery means. Government at national and local level should identify the services that need to be provided and to procure delivery of these services by the party best able to provide them. There are few services which must be provided directly by Government.
- The public sector has a big potential that will partly released by partnering with private sector. There is scope for achieving significant value for money improvements in the public sector.
- PFI/PPPs bring financial savings and improved public services, both in terms of quality and quantity. It will therefore help the government to focus on its primary role and responsibilities. Partnership between private and public sectors is a long-term relationship to achieve a common aim, with mutual benefits. The success or failure of PFI/PPP projects depends on some important factors that both partners must possess. These are flexibility, openness and trust, and the ability to assess and manage risk effectively.
- PFI/PPPs have many benefits but they are not a panacea. It is important to remember that some projects are better handled without PFI/PPP.

The Business Services Association is a policy forum and think tank for some 20 of the largest outsourcing companies in Europe, operating in a high-performing sector of the economy and creating large numbers of new jobs each year. Their annual UK turnover is £15 billion; they employ around 500,000.

Background to the PPPs

1.1. PPPs are cornerstones of the current Government's modernisation programme. The overall objective is to achieve improved efficiency and cost effectiveness of the government by the increased use of long-term partnership for mutual benefits between the public and private sectors. The private sector will contribute its own capital, skills and experience to provide better value for money; which in turn means that more services are available to the public with higher standards.

1.2. Public and private sectors have complementary roles to play in renewing Britain's infrastructure. The historic reality regarding the maintenance of the public infrastructure in the UK is of gross under investment. This is true in relation to local authorities, the NHS, educational establishments and roads, as well as most other areas. Successive governments have failed to allocate sufficient funds to maintain buildings and roads in their attempt to curtail and contain public spending. This short-sighted approach has resulted in an infrastructure, which is now 'creaking at the seams'. Maintenance and upgrading can only be afforded by the involvement of the private sector, and private sector money, which can give the desired services at an affordable price. Additionally, there are limited funds available for new-build which would be severely curtailed without the involvement of the private sector.

1.3. It is also important to note that central government procurement often lacks private sector procurement skills. Private sector experience is as important as private capital. The public sector does not have the knowledge and expertise to undertake all the tasks and roles which it is expected to perform in a modern society. The partnership between the public and private sectors requires a change in the culture of how Government operates. The realisation by the Government that it can 'only deliver modern, high quality public services that the public want and increasingly expect if it draws on the best of the public and private sectors' represents a major step forward in developing a culture of providing high quality, state-of-the-art value-for-money services. The government's recognition of the need for the separation of delivery and provision forms the basis of the partnership approach. The main vehicles for such partnership between the public and private sectors are PFIs and, more recently, PPPs.

Benefits of PPP/PFI

2.1. The objective of any procurement process should be to get the necessary goods and services of the right quality; at the right price and the right time. There is important to achieve significant value for money improvements. PPP/PFI can only succeed where they deliver value to the public. There are two broad objectives that are expected to be achieved by PPP/PFI. Firstly, partnership between the public and private sectors will increase the quantity and quality of investment in the delivery of public services; therefore fulfilling the government's aim of achieving modern and quality public services for society. In addition, this will allow the government to focus on those activities that are fundamental to the role of government. PPP/PFI allows the public sector to focus on outcomes rather than inputs. Secondly, the public sector represents a reservoir of potential (people, knowledge and assets), which will only be partially released in the inclusion of the private sector. PPP/PFI is the right way to help to achieve the full potential of the public sector, which will in return have wider benefits for the economy. In addition the public sector has a lot to learn from the private sector's disciplines, incentives, skills and experience.

2.2. The benefits will be measured in terms of financial savings and improved services, which are the result of partnerships bringing in new investment, and improved management, therefore allowing the use of the full potential of the public. The increased level of current investment will accelerate the benefits of modernisation and the improvement in quality and value of the outputs of renewed public service resources. A copy of the evidence submitted to the House of Commons Select Committee in October 1999 is annexed for information. It addresses a number of the issues raised in the current inquiry.

Key factors for the successful application of PPP/PFI

3.1. Partnerships between the public and private sectors are new forms of doing business in central Government's departments and might be regarded as revolutionary by some parts of the public sector, while they are common practice in the private sector. It is all about achieving a common-long term objective, and necessitates the inclusion of trust and openness between the partners; flexibility; and the ability to allocate and manage risk effectively.

3.2. PPP/PFI will only succeed where there is a willingness to do business between the parties. 'Enforced' PPP is an oxymoron with little likelihood of success. Openness and trust are the keys to successful PPPs. This has to be present on both sides; it is insufficient that only one side has it. Trust has to be evident at all stages of the contracting process – in contract negotiation, in the goodwill between the parties regarding what is required to be delivered and regarding the competence of the private sector partner to deliver the required services. Openness plays a fundamental role in creating that atmosphere of trust.

3.3. There must be shared mutual objectives in order that the project succeeds. It is less than helpful if the parties have differing agendas leading to divergent outcomes. These issues need to be teased out during tender negotiations and addressed regularly during the contract. This will be aided by a clear commitment to teamwork on both sides. Too often there is a hangover from the days of CCT when distrust reigned amid a 'them and us' culture. The contractor is not the client but should be viewed as an arm of the client's business operations if PPPs are to succeed, rather than as an independent, external force brought in to do something.

3.4. Risk is the least understood concept within PPP/PFI. This is understandable in a public sector culture that has developed in a risk-free environment. PPP/PFI is often seen as a way to maintain this position by viewing it as a means to transfer all the risk to the private sector. This will not work, nor is it compatible with PPP/PFI. Partnership means sharing the risk as much as the reward. Risk has to be identified, quantified and costed early in the tender negotiations. PPP/PFI projects will only succeed financially where risk is borne by the party best able to control it. Any risk can be laid off at a cost; but that price is unlikely to be commercially acceptable if the party asked to bear the risk has no control over its incidence. Much more training on risk analysis and assessment is required within the public sector as PPP/PFI continues to develop. The risk evaluation and sharing is fundamental to the delivery of value for money, and the risk evaluation should be addressed by all parties. Risk should be identified, quantified, priced, allocated and managed.

3.5. The flip side of risk is reward. In the same way that risk has to be shared, reward has to be shared between the parties. The MoD has recently introduced the concept of gainshare under which the parties can agree during a contract that additional revenue arising from certain innovative proposals will be shared in agreed proportions between the parties. The same principle applies to sharing rewards under PPP/PFI contracts. There will be areas where savings can be made; new technologies applied and new work methods introduced during the 30 years or so of a PPP/PFI contract. If a mechanism to recognise these matters is not included in the contract, bad feeling will be engendered on the client side if the contractor is seen to be making additional profit from their introduction without and agreement to share part of it with the client.

3.6. Problem resolution, too, is important within these contracts. It is a truism that the best place for a contract is in the filing cabinet. This is also unrealistic. Disputes will arise and the best contracts have in place a quick, effective method to identify and deal with such events before they develop into major confrontations.

3.7. Procurement staff have a very important role in the success or failure of PFI/PPP. In the end, whatever policy the government adopts towards partnership, it is the procurement staff that put it into practice. It should be ensured that they have the necessary authority, knowledge and support to influence purchasing. They should be included at the PFI/PPP at an early stage.

3.8. Last but certainly not least, it is important to 'debug' a good, well-developed output specification before the process starts. Too often companies find it impossible to interpret the Client's requirements which is like trying to hit a moving target. The output specification should be sufficiently clear and detailed to enable the supplier to develop an effective and, as necessary, innovative solution to the client's requirements.

Wider Issues, Limitations and Constraints

4.1. PFI is not and should not be regarded as the panacea for all public procurement issues. It is currently the most common method of procurement but it has its limitations. PPPs are more likely to develop as both the public and private sector identify areas where mutual cooperation will led to better results in service delivery. It is important to understand that PPP is a tailored approach rather than a single model applied to every circumstance.

4.2. PFI/PPP must not be viewed as a means of acquiring a new asset – it is essentially about acquiring services that involve the provision of a major asset. That differentiation may be fine but it is fundamental to the future success of PFI. Services are the thread that links the procurement and delivery process – i.e. the output of the whole project. In that respect, BSA advocates a Design-Deliver-Operate (DDO) whole-life style of procurement.

4.3. PPP and PFI will only work where there are compatible skills in the private sector to those required by the public sector client. There are areas where gaps in those skills remain in the private sector. Where there is a sufficiently large market these skills can and have been developed but the private sector has to be honest in recognising when they do not currently exist and how to acquire them.

4.4. One of the major issues here is the size of the PFI/PPP market. Projects have tended to be large and not very frequent, although there is now a stream of smaller deals, which will only be attractive to smaller companies. Increasingly the large deals are being bid by a decreasing number of consortia, which will subcontract specialist services. The bidding costs for each project are large and companies and consortia have only a limited financial resource that they can make available to fund these bids. Better deal flow and speedier procurement are essential to the future expansion and success of this market.

Assessing and managing the importance and prioritisation of PPP/PFI

5.1. The public sector through the PRG within OGC now has a mechanism for prioritising PFI/PPP projects. Currently, the role of OGC does not extend to cover MOD or Local Authorities, other than through PRG. Some less than viable projects still slip through the net. PFI is still seen as the preferred route even if traditional procurement is more appropriate because it is fashionable and will transfer any risk away from the public sector.

Assessing the value in relation to capital investment and service improvement

6.1. One of the major inhibiting factors in developing PPPs/PFI is the Public Sector Comparator. In many instances it is a fine work of fiction. Since public sector assets rarely have been maintained properly, how can the future cost of maintenance be assessed? The private sector and consultants can give their estimates but these will sit ill with the historic costs on which the PSC is based. In many instances a realistic PSC would place the project outside the financial parameters set by the Treasury; they would be unaffordable. This gives rise to many unnecessary difficulties in negotiation when the public sector is faced with the economic reality of the project with which they wish to proceed. In addition, since PSC is based on only direct costs, it does not evaluate quality, the effect on the public sector client's core business and the effectiveness of the innovative methods of service delivery. In some instances a PFI/PPP solution may be more expensive than the PSC but deliver better value across the client's whole business. However, the proper use of a PSC should enable a purchasing client in the public sector to determine which option of procurement delivers better value for money.

6.2. Two answers present themselves. The PSC should be based on hard costs however unattractive they may be. The public sector client should be open about its budget and seek tenders within that limit. A mix of both of these during the PRG stage would flush out those schemes that are unlikely to succeed or where major concessions will have to be negotiated during the bidding phase to accommodate the financial constraints, which will become evident during negotiations. Additionally, it is very important that the PSC should be issued at the beginning of the procurement process and updated as projects proceeds.

6.3. PFI projects have traditionally been placed on the basis of a DFBO contract. A more effective means of letting such contracts would be on a Design Deliver Operate basis where the service element of the contract is accepted as the continuum which causes delivery, and construction and finance are seen as commodities which can be bought from the market at the keenest price, just as hard and soft services are (even though their performance is post build). We believe that this approach would reduce the cost of contracts and increase their efficiency. A paper developed for the NHS Private Finance Unit in 1997 is annexed to this submission for interest.

Conclusions

7.1. We in the private sector welcome the enhanced ability we have to work with colleagues in the public sector. We wish to develop these opportunities under the new Government and with the Assembly.

7.2. Looking to the future, much concerned with the development of the pubic sector market depends on the definition of PPPs. They can be all things to all people. Partnership and cooperation are current buzzwords; they are also past and current reality in the private sector. PPPs can be all embracing or they may relate to a discrete sector of public sector contracting. It is debatable whether a tighter or looser definition is better. What is not in doubt is that whatever limitations are placed on them must enable success. If PPP becomes a meaningless catchall it will become debased and discredited by failures, which should never have been allowed to proceed. The vigilance of OGC and the Assembly will be vital to ensure its appropriate development.

ANNEX

BUSINESS SERVICES ASSOCIATION
EVIDENCE TO THE TREASURY SELECT COMMITTEE OF THE HOUSE OF COMMONS

THE PRIVATE FINANCE INITIATIVE AND THE SECOND BATES REPORT

EVIDENCE TO THE TREASURY SELECT COMMITTEE OF THE HOUSE OF COMMONS

The Private Finance Initiative and the Second Bates Report

The Business Services Association ('BSA') welcomes the opportunity to commend on three important developments in the Private Finance Initiative ('PFI') which occurred in July. These are the new accounting guidance, the new standard contract and the Second Bates Review ('Bates 2'). Potentially, they could rewrite philosophies and reinvigorate PFI. Alternatively, Government involvement and interference could restrict and stultify. All depends on how the new issues are rolled out through consultation and development over the next 6-12 months.

Bates 2

BSA concurs with the central theme of Bates 2, that central government procurement lacks private sector procurement skills and that immediate steps must be taken to remedy this. The creation of the PFI Taskforce within HM Treasury in 1997 was a major step forward in provision of such expertise, but its responsibility is to advice and assist, not to become involved in leading project negotiation. The Taskforce does not have the resources to undertake such a mammoth commercial procurement exercise. Departmental PFUs and PPUs have tried to obtain this sporadically through secondment from industry or through use of external consultants and advisers. This has been helpful, though expensive. It does not, however, provide a level of knowledge and continuity of expertise across the piece into which departments can tap as required. To meet this accepted need, Government has accepted Malcolm Bates' recommended option to set up a major Public-Private Partnership to harness and provide this.

This is good news for all involved in PFI though it must not deflect from the central issue of improving the quality of departmental PFUs. Relevant skills are expensive to purchase and the provision of a central pool makes sense. It is right that this should be an available expertise on which departments can call rather than a mandatory requirement, though it is difficult to imagine PUK's potential expertise not being drawn on. It will be particularly important that the expertise of PUK should be available for the smallest of PFI projects as well as the large ones. Small PFI contracts could thus become standard, fast track, repeatable deals, thus reducing bidding and procurement costs. It is good, too, that the Project Review Group of the Taskforce and Policy Unit are to remain within HM Treasury, even if in a skimmed down form. Central review and policy advice and formulation will continue to be important elements of driving forward this new phase in the development of PFI.

We welcome the proposal to establish PUK as an adviser to the public sector on how to procure better and to provide that necessary expertise to enable it to do just that. Further clarification is required, however, regarding its position – is it part of the public sector machine, despite its majority private sector ownership? If it remains in the private sector, surely it will be subject to the Public Procurement Directives in relation to the services that it seeks to provide to its public sector partner? What authority will it be able to exercise over spending departments?

We welcome, too, the commitment of Government to provide it with adequate financial and people resources. It will charge public sector users for use of its services. Its advice and involvement will relate to what is the best private sector offering to the public sector in relation to a project – which will give best value-for-money.

The involvement of PUK with a public authority needs to be without conflict of interest if the private sector is to have confidence in the deal. The fundamental concern is that a body giving advice to the public sector with a view to becoming a private sector investor in that project is an interested party and cannot be regarded as giving unbiased advice.

In such circumstances, will PUK be seen as able to give impartial advice to the public sector on the value-for-money of the project or will it be seen as also formulating a deal in which it sees a good rate of return for itself *quae* investor? PUK must not drive down the return for project sponsors nor jeopardise investment by 3rd party investors in successful projects. PFI procurement and the PFI market are still evolving. Early projects were construction led, but now service led consortia are becoming more common. This will continue as the role of construction contractors changes and the market evolves.

The question about who pays for PUK's services cannot reasonably centre on the cost of the advice from PUK and its recovery since public sector clients already have to meet such (presumably higher) costs. Using PUK or not does not alter that position. It is part of the public sector's procurement costs. If they are not currently part of the cost of a PFI there is no reason why that should change because of the involvement of PUK.

It is early days to raise these arguments because of the final structure of PUK is not yet known. In putting this in place the PUK Steering Group needs to be cognisant of these concerns. They are capable of easy resolution.

PUK has the goodwill of the private sector. It must not be seen to falter at the hurdle of probity.

Accounting for PFI

Technical Note 4 sets out ways in which the public sector assesses whether PFI projects are on or off the procuring authority's balance sheet. It suggests that where services are to be subject to market testing or benchmarking at regular intervals during the life of the contract, they should not be judged for risk transfer in PFI projects but should be viewed as separate from the services to the asset.

The primary purpose of PFI is the provision of services to the public sector. As Technical Note 1 (Revised) states, accounting rules must not be allowed to divert from this fundamental principle.

> ***"The objective of PFI procurement is to provide high quality public services that represent value for money for the taxpayer. It is therefore value for money, and not accounting treatment, which is the key determinant of whether a project should go ahead or not." (paragrpah 1.8)***
>
> ***"It is essential therefore that the selection of preferred bidder is made on value for money grounds and not to achieve an off balance sheet accounting treatment" (paragraph 4.8)***

Services and PFI

The issue of separate treatment of building services contracts from functional support services contracts for accounting purposes has had the effect of raising in some minds the question of whether services should be included in future PFI procurements. This must continue to be viewed against the centrality of value for money. Most PFI projects will not deliver value-for-money against a Public Sector Comparator ("PSC") without the inclusion of services. Reports by the National Audit Office have confirmed the intrinsic value of services in achieving this in current projects.

Currently, the PSC is based *inter alia* on historic directs costs, wishful extrapolation and public sector pension contributions, which may not be fully funding the scheme. Neither the PSC nor benchmarking evaluates quality, the effect of the core business of the public sector client and the effectiveness of the new method of service delivery. The PSC only considers the assumed cost of asset and support services, not their effectiveness within an innovative, service-integral outcome. These issues must be addressed to assess properly the value of PFI as a whole life cost and through its effect on the client's core business. This will entail incorporating service effectiveness into the new operational policies such as design and logistics.

In some instances the PFI solution may be more expensive than the PSC but deliver better value across the client's whole business. The current £ equation (PFI < PSC) does not value the effectiveness of the client's outcome. A new concept in PSC thinking is required for innovative solutions delivering "gain" to the public sector client through better whole-life value.

Of course, services need to be benchmarked or market tested. This makes sense and is good procurement practice. Such benchmarking is likely, in any event, to be coupled with the need to show year-on-year improvement in the contract in the absence of service specific indices for cost inflation.

A form of public-private partnership may be appropriate with some services being provided by different parties within the context of a joint venture. This could be through a joint venture company or other public-private partnerships entity.

Additionally, some public sector clients, especially in local government, are also looking at the possibility of taking equity in the bidding consortium if legal rules permit. This must be looked at on a case by case basis. The same concerns will apply here as apply to PUK adopting a similar policy.

If a public authority procurer does not wish to include soft services in a PFI contract (subject to achieving value for money) this decision must be made before the bidding process begins. The uncertainty created by not knowing whether they are in is both costly and disruptive since this will fundamentally affect risk and price. In such cases, there must be clear parameters to determine whether best value for money is being delivered to the public sector. PUK will be instrumental in helping to assess this.

These options are currently being explored with HM Treasury. Guidance is needed. Hopefully, the Treasury Task Force will provide this.

The Standard Contract

This document is welcomed. It is necessary and desirable to have a standard form to which all procurements will conform. This should speed up the procurement process and assist in reducing the bidding costs through use of the standard clauses backed up by explanatory guidance. It will be critical to ensure that Government Departments and Agencies use this form with only necessary and minor variations. Otherwise, the value of the standard contract will be lost. Urgent work is now required on specific versions of this document for health, defence, local authority, education and prison contracts.

Conclusion

BSA members believe that Bates 2 can help to develop further PFI. The importation of private sector expertise to public sector procurement must assist greatly in assuring both the public and private sectors that there has been good procurement. A steady stream of new, innovative projects will continue to invigorate PFI and allow development and retention of expertise by those involved in both sectors.

PFI without services is not PFI. If this methodology is allowed to procreate it will stifle innovation in service led solutions, perpetuate the *status quo* and slow the pace of modernisation and change. Public-private partnership opportunities and market appetite will diminish. This would be unhealthy for vigorous fit-for-purpose public services. PFI procurement and the PFI market are still evolving. Early projects were construction led, but now service led consortia are becoming more common. This will continue as the role of construction contractors changes and the market evolves.

October 1999

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
COMPASS PLC

26 April 2001

REQUEST FOR INFORMATION (1)

General Context of PFI/PPP

1. **What do you see as the benefit of PPP/PFI? Are there identifiable benefits to the public and stakeholders?**

   We see the principle benefits of PPP/PFI as being:-

   - A more focused procurement process, with increased importance given to achieve the best end result and lead to improved public sector procurement.
   - It forces authorities to set aside historical allegiances to in-house teams in favour of the needs of the customer/end user.
   - It requires authorities to make real strategic decisions for their estate.

   There are identifiable benefits to the public and stakeholders, these being:-

   - Improved environments and facilities.
   - Service solutions that meet customer/user needs.
   - Delivers 'best value'.
   - Longer term contracts for stakeholders.
   - Output based specifications.

   Enhanced reputation and profile for stakeholders.

2. **What do you see as the key factors for the successful application of PPP/PFI?**

   Success requires the following:

   - Full buy in by the Authority.
   - A realistic time frame for the process.
   - Open book information to be made readily available.
   - Full and detailed market consultation process prior to entering into competitive process.
   - Proven solutions to problems to be prioritised above 'novel' solutions.
   - Authority project team to be selected on skill and competency.

3. **Are there any wider issues, limitations and constraints associated with the environment of the PPP/PFI that have to be addressed? Are there gaps in the supplier market base? Are the skills and guidance available?**

   - Within Northern Ireland the issue of Long Term stability will need to be addressed. The question as to what guarantees there will be that a 25/30 year PFI/PPP project will be allowed to run its course will need to be answered.
   - PFI/PPP can address what are considered to be commercially unviable sites by incorporating them as part of a bigger package.
   - Skills to support PFI/PPP are available in depth on the mainland
   - However, there are limited numbers of organisations that have the capability to provide soft services particularly to the NHS and that are willing to commit the time and resources to these complex projects.

- A lot of work has been done by Government and others on the supplier base on the mainland, we would suggest this will be necessary in Northern Ireland, through open dialogue with the market by service sector.

4. How should the strategic importance and prioritisation of PPP/PFI projects and the inter-relationship with other schemes be assessed and managed?

- Timing of the release of projects in terms of number and size needs to be carefully managed. This will avoid over stretching organisations and enable them to devote sufficient resource and attention to each project.
- The most successful PFI/PPP schemes have been those that have brought integrated site management of services on Greenfield sites, through a single provider (albeit a Consortium)

5. Are there any social factors that should be assessed and managed an how have PPP/PFI schemes impacted on them?

- It is critical that thorough consultation with Trade Unions and Employee Representatives takes place early in the process (something akin to the 'Social Partners' initiative on the mainland)
- There is a need for a robust Marketing Strategy to cope with the human factor and demonstrate that PFI/PPP will provide long-term job security, this is particularly necessary in an area with relatively high unemployment.

6. What alternative procurement options do you believe should be considered?

- We believe answers to this will come out of a sector by sector market consultation exercise.

7. How do you suggest PPP/PFI should be taken forward in Northern Ireland?

- By using the lessons from the mainland and the successful and proven models already in the market.
- In those sectors where there has been greatest penetration to date e.g. Education and Health.

8. What are the feasible alternative forms and structures of financing?

- None that have the scope of PFI. The only alternative that has worked, but in very limited circumstances, is where there is a sound commercial opportunity for private investment within public facilities e.g. Retail outlets in a hospital main entrance.

9. What do you see as the economic basis of PFI/PPP.

- Long term reduction in cost base through investment, rationalisation of assets and third partly revenue.
- To reduce or contain the Public Sector Borrowing Requirement.

10. How can value in relation to capital investment and service improvement best be assessed?

- A proper business case needs to demonstrate financial effectiveness for the public purse and, crucially, the end user views of the service standards before and after investment.

COMMITTEE FOR FINANCIAL AND PERSONNEL INQUIRY INTO PUBLIC PRIVATE PARTNERSHIPS

Request for Information (2)

To date our involvement in PFI projects has in the main, been as a sub-contractor to the Consortium, therefore we have difficulty in providing complete answers to your questions as we are not privy to specific details as a sub-contractor. However, the following comments may be useful and relate particularly to the provision of soft services:-

Bid Process

1. **Were the output objectives of the project clear and established in relation to needs? Did any of the objectives stray into inputs and delivery mechanisms?**
   - Output objectives are generally clear, however they are not always established in consultation with end users. This results in conflict of expectation and implementation issues.
   - We have found there to be little reference to inputs e.g. meal times, mail collection, delivery time etc. so have had to establish local SLA's with end user departments.

2. **How good was the specification of requirements compared with implementation and operational reality? Please summarise the differences.**
   - The specification does not always compare with operational reality at the point of transfer. However, this has, in our experience, been addressed within the first 12 months of operation.
   - Operational developments and improvement have in some cases been implemented with the client support and willingness to fund post commencement.
   - In general activity levels are greater than those specified, this is due to improved services both in terms of reliability and accessibility.

3. **Did the project benefit from any initial enquiries into private sector interest and were potential areas of innovation identified?**
   - Not known.

4. **What areas were identified for risk transfer?**

   Items identified for risk transfer included:-
   - Service performance standards.
   - Availability of facilities and services.
   - Volumes and activity levels (within a band).

5. **What were the evaluation criteria used and how were they applied? In particular how were risks and variants assessed in the ranking of bids?**

   Evaluation criteria used:-
   - Value for Money/Affordability.
   - Reputation within the market and track record.
   - Competence to deliver.

6. **What were the key features of the business case?**

   Key features were:-
   - Financial structure of the deal.
   - Evidence of compliance to specification.
   - Innovative solutions.
   - Partnership and flexibility.

7. What were the nature, form and feature of the public sector comparator?

Not known.

8. What are the skills and expertise recruited into the Project Team and when? Please list the Advisers, Contractors and Financing organisations involved.

- As a Sub-contractor to a Consortia we want to be recruited to the project team early in the process, so we can support and add value to the overall submission. Unfortunately not all Consortia request our input until late in the process, so potentially limiting our ability to contribute our specialist skills and expertise.

9. What were the key contractual issues and when were they identified?

- Generally key contractual issues are identified early in the process though not often resolved until very late in the day. Principle issues include, risk transfer, payment mechanism and availability.

10. How realistic was the procurement timetable and tendering requirements?

- Generally the procurement timetable and tendering requirements are realistic, provided the Consortia involves us early enough in the process.

11. What were the sources and amounts of funding and payments required to deliver the PPP/PFI?

Not available.

Completed Deals

12. Were the requirements and specification appropriately output-orientated? Did they encourage innovation? Were the service targets and standards required reasonable?

- In our experience the specifications are appropriately output-orientated, however in some instances they would have benefited from having a level of input identified.
- Innovation is encouraged but at times difficult to deliver, as the evaluation team are either reluctant to change or afraid to take risks.
- In our experience the standards required are considered reasonable, however the expectations of end users do not always match published standards causing conflict on implementation.

13. How valid were the assumptions made in the business case, and how accurate were the initial estimates of project and service costs?

- Generally assumptions made within the business case were essentially well founded.
- Initial estimates and service costs have proven to be accurate against the specification. These have varied in some instances as the specification has developed.

14. How accurate and appropriate were the demand forecasts of the services required?

- The demand forecasts were on the whole underestimated, either as a consequence of poor data recording and management previously and/or a poor perception of the services.
- When services and environment improve, user satisfaction increases and demand for services grows.

15. What were the performance measurement systems and how effective were the associated payment regimes?

- Performance management systems vary from Sector to Sector and Service to Service, however the following have applied:-

  1. Response times and availability.
  2. Performance standards.
  3. Levels of customer satisfaction.

- Payment mechanisms relate directly to non achievement of required standards, however we rarely are incentivised to exceed prescribed standards or after innovative developments to services.

Financial

16. **How accurate and complete was the financial model and the assumptions made? What were the estimated financial risks? How did they impact on the deal?**
    - We have found financial data to be inaccurate and requiring thorough validation as part of the process to enable robust and accurate financial evaluations.
    - Were the financial risks have been considered too onerous, then we have not proceeded with the project.

17 **How relevant were the Public Sector Comparator costs to the PPP/PFI?**

Unknown.

18. **What assessment has been made of the rates of return payable to banks, providers of equity and subordinated debt, and how does these compare with returns on similar projects?**

Not available – does not apply where we do not have any equity stake in the project.

Contractual

19. **How complete, appropriate and enforceable was the contract provisions and what issues and variations were necessary later**
    - Elements of contract documentation are often inappropriate for a sub-contracted service provider and have to be negotiated out.
    - All elements of the contract are deemed enforceable.

20. **What risk were allocated in the contract?**
    - Our experience is varied in this area, allocation of risk is usually based on non-availability and unfit for purpose criteria, together with achievement of base standards.

Social

21. **What staff transfer and TUPE issues were present and how were they managed? Are there any lessons to be learnt about consultation with stakeholders and others affected by the PPP/PFI?**
    - We have experiences of TUPE transfers from both the public and private sector in PFI/PPP environment.
    - Early consultation with Trade Unions and employees is essential with one to one meetings at the point of transfer.
    - Consultation must be honest and open.
    - Appropriate training must be given at the point of transfer.
    - Access to staff pre-transfer is essential.

Property

22. **What property disposals and gains were included and how did the PPP/PFI benefit from their presence? Were there any clawback arrangements and how would any surplus value be shared in the deal?**
    - Our experience varies from project to project, however as a sub-contractor we are not usually involved in property disposal this is normally handled by the consortia.

Construction

23. **How did the construction costs compare with the estimates in the Public Sector Comparator?**

We have not been involved with major property construction projects directly.

24. **How well did the construction and property specification match the completed works?**

We have not been involved with major property construction projects directly.

25. What is the summary of the findings of any project evaluation report?

We have not been involved with major property construction projects directly.

COMPASS GROUP UK & IRELAND – COMPANY PROFILE

Turnover: £2.7 Billion

Employees: 80,000

Sites: 8,400

As the largest foodservice organisation in the UK and Ireland, Compass Group provides high quality catering and support services at over 8,400 locations and serves nearly three million meals a day.

Services like staff restaurants, student refectories, hospital patient meals, coffee shops, café bars, food courts, corporate hospitality and executive dining are some of the many which the company provides to clients ranging from blue chip company head offices to military bases from universities to airports, from sports stadia to hospitals.

The company's roadside division also provides a range of catering and accommodation services to travellers using the country's road network including motorway service areas, Little Chef restaurants and Travelodge hotels.

The companies that form Compass Group UK and Ireland are specialists in their markets and range from large, national caterers operating multi-site businesses, to regional operators working in partnership with local companies. Each Compass Group company is independently managed with its own culture and values, but enjoys the benefits of Compass' purchasing power, financial investment, leading edge IT and commercial support.

The company's Specialist Markets Division operates primarily within the Public sector, through specialist operating companies established to focus on specific market sectors.

Medirest is the specialist healthcare operating company of Compass Group UK and Ireland providing the full range of hotels services, including staff, patient and visitor catering, domestic, portering, security and reception, at over 130 NHS Trust and private hospitals. It is the UK market leader in the Healthcare sector operating in England, Northern Ireland and Scotland.

Scolarest is the specialist education operating company of Compass Group UK and Ireland, providing a range of catering, vending and cleaning services to over 1,200 schools, colleges and universities, both within the state and independent sectors.

Eurest Defence Support Services is the specialist operating company which focuses on the provision of catering and support services to the MOD throughout the UK and Sovereign Territories.

Eurest Criminal Justice is the specialist operating company that provides catering and support services to Prisons, Police Authorities and Prison Officer training centres throughout the UK.

This varied portfolio of brands allows Compass Group to operate with expertise in all its target operating markets, including education, healthcare, defence, police, leisure and hospitality, retail, roadside and business and industry.

Compass Group UK and Ireland is a £2.7 Billion turnover business, employing over 80,000 people. It is part of Compass Group PLC – the world's leading foodservices and hospitality organisation, which has an annual turnover of £7.3 Billion and operates in 80 countries employing over 250,000 peoples.

The Balanced Scorecard

The company's competitive edge comes from excelling in five key areas:-

- ***Customer and Client satisfaction***

  Compass Group companies aim to provide a standard of service that is second to none. Underpinning all activities is the conviction that how service is delivered is as important as what is delivered and that the customer and client come first

- ***Market Leadership***

  Compass Group companies grow and develop by anticipating and meeting the needs and wants to their customers, client and partners in each market sector.

- ***Operational Excellence***

  Compass Group manages its businesses by focusing on the continuous improvement of efficiency throughout the organisation in order to achieve excellence, consistency and value for money.

- ***Preferred Employer***

  Compass is committed to attracting, developing and retaining the best people by helping them achieve their full potential in a dynamic and rewarding environment. The company aims to be the "employer of choice".

- ***Financial Performance***

  Compass Group aims to achieve continuous growth in earnings per share and superior returns on invested capital. The company is committed to building volume and net profit growth.

Growth Strategy

Compass Group UK and Ireland is actively pursuing a strategy for growth involving:-

- Acquisition of companies that fit naturally into the group including those in niche markets, operating a premier brand name or identity which is complementary to the existing business.
- Net new contract growth through market segmentation and aggressive sales focus in each market sector.
- Organic growth of existing business through greater management control, contract investment, purchasing volume and the increasing use of both generic and high street brands.
- Provision of 'added value' facilities and services to the client such as on-site retail shops, vending and "soft FM services".

Analysts estimate that the contract catering sector is worth £6 Billion in the UK and that currently only 35% of this market is serviced by external contractors. Since organisations can make significant savings on their service requirements by outsourcing, the remainder of this market represents an enormous opportunity for the company.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
CBI

19 April 2001

Introduction and Key Issues

1. CBI Northern Ireland welcomes the Committee's Inquiry into PFI/PPP and is pleased to have been invited to submit evidence to the Committee. The Confederation of British Industry is an independent, non-party political organisation funded by its members in industry and commerce. Its mission is **to help create and sustain the conditions in which businesses in the UK can compete and prosper**. CBI members come from all sectors of UK business and include more than 250,000 public and private companies, as well as more than 200 trade associations.

2. CBI Northern Ireland is concerned at the increasing infrastructure deficit in Northern Ireland, the need to improve the quality of public services and the need to secure better value for money from public expenditure. We believe that PPP/PFI has a key role to play in meeting all three objectives. However as we point out in this submission it is important that we find the most appropriate and cost effective solutions to suit the scale and scope of projects in Northern Ireland. PFI is part of the solution and can compliment other forms of private sector involvement and partnerships with the public sector.

3. The key points made in the submission are summarised below:

   - PFI is a well established and proven method of procuring public services.
   - PFI/PPPs, used appropriately, provide better value for money and, superior service performance than the conventional capital procurement alternative. PPPs also help to improve Government planning and in the development of competitive businesses
   - Northern Ireland is lagging the rest of the UK and is being rapidly overtaken by other countries such as the Republic of Ireland
   - PFI/PPPs is a key part of the solution to helping to address Northern Ireland's infrastructure deficit and to radically improving public services, especially in the areas of education, transport (including public transport), water and health
   - Key success factors for the effective delivery of PFI/PPPs include political commitment, selection of the right projects, appropriate skills and good Departmental preparation
   - Northern Ireland needs to develop a public procurement strategy with effective co-ordination between all efforts to raise performance in all areas – we have recommended the establishment of a dedicated support unit (mirroring the Office of Government Commerce in GB)

4. The submission has been structured around the ten general questions set out in the Inquiry's Terms of Reference.

   a) What do you see as the benefit of PPP/PFI? Are there identifiable benefits to the public sector and stakeholders?

5. Current spending patterns and traditional public procurement methods will not deliver the necessary investment to address Northern Ireland's infrastructure deficit. The Assembly will need to seek appropriate and innovative solutions which deliver better value for money (including superior service performance) than traditional forms of procurement.

6. Public Private Partnerships have the potential to deliver:

   - **Better value for money** through whole life costing, innovation, incentives for making public capital work harder and for better asset design. There is significant scope for net savings
   - Guaranteed high quality service provision over the lifetime of the project

- Better Government planning by reducing the political and fiscal risk to Government capital programmes which in the past have been subject to annual variations and where traditional procurement routes have led to cost overruns and 'goldplated' infrastructure but lacking adequate ongoing maintenance
- Competitive businesses with export potential by creating innovative team/joint venture solutions on complete 'design-build-finance-operate' packages

In addition greater volumes of priority building work than would be possible under conventional contracts can be achieved much earlier. This is particularly relevant considering the large backlog of investment that exists in Northern Ireland.

7. The Private Finance Initiative is not just about the private sector financing capital projects in return for an income stream. It makes use of private sector skills and management to deliver a "capital and services package solution". Expertly used on appropriate projects, PFI can beat conventional procurement on value for money by a substantial margin. Sources of savings include:

- giving public sector customers and private sector suppliers both the scope and incentive to achieve best value for money over the lifetime of the project
- allocating risks where they are best managed
- commercial skills, management and innovation.

8. Better value for money, including the guarantee of high quality service provision, must be the reason for choosing PFI over conventional capital procurement. PFI should not be applied where it does not work. Shifting Government expenditure from capital to current spending is a consequence of PFI - neither good nor bad in itself in fiscal terms (particularly once resource accounting improves transparency) – but with implications for the Government's budgeting process.

9. The PFI can reduce the financial and political vulnerability of capital provision. Decades of under-investment have resulted from the need to constrain public borrowing and from political decisions favouring up-front budget savings at the expense of longer term considerations. While resource accounting will provide better data for Government budgeting, it will not guarantee adequate capital provision. The PFI can be conducive to boosting investment by:

- replacing "lumpy" public capital spending with a steady stream of service payments
- encouraging a service-driven approach to investment decisions, which increases the incentive for timely capital spending, which benefits service quality and cost
- protecting expenditure on maintenance, which has been particularly vulnerable historically, leading to a serious and costly backlog in the maintenance of national assets.

10. Long-term PFI contracts are sometimes criticised for constraining flexibility of Government decision making, by removing options that might exist under conventional procurement. In many cases these criticisms are misplaced with PFI projects offering the opportunity of more flexibility. Most contracts include provision for the benchmarking/market testing of services at agreed intervals during the lifetime of the contract, thus ensuring ongoing value for money to the public sector from the delivery of key services with mechanisms in place for the sharing of any benefits that may arise. Rather than rejecting PFI on these grounds, the Government needs to manage the benefits and the risks that arise from long-term partnerships. Furthermore it is now accepted practice to build into PFI/PPP projects mechanisms designed to ensure that the public sector benefits from refinancing gains.

11. Critics of PFI do not always take into account that long term commitments also arise from a decision to build any facility conventionally. For example, hospitals built thirty years ago have required operational budgets ever since - to meet wage bills, contract payments and running expenses. Meanwhile, maintenance costs have arisen which may or may not have been met. An assessment of the existing education estate, with decaying buildings and inadequate maintenance, reveals that traditional procurement has not worked to the benefit of many users. Under PFI, these forward commitments are set – and therefore anticipated– further in advance. The capital costs are wrapped up with operational costs in the total service payments made to the PFI provider. Risks of cost overrun and delay typically lie with the private sector, not the taxpayer. It is up to the Government to use this information in its planning: aligning projects so far as possible with long term need and affordability; building flexibility into contracts to handle uncertainties over future demand; setting appropriate contract lengths.

12. PFI can and does provide many additional benefits which arise from the improved management and innovation that can be introduced by the private sector. For example in the education area wider benefits include the following:

- **school management** – it allows the management to focus its efforts on providing and improving education services
- **Catering -** where there has been an investment in school kitchen and dining facilities, uptake of school meals by pupils increases. The private sector is able to invest in such facilities as it can take the risk on meeting higher uptake levels. The catering service is often more flexible e.g. offering mid morning breaks, developing a service to compliment community and third party use or developing breakfast clubs.
- **cleaning -** By having maintenance and life cycle replacement as a fundamental part of PFI/PPP projects, higher cleaning standards will be attained throughout the project term.
- **Maintenance -** PFI operators are able to 'spend to save' throughout the contract term. Decisions on improving efficiency (e.g. through the use of maintenance IT systems or corrective maintenance) or the installation of energy saving plant are much easier for the private sector operator.
- **Security:** The PFI/PPP operator has a fundamental interest in minimising vandalism, graffiti, misuse and burglary etc. due to the potential impact on insurance premiums. The correct use of CCTV in schools as a further benefit, helps in the fight against bullying (where reductions have been experienced)
- **Integrating with the Community -** PFI operators develop proposals with individual schools to maximise community and third party use with the school sharing in the income whilst the private sector brings marketing and management expertise. In many schools, there is now increased out of hours use (note that current asset utilisation in most schools is only 17%). Why invest in providing IT at schools and not develop business and community IT training initiatives when the equipment is sitting unused at nights, weekends and school holidays? There are also many other initiatives been developed between schools and private operators ranging from summer and after school clubs to 5 a-side soccer complexes.

Drumglass High School, Dungannon is an excellent example of the wide benefits which PFI can bring.

In addition, these improved services often lead to a range of spin-off benefits for SMEs which find themselves as service providers with contracts lasting several years rather than more traditional 1-3 year deals.

13. The appropriate volume of PFI spending is a consequence of where Executive spending priorities lie and how to deliver best value on that spending. Therefore:

- within budgetary constraints, policy priorities should determine capital and service provision; ie the Budget reflects need, ability to pay and competitiveness goals
- and the Government must achieve best value for money across all spending - by making expert use of the best mix of PFI, other procurement and commissioning tools and in-house provision.

14. Clearly self-financing PFI projects will not be subject to public finance constraints; yet other natural limitations exist on the total volume of such projects. The Government may have public interest considerations in deciding whether to sponsor individual concessions. The requirement to secure private sector investment should ensure that only commercially viable projects go ahead.

15. The Modernising Government and Best Value initiatives, which require a systematic review of central and local government services over the next five years, potentially provide an excellent framework for identifying where PFI will add value. Yet opportunities will be missed unless two conditions are fulfilled. Ministers should do more to position PFI clearly as a procurement option within Best Value and its central government equivalent of Better Quality Services. Sometimes PFI can wrongly appear to be a separate and even competing initiative. Service reviews under Best Value and Modernising Government should explicitly embrace any related capital requirements. Similarly, PPPs/PFI are key to the delivery of electronic government targets and again the e-government and PPP/PFI initiatives should be "joined up".

16. PFI is now well established in the UK with much progress and learning from the experiences gained over the last 10 years. Momentum for these partnerships has been increasing throughout the rest of the UK in recent years and at the same time their use in other countries has also moved on significantly. For example in the Republic of Ireland considerable progress has been achieved in a very short period of time and has left Northern Ireland lagging considerably behind in spite of a much later start. The CBI is concerned that Northern Ireland is in danger of losing existing momentum in the use of PFI due to the lack of commitment across the public sector, which is currently reflected in the lack of "deal flow". There are strengths, and

examples of best practice in Northern Ireland but there is also significant room for improvement. Experience in GB shows that PFI does deliver – whether it be schools or hospitals, usually on time and within budget.

17. CBI Northern Ireland believes that Executive priorities should determine where resources are spent. The nature of the expenditure should then be determined by what mechanism would achieve best value for money, eg using the most appropriate public/private mechanism – this will not always be full scale PFI. The Executive must decide on the route (or combination of routes) which gives the best scope for the private sector to add value and in all cases adhere to key principles such as whole life value for money and optimum risk allocation. **It is worth considering, for example:**

- Using the appropriate private sector intervention or involvement to upgrade public buildings, from office accommodation to facilities used by the public. In some cases, such as the Northern Ireland Courts, full scale PFI has been particularly successful and could provide important lessons.
- Expanding the use of IT in public service delivery, using PFI, could generate significant value for money savings. Public sector commissioning of IT (whether through PFI or otherwise) has been problematic and we understand Whitehall is reviewing how to achieve improvements. Other mechanisms for more effective private sector involvement may be more appropriate

18. Addressing the issues identified in this paper will help to deliver world class public services in an efficient, effective and in many cases an innovative manner. At the same time we hope that the risks involved eg in failure of projects to run will be reduced through improved communications and clearer understanding of the issues. It cannot be emphasised strongly enough how important it is to establish clear goals from the start and the best means to achieve these goals should then be followed without preconceived notions that there is only one form of PPP or PFI that then has to be implemented.

b) What do you see as the key factors for the successful application of PPP/PFI?

19. We have set out below the key success factors for the successful utilisation of PFI/PPPs:

- **Political will and senior management commitment** within the public sector to the use of PFI/PPPs as part of the procurement solution (the RoI is an excellent example here)
- **Widespread understanding of the benefits and opportunities offered by PFI/PPPs**
- **Selection of the right projects -** including a pragmatic approach "what matters is what works" basis and the need for the right legal base for the particular project
- The need to have the appropriate skills, **especially project management skills**, in place within the public sector. This is vital for both the initial development of the project and also during the actual implementation of the project
- For sustainable success **"deal flow"** is very important - Continuity in bringing forward new PFI/PPP projects helps to retain and develop skills and capabilities in both the private and public sectors
- **Good departmental preparation** – increases likelihood of success and reduces tendering costs. This must include clear objectives and understanding of the outputs required from the project
- Allocation of risks where they can best be managed
- Open and objective attitude to those assessing tenders

c) Are there wider issues, limitations and constraints associated with the environment of the PPP/PFI that have to be addressed? Are there gaps in the supplier market base? Are the skills and guidance available?

Constraints

20. We believe the major constraint or limitation challenging the development of PFI/PPPs in Northern Ireland is attitudinal. Unfortunately there is general culture in Northern Ireland which is reluctant to accept change and innovation which has been reflected in the lack of commitment across large parts of the public sector to embrace PFI/PPPs. We firmly believe that PFI/PPPs can help to radically improve the quality of public services – the evidence from existing projects across the UK and further afield is extensive.

In July 2000 HM Treasury figures reveal that 352 projects had been signed in England and Wales with an estimated capital spend of £13 billion (an average of £36m per project) while in Scotland some 52 projects with a capital value of £1.63 bn (average project £31m) had been signed. In comparison in Northern Ireland 20 projects had been completed with a capital spend of £133m (average less than £7m per project).

However care must be taken not to force Northern Ireland projects into the strait jacket of the GB model on PPP/PFI. Solutions that best suit high value large scale infrastructure projects in other parts of GB may not suit Northern Ireland. In some cases more simpler or straight forward and more cost effective solutions may exist which are more suitable for the particular scale and scope of Northern Ireland projects.

21. Concerns have been raised that structural issues within the public sector such as the numbers of Health Boards/ Education and Library Boards may impede the development of PFI/PPPs particular where bundling of projects is required. However to date the evidence would suggest that in education at least this has not been an issue.

A particular legal constraint that has been identified is Northern Ireland's Business Tenancy Legislation which impacts on property aspects of PPP/PFI or property outsourcing transactions. Whilst GB legislation allows for contracting out (on terms approved by the County Court) the equivalent Northern Ireland legislation (Business Tenancies (NI) Order 1996) does not provide such a mechanism.

One other constraint which arises with regards to the development of PFI projects in the Further Education sector is the strength of the covenant to be provided by individual colleges as contracting parties. As the colleges have been incorporated as individual entities with ongoing government funding dependent on student numbers it is likely that funding institutions will not lend against the covenant of some colleges unless the covenant is guaranteed by the Department. A similar problem has constrained the development of PFI projects in colleges in GB.

Gaps in supplier base

22. Increased use of PFI/PPPs can be expected in other EU countries in the future, compelled by the need to secure value for money. There is a significant business opportunity for companies who are at the leading edge of these new procurement systems. PPPs are also a valuable method of encouraging the strategic development of companies through the need to participate in new relationships, such as joint venturing, and in developing new areas of expertise and experience.

23 Northern Ireland has now got a range of emerging strong players in the facilities management arena which have the clear potential to develop into significant businesses with significant export potential, provided that this capability is encouraged to develop in a meaningful manner in the near term. There are also significant opportunities for small and medium sized companies to act as sub-contractors, recognising that few SMEs will have the capability of being the leading contractor.

24 If Government can deliver sufficient "deal flow" we believe the private sector will respond to the challenge. There will also be clear benefits in bringing the private and public sectors together to share experiences, learn together and explore new ideas.

Skills and guidance

25 Both the public and private sectors have had to develop a new range of skills and expertise in undertaking PFI/PPPs. Within the public sector these skills cover areas such as project management, contract negotiation, risk assessment and financial appraisal. In many cases these skills have been in limited supply and there has been undue reliance on a small number of individuals. As particular individuals have moved on, the patchiness of the public sector skills base has been exposed. **This is an issue of extreme concern to CBI members.**

26. The biggest challenge to the public sector is to develop and retain these skills through keeping Departmental teams intact wherever possible and developing closer integration between PFI and other public procurement initiatives. Experience to date supports the logic of having a central well-skilled support unit – along the lines of the Office of Government Commerce in GB.

d) How should the strategic importance and prioritisation of PPP/PFI projects, and the inter-relationship with other schemes, be assessed and managed?

27. There is increasing recognition that PFI is only suited to certain types of projects, eg those genuinely combining capital and service requirements; where the risks are primarily commercial; where scope for innovation exists; and with skilled and committed public sector management. There is clearly a need at an early stage in a procurement process to assess the suitability of the project for a PPP/PFI approach.

28. Key issues
- understanding the importance of procurement, including the potential of PFI/PPPs at both the political level and at top management level across the public sector
- understand the nature of the core skills required by Government in procurement and contract management
- substantial investment in training and skills development is required
- consider and identify the correct legal mechanisms at the earliest stage of the procurement

29. A dedicated unit or, as CBI has previously suggested, the creation of an Office of Government Commerce would appear to be an essential element of a future strategy to ensure the co-ordination and management of procurement policy and its implementation – see also under Question G below. Also, it is essential that PPP/PFI, public procurement, Best Value, Modernising Government and E-Government initiatives are "joined-up" so that they pull together effectively to deliver the overall goal of improved delivery of public services and infrastructure.

e) Are there any particular social factors that should be assessed and managed and how have PPP/PFI schemes impacted on them?

30. Effective handling of staff issues is key to the success of PPP/PFI and in other forms of public procurement. The CBI has pushed for guidance at a national level and was involved in drafting: the Treasury Taskforce Guidance on PFI; the Cabinet Office guidance on Better Quality Services and on handling staff transfers; and the DETR statutory guidance on Best Value. In each case we worked closely with the trade unions. We had been concerned that staff interests and service quality both suffered where contracts were too often awarded on lowest possible price, as opposed to best value for money (ie taking quality into account). Also, TUPE ground rules were uncertain and this issue was not being handled well in practice.

31. It is essential to have a clear understanding of what constitutes good practice in the handling of workforce issues in public sector contracting. There are various elements:
- Informing and motivating staff through the process, which is inevitably unsettling.
- Avoiding the use of "market-testing" or "Compulsory Competitive Tendering" style competitions, where the in-house team is invited to bid against the private sector. These types of competitions act against staff interests (and bring other problems), for example because it is difficult to prepare the staff to transfer across to the private provider and for the staff to meet private bidders when the in-house team is in the competition
- Ensuring that the goal really is best value for money as opposed to lowest price. Essentially, "you get what you pay for": if the public sector client is aiming for a quality service, is skilled at securing this and is prepared to pay a fair price for it, then that client will inevitably be selecting a provider who manages the workforce well. The provider will only be able to deliver the service by managing the workforce and providing terms and conditions that recruit, retain and motivate the staff of the necessary calibre to do the work.
- Taking account of the commercially relevant workforce factors in procurement decisions, ie those issues that genuinely affect the cost and quality of the services being delivered. The relevant factors will vary from project to project, but in general terms this means that when inviting firms to bid and when awarding the contract, it is important to take account of those issues that relate to the service provider's ability to deliver the required service. For example, this could entail ensuring that a construction firm handles health and safety issues well. IT could mean discussing with bidders the current skills levels of the staff transferring and the implications for the training costs (and therefore for the bidder's price) of raising the skills levels to the required level.
- Ensuring that TUPE is applied consistently, so that staff generally transfer across on the initial outsourcing and on the subsequent re-letting of contracts. This is key for staff security and it offers better value for money, by removing costly risks from the process.

32. Poor practice in handling the workforce factors in procurement in the past has undoubtedly had damaging consequences, in terms of poor value for money to the public sector, staff resistance to a range of policies around contracting out and dissuading firms from being involved in public sector markets.

33. However, there are numerous examples of staff who have transferred to the private sector enjoying more favourable working conditions. This includes better organisation and management, which has led to higher workforce motivation and better performance. PPP/PFI creates an effective framework for securing these sorts of results. Furthermore in many contracts there are guarantees of no compulsory redundancies. In

general, the staff issues are more likely to be handled well in these types of strategic partnership deals than in small-scale short-term contracts. There, the temptation to award on lowest price is probably stronger (putting pressure on terms and conditions) and there is far less scope for discussion of long term continuous improvement, investment and training issues.

34. However we also recognise that in certain projects, especially those involving introducing Information and Communications Technologies, that there will be significant changes in both the skills set required and in overall level of employment required – however such changes are inevitable no matter which procurement route is taken or indeed whether the service is provided in-house. There needs to be greater acceptance politically, and throughout society, that such changes are required.

35. It is essential to distinguish between taking account of the commercially relevant workforce issues in procurement (which is essential to achieving value for money) and attempting to use public procurement to pursue a social policy agenda. This latter idea is fundamentally flawed. It is counter-productive because if is not a good way of achieving social policy goals and it jeopardises value for money.

e) What alternative procurement options do you believe should be considered?

36. The concept of private sector involvement with the public sector should not be confused with or identified as leading to a particular means of PFI/PPP. There is not a clear common understanding of the terminology surrounding PPPs. As we see it, PPPs cover a wide range of potential activities and mechanisms, ranging from privatisations through joint ventures to contractual partnerships including PFI deals and strategic outsourcing of services. What they have in common are particular characteristics: strategic nature, risk sharing element and the considerable operational freedom given to the private sector.

37. PFI works well where the public sector wants to commission a capital and service package solution and base its payment on the ultimate availability of the service; eg asking the private sector to build and maintain a road and paying, say, per vehicle or per length of motorway available. Some other forms of Public Private Partnership have been used for some time, therefore without the 'PPP' label, eg land regeneration schemes such as Laganside, major service outsourcing partnerships, joint ventures and various forms of privatisation. Other forms of PPP are emerging, eg mechanisms to sweat government assets and skills, more recently referred to as the 'Wider Markets Initiative' eg in Northern Ireland NICO perhaps falls into this category.

38. PPP does not always mean that the private sector arranges the financing of the project. Design Build Operate (DBO) or even Design and Build (DB) options exist – there can be flexibility. However, it should be recognised that the extra discipline in PFI deals that comes from the use of private finance can be invaluable in ensuring that projects are commercially robust and delivered to time and to budget.

39. The use of Partnering in the procurement of construction projects is increasing as there has been dissatisfaction on both supplier and customer side of the traditional adversarial approach. This requires a new culture within the partnering organisations. Recent projects include the upgrading of the Mourne Conduit have resulted in savings of over £2m to the public sector. Within the Health Service Performance Related Partnering has been introduced in the redevelopment of the Royal Group of Hospitals. In these types of agreements there is a holistic approach to reducing costs, and savings below budgets are shared.

40. Whilst PFI/PPP may be one of the solutions to reduce the health, education and transport infrastructure deficits in the medium-long term, it will take around 2 years before construction can commence on most projects. The tendering process still takes too long. This delay in implementing the programme of long overdue capital works will only make a very poor situation even worse. To achieve the goals there is a need for short, medium and long-term development plans for roads, public transport, water and sewerage, health and education. Prior to on the ground construction there are many issues to be completed including feasibility, outline design, planning, environmental impact and other statutory procedures, all of which require to be included in each Department's plans.

41. Provided Departments have appropriate plans in place there may be opportunities to accelerate construction projects. The Departments are constrained by the Conditions of Contract being used (JCT or ICE), which include monthly payments amounting to 95%/97% of the capital value and a 1 year maintenance period with payment of the remaining monies. The whole of the capital value is paid within 1 year of the completion of the project. By altering the payment clauses and leaving the remainder of the Conditions of Contracts, Specifications and Bills of Quantity (if any) as they are at present, the payment profile could be changed to say 50% during the construction period and the remainder paid in 10% instalments over a 5 year maintenance period. This would enable twice the work to be carried out in the early years and provide a breathing space

whilst other imaginative ways such as PPP are considered for financing the capital and maintenance programme.

42. If this method was used over a 3 year period an additional £750m could be released for roads, public transport, water and sewerage, health and education. This would kick-start the regeneration process.

g) How do you suggest PPP/PFI should be taken forward in Northern Ireland?

43. Northern Ireland has started making progress on PPP/PFI after a slow start. We have been encouraged by the progress in the education arena which in Departmental terms is leading the way, although excessive delays have been encountered in IT projects. There is genuine concern that there are few projects in the pipeline and the skills base that has been developing will dissipate. However to maximise the value and potential of PFI/PPPs in Northern Ireland a number of issues need to be addressed:

- there is a **need for a Champion** within the Executive to drive PPPs forward – we need a strategy to ensure lessons are learnt and shared across Departments – there has been an excessive amount of "re-inventing wheels" within the public sector. Some members argue that we need a whole series of champions if we are going to secure the necessary cultural change in Northern Ireland!
- ensure **best use is made of expensive skills** – developing and retaining these in the public sector is important, as is making good use of Partnership UK as a co-sponsor in projects
- there needs to be a **clearer understanding of risk transfer –** the goal must be optimum risk transfer ie to the party that can best manage it, and much of the public sector needs to have a fully understanding that the private sector has to make a profit
- **better Departmental preparation is essential** – this can substantially reduce costs and timescales – it should be feasible to set benchmarks here. The "Gateway Review" mechanism developed by the Office of Government Commerce for complex projects in GB has important lessons on how to ensure strong planning and project management disciplines
- **maxmimise use of existing guidelines and templates -** standardisation of contract terms is important both in determining outputs required and in reducing bidding costs
- ensure **effective co-ordination** between efforts to raise performance in all areas – PFI/PPP must not be tackled separately from other initiatives, including Best Value in Local Government. We have previously recommended the creation of an Office of Government Commerce or an equivalent organisation in Northern Ireland. (see below)
- **improve communications between the public and private sectors**. Important that opportunities/developments /messages are communicated within Northern Ireland first and foremost – there is an opportunity to create a competitive business sector with export potential – Northern Ireland has many leading players in this field
- the need for an **overall long-term procurement strategy**
- the need to develop and foster a professional skills base in Northern Ireland

44. CBI Northern Ireland believes that a critical requirement is the establishment of an Office of Government Commerce (along the lines of the GB model). This Body, under Ministerial guidance would have the following key roles:

- developing and improving public procurement policies across the public sector
- ensure effective co-ordination of efforts to improve performance and establish and develop PFI/PPPs
- championing and monitoring implementation of policy
- supporting existing procurement bodies across the public sector and ensuring the provision of adequately skilled staff
- sharing best practice across the public sector
- active liaison and interface with the private sector
- operating a Gateway Review mechanism on PFI/PPPs and other complex projects, whereby projects would undergo a structured review at key decision points at the planning stage, during the procurement and subsequently to identify the benefits being delivered.

45. A view shared by many of our members is that potential projects have been identified and "analysed to death". There has been a serious lack of leadership, direction and commitment to taking these projects forward. There is little doubt that political uncertainties over the last four or five years have not helped the

situation. This can be contrasted with the situation in the Republic of Ireland where rapid progress has been achieved in a relatively short period of time – projects which were put out to tender last year are now at the negotiation stage with preferred bidders. In Scotland 11 water, sewerage and waste treatment projects with a combined value of £650 million have already been signed whereas in Northern Ireland, where the need for investment is acute, only one project with a capital value of £15 million has been signed and no other projects are in the pipeline.

46. The Executive must set some broad goals and specific objectives on PPP/PFI.

h) What are the feasible alternative forms and structures of financing?

47. In January 2001 CBI Northern Ireland release a paper on *"Addressing Northern Ireland's Infrastructure Deficit*" (available on www.cbi.org.uk/northernireland) identifying a range of areas where Government action is required. Addressing the issues set out in this paper could release in the order of £150m per annum to be reinvested in critical parts of the infrastructure and to improve public services.

48. The Government needs to ensure that Northern Ireland is utilising its asset and skills base to

maximum value. The introduction of Resource Accounting should help in this respect by increasing the transparency of the asset base and indeed costs of having it. We believe there are opportunities to supplement traditional public expenditure levels by raising funds through the following means:

- straight sale of underutilised land and property
- sale and leaseback of existing property
- creation of a Northern Ireland Development Bond – could be set up on the back of a firm commitment to a ongoing revenue stream

The rigorous pursuit of better value for money and securing efficiency gains across the public sector are also critical.

i) What do you see as the economic basis of PPP/PFI?

49. Better value for money must be the reason for selecting PPP/PFI. The PFI delivers better value for money by producing a better and more economical solution than the conventionally procured alternative. We would also again stress that PPP/PFI provides a radically better, and guaranteed, quality of service over the lifetime of the project. Sources of PFI savings come from: s**weating the capital; specialist private sector management and expertise; offering the complete package; improved supply chain partnerships; and the involvement of private finance.** Private finance can be more expensive than public sector finance. However it does enable projects to be proceed and with the private sector adopting a whole-life costing approach, savings can be achieved over the life of the project. Where PFI is used appropriately and effectively there can be significant savings. From a budgeting perspective PPP/PFI also provides a high degree of certainty for planning purposes.

50. With the scale of public purchasing in Northern Ireland it is vital that those responsible for procurement are charged with identifying and selecting the best value alternative. There remains a strong view across the private sector that the public sector continues to have a "lowest cost" mentality and overall there is insufficient understanding of risk transfer. On risk, some key principles must be accepted and adopted in practice:

- The goal is optimum risk allocation – not maximum risk transfer. Value for money is achieved by allocating risk to the party best able to manage it
- Whoever is allocated a particular risk should have the freedom to manage it
- Risk and reward go together: profit is not a "dirty word".

51. Greater openness and transparency are needed in the procurement process. It is also vital that public sector comparators provide fair comparisons. Improved information sharing between the public and private sectors would be welcome in this area.

j) How can value in relation to capital investment and service improvement best be assessed?

52. Within the context of PPP/PFI, value for money is generally assessed by comparing the discounted cost of the public sector comparator with the discounted cost of the private sector bid. Where the discounted cost of the private sector bid is less than the discounted cost of the public sector comparator, then value for money is considered to have been achieved. This financial or monetary comparison is undertaken prior to the award of any PPP/PFI contract and is documented within the full business case. The public sector comparator is a risk

adjusted costing of the approach that the public sector would take to the delivery of the service requirements underlying the project.

53. This type of monetary comparison is likely to remain an important feature of the assessment of value for money in PPP/PFI transactions. However, there are a number of issues associated with the construction and interpretation of this type of comparison that need to be addressed. Equally, there are a number of other ways or methods in which value for money can be assessed. These issues and methods are set out below:

- the public sector comparator must be based on a realistic assessment of the cost of providing the required services to the required standard. Often the public sector comparator appears to be based on the provision of a lower quality of service;
- the assessment of value for money should take account of those benefits associated with a PPP/PFI project that cannot be quantified in monetary terms, benefits such as faster service delivery, better service delivery and increased customer satisfaction. Often the assessment of value for money focuses too exclusively upon the monetary comparison between the public sector comparator and the private sector bid;
- the monetary assessment of value for money could be undertaken using established benchmarks rather than a formal public sector comparator, particularly in sectors such as education where a significant number of PPP/PFI transactions have already been completed. The benchmarks used could include construction cost per square metre, life cycle maintenance cost per square metre and cleaning cost per square metre; and
- the comparison between the public sector comparator and the private sector bid is undertaken prior to contract award. However, most PPP/PFI projects involve the provision of a service for up to 25 years and accordingly, it is important to ensure that value for money is delivered throughout the project life. It is therefore recommended that the public sector should establish a central database for tracking and recording PPP/PFI project delivery over time. This database could record inter alia:
- the construction period for each project;
- the level of payment mechanism deductions made each year;
- the results of any customer satisfaction surveys undertaken;
- the results of any benchmarking exercises undertaken; and
- the unanticipated benefits of disbenefits that have emerged as a result of the PPP/PFI project (for example, reduced absenteeism).

54. There are also wider benefits from making good use of PFI/PPPs so as to encourage a more pluralistic approach to the delivery of public services. Making good use of PFI/PPP is an important aspect of the public sector's role as an intelligent client, encouraging improvements in the competitiveness of the private sector and of public sector in-house provision. Where public sector supply markets are genuinely contestable, and a competitive environment is used as a force for good, this acts to sharpen the performance of in-house providers as well as contractors. These sorts of gains (where the overall standard improves) will not be captured in an analysis of the differentials in performance between the PPP/PFI option and the public sector comparator. Yet these gains are substantial, including in terms of driving wider cultural change across the public sector.

Concluding remarks

55. CBI Northern Ireland believes that PFI/PPPs have a key role to play as part of the solution to helping to address Northern Ireland's infrastructure deficit and in dramatically improving the quality of public services. This paper has focused on the questions raised by the Finance and Personnel Committee with a particular focus on identifying the benefits of PFI/PPPs and the why the benefits of more active partnerships between the public and private sectors need to be more urgently pursued in Northern Ireland.

CBI Northern Ireland

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
CONSTRUCTION EMPLOYERS FEDERATION

13 April 2001

The Construction Employers Federation believes that there is a strong case for the use of a wider range of initiatives to reduce the backlog in public sector provision in key infrastructure services. This paper summarises some of these issues. The Federation would be pleased to amplify the arguments in discussion with the Committee members if that would be helpful.

INTRODUCTION

The Northern Ireland Assembly has inherited a major backlog in the provision of public sector infrastructure facilities for many of the key public services. This ranges from inadequate spending on road maintenance, the need to raise safety standards in the railways, major capital schemes to secure adequate water and sewerage systems and a range of needs in both health and education.

The Construction Employers Federation (CEF) recently published a report identifying the nature and scale of this backlog in capital expenditure. The evidence of these needs has been quantified. Sufficient to argue, at this stage, that the present expenditure allocations available under the system of devolved administration, are inadequate to meet more than a small proportion of the identified needs.

The report also highlighted the fact that capital expenditure in Northern Ireland is proportionately less than other regions of the United Kingdom.

None of this evidence has come as a surprise to Ministers in the new Executive. Nor, indeed, is it disputed by any of the interested groups such as the Assembly, District Councils, civil and public servants.

BACKGROUND

Perhaps the least well informed regarding these issues is the general public. There is a perception that public spending in Northern Ireland compared favourably with that in other UK regions during the period of the troubles.

This perception is now recognised to be ill founded. First, the simple arithmetic shows that higher levels of local spending have been reducing for some years. In part this is a consequence of the allocation mechanism under the Barnett formula. Second, even though spending has been proportionately higher, this has disguised the impact of the extra resources used to compensate for the disruption of the 30 years of political instability. The Law and Order budget, combined with policing and compensation, as well as repairs and restoration, have used resources that might otherwise have enhanced the services that now face deficiencies.

Tackling these deficiencies requires a rational, logical response over a period of years. The CEF fully acknowledges that not everything can be undertaken at once, not least because sufficient financial resources are not available but also because capital programming inevitably calls for planning and analysis to assess relevant priorities.

The Northern Ireland Executive does have more budgetary freedom than has existed for many years, for two reasons. First, the flow of funds into exceptional 'troubles' related services is expected to diminish. Second, the allocation to Northern Ireland by the Chancellor of the Exchequer is, increasing more rapidly than at any time for a generation because overall public sector spending is rising throughout the United Kingdom.

A real increase in public spending of some 5% in 2001-2 is planned and is higher than in any other recent year.

In an innovative budgetary measure the Executive has created an "Executive Programme Fund" with an allocation for infrastructure of £7m in 2001-2, followed by £40m a year later and then £100m and £147m in the two subsequent years. This offers some 'head-room' for an enhanced capital programme. Treasury figures indicate that budget allocations for Northern Ireland will remain steady for some four years and then may begin to fall.

In this context, the CEF, whose members will inevitably play a part in the building and civil engineering work that will emerge, believes that a range of procurement methods should be employed. Recent experience has shown that the traditional process of design, specify and competitive tender can, in many instances (but not all) be supplemented by other forms of public procurement.

Innovative procurement methods can provide alternative ways in which the infrastructure backlog can be partly addressed. One option, which has shown considerable potential, is the greater use of the public-private partnerships in public procurement either of assets or services.

In Northern Ireland these options are at an early stage of development. The CEF particularly commends consideration of the use of the Private Finance Initiative for larger public works and services contracts.

PRIVATE FINANCE INITIATIVE

In Northern Ireland the Private Finance Initiative (PFI) has been used by the public sector in recent years on a modest scale.

A small number of examples have reached contract stage for the Water Service, for the Health Service, the Court Service and for a number of schools and college buildings. The learning experience has not been without problems.

The following list of Northern Ireland signed projects has been taken from the PFI Report Database. The financial figures quoted are an estimate of the capital cost of each project.

Crown Prosecution Service

Northern Ireland Court Service	– Belfast £35m
Northern Ireland Court Service	– Telecommunications Services £30m

Education

Department of Education for NI	– Balmoral School £4m
Dept of Education for NI	– Belfast Institute of Further & Higher Education - £20m
Dept of Education for NI	– Drumglass High School £7.5m
Dept of Education for NI	– North West Institute of Further & Higher Education £8m
St Genevieve's Secondary Intermediate Girls School	– Belfast £7m
Wellington College	– Belfast £10m

Regional Development

Bangor and Kinnegar Sewage Treatment	– £20m

Health

Belfast City Hospital NHS Trust	– Renal Unit £3.3m
United Hospitals Health Services NHS Trust	– Renal Unit £3m
Royal Group of Hospitals NHS Trust	– MRI unit £?? [not on database]

Northern Ireland Office

Land Registers of Northern Ireland	– Information System - £45m

Whilst there are now examples of improved "best practice" and a better understanding of the potential contribution from PFI projects, there may still be a reluctance in some Departments to gain from and exploit this expertise. Locally, some partnerships have been formed to share experience and to bid for projects on offer.

In England and Scotland, PFI has had a longer period of development and many major capital projects have been brought within its remit. The PFI is the most developed of the arrangements envisaged under the Public Private Partnership Initiative.

THE CONCEPT

PFI is about "creating a structure in which improved value for money is achieved through private sector innovation and management skills delivering significant performance improvement and efficiency savings". PFI should be seen as a method of purchasing expertise and services and not simply as a method of borrowing money from the private sector.

At a UK level, the Private Finance Initiative has therefore become one of the Government's instruments for the delivery of public services. It requires the private sector, in competition, to be innovative in the design and operation of asset based services, to manage an appropriate level of risk, and to adequately maintain assets on a long-term basis. Private firms therefore become long-term providers of services rather than simply up front "asset" builders.

A critical Treasury requirement is that the risk and reward from the ownership of the assets from which services are provided should remain with the private sector company (which is, of course, not necessarily a construction contractor since the project may be contracted through a consortium). If the public sector is involved in "risk taking" then the expenditure is on the Department's Balance Sheet for resource accounting purposes and the capital commitment needs Treasury approval as part of Government's borrowing requirement.

The Comprehensive Spending Review published by the Treasury (July 2000) endorses the use of these mechanisms. In paragraph 5.6 and 5.7, (page 32, Cm 4807) the Treasury commits itself to a more than doubling of public sector net investment over the next three years to £19b a year by 2003-4. It then adds:

> ***'This will be accompanied by continued use of Public Private Partnerships and the Private Finance Initiative (PFI) to deliver significantly improved public services … It is anticipated that PFI deals to the value of over £12bn will be signed over the three years from 2000-1.'***

This figure excludes the funding of London Underground.

If Northern Ireland had 3% of the UK figures (a conservative ratio) then PFI to the value of £360 might be envisaged over the three years.

Surprisingly, there is no detailed reference to the scope for PFI projects in the public expenditure statement made by the Minister of Finance and Personnel, Mark Durkan. However, it is understood that as an option it has not been rejected.

THE NATURE OF PFI

PFI transforms Government Departments and Agencies from being owners and operators of assets into purchasers of services from the private sector. Private sector organisations are required to combine the responsibilities for designing, building, financing and operating the assets in order to deliver the services required by the public sector.

Only by setting out clear priorities and establishing a user-friendly framework within which both the public and private sectors are happy to operate, can the Government make PFI work as well as it should.

The main advantage of PFI to the public sector client is that a facility, designed and constructed to meet its needs, can be occupied without the provision of capital cost. As a procurement route, PFI is the equivalent of the Design and Build route with the "Maintenance in Use" phase added and therefore has the same advantages as that route.

With the advent of resource accounting, the impact of recurrent payments too 'buy' the service is similar to the alternative that would be to account for the 'depreciation' of the assets annually.

Experience has shown however that for PFI schemes:

1. Conventional tendering processes can be slow. With PFI there is generally an eighteen months to two years lead period from initial concept to the acceptance of a scheme, however if standard contracts are used, PFI can actually be used to speed up the tendering process as is being demonstrated in the Republic of Ireland.
2. It is necessary to shorten significantly the process for identification of the Preferred Bidder.
3. One of the features of PFI is the sharing of risk. Experience has shown however that financial and legal advisors are rarely willing to share in such risks.
4. Problems can be experienced due to variations in personnel between those who negotiate a project and those who are involved on a day to day basis. This can also be true at a management level within companies when operational difficulties arise.
5. Under PFI contracts, when the private sector is in breach of the specification, financial penalties are generally incurred. This is one reason why PFI may appear to contractors initially to be more costly.
6. To make PFI more attractive, some of the high cost of the PFI bidding process borne by unsuccessful contractors should be recoverable.

7. It is apparent that government departments in Northern Ireland have been learning about the process as they go along. The opportunity to learn from experience elsewhere particularly in GB and the Republic of Ireland should be grasped. Full use should be made of established Treasury guidelines and model contract documentation.

CONCLUSIONS

- If we are to achieve a vibrant, thriving and competitive economy in Northern Ireland, we cannot afford to wait until funding is available to pay for the backlog and inadequacies of infrastructure projects. We must encourage and drive the economy forward and PFI is one option to achieve this.
- There is a value below which PFI projects are not viable, particularly in construction based contracts. This should be clearly agreed and alternative plans should be put in place to finance such projects that fall below that threshold.
- Since there are considerable pressures from a backlog of public sector investment, PFI should not be used to justify current or indeed reduced levels of capital expenditure. Existing programmes must be maintained at least at current levels.
- There is a danger however that many major works might be pushed down the PFI route without a logical business plan. Obviously, it is in the interests of clients and providers that the analysis, evaluation and planning of PFI projects should recognise these possible pitfalls.
- Because the bidding process is lengthy and expensive, once a 'preferred bidder' has been identified, then if a project does not proceed for whatever reason, the 'preferred bidder' should have the safeguard of being able to recover nugatory tendering costs for all expenditure incurred after being identified as a 'preferred bidder'.

The Construction Employers Federation believes that the Northern Ireland Executive should accept the potential role of PFI in creating an adequate capital programme for the Province. To ensure that resources are used efficiently, once the principle of using PFI is accepted, then this should be followed by an identified and prioritised capital items budget phasing the impact of this programme on the economy at an acceptable level over a rolling period of three years, to match the overall planning of public spending.

W A DORAN
Managing Director

May 2001

1.0 Introduction

1.1 This paper is submitted on behalf of the Construction Employers Federation (CEF) which is the representative body of the Construction Industry in Northern Ireland.

1.2 The CEF welcomes the decision of the Assembly's Committee for Finance and Personnel to conduct an Inquiry into Public Private Partnerships, including the Private Finance Initiative.

1.3 The Assembly and its Executive have inherited a situation where one of the most critical elements of planning for the future is to ensure that public sector provision to sustain and expand a number of services is an undoubted priority. This is explicitly acknowledged in the Programme for Government and is linked to the specific creation of the earmarked Executive Programme Funds where global allocations have been indicated for the next three years.

1.4 For the purposes of this submission, the CEF assumes that the funding arrangements for the Assembly and the Executive are now established. There is, therefore, no consideration, of what might be seen as an alternative option to the issues discussed in this paper, of the devolved administration being permitted to borrow directly from the capital markets to enhance its own capital expenditure.

2.0 Public Private Partnerships

2.1 PFI is the most developed of the arrangements envisaged under the Public Private Partnership Initiative.

2.2 The Private Finance Initiative (PFI), the predecessor to PPP, has been used by the public sector on a modest scale in Northern Ireland.

2.3 A small number of particular examples have reached contract stage for the Water Service, the Courts Service, the Health Service and for a number of schools and college buildings.

2.4 Whilst there are now examples of improved local practice and a better understanding of the changed contribution from PFI projects, there may still be a reluctance in some Departments to benefit from this expertise. (The recent report of the Railways Task Force illustrates the negative arguments that can be deployed.)

2.5 Locally, some partnerships have been formed to share the experience and bid for the projects on offer.

2.6 In England, there has been a longer period of development and many major capital projects have been brought within the PFI remit.

2.7 PFI is about "creating a structure in which improved value for money is achieved through private sector innovation and management skills delivering significant performance improvement and efficiency savings". PFI should not be seen as simply a method of borrowing money from the private sector. It is important that we find the most appropriate and cost effective solutions to suit the scale and scope of projects in Northern Ireland.

2.8 At a UK level, the Private Finance Initiative has therefore become one of the Government's instruments for the delivery of public services. It requires the private sector, in a competitive framework, to be innovative in the design and operation of asset based services, to manage an appropriate level of risk, and to adequately maintain assets on a long-term basis. Private firms therefore become long-term providers of services rather than simply up front "asset" builders.

2.9 A critical Treasury requirement is that the risk and reward from the ownership of the assets from which services are provided, remains with the private sector contractor. (This is not necessarily a construction contractor since the project may be contracted through a consortium with the lead role being a finance led or management led group.)

2.10 If the public sector is involved in risk taking then the expenditure is on the Department's balance sheet for resource accounting purposes and the capital commitment needs Treasury approval as part of the Government's borrowing requirement.

2.11 The Treasury commits itself to a more than doubling of public sector net investment over the next three years to £29bn a year by 2003-4. It has stated that this will be accompanied by continued use of Public Private Partnerships and the Private Finance Initiative (PFI) to deliver significantly improved public services. It is anticipated that PFI deals to the value of over £12bn will be signed over the three years from 2000-1. This figure excludes the question of the funding of the London underground.

2.12 If Northern Ireland had 3% of the UK figures (a conservative ratio) than PFI to the value of £360m might be envisaged over the three years, as an addition to the allocation of funds for capital expenditure from within the devolved budget.

2.13 Surprisingly, there is no detailed reference to the scope for PPP/PFI projects in the public expenditure statement made by the Minister of Finance and Personnel, Mark Durkan as part of his Budget presentation. However, it is understood that this option has not been rejected and the advice of the Assembly Committee may be important.

2.14 A critical element for consideration in the possible role of PPP projects, is that they should emerge as a result of a setting of priorities within the capital programme of the Executive. PPP projects should not be those at the bottom of the priority list.

2.15 The overall capital programme should be evaluated initially without, the constraint of different financing options. Decisions on the mechanisms to be used should be secondary to the setting of priorities.

3.0 The Nature of PPP/PFI

3.1 PPP, or PFI, transforms Government Departments and Agencies from being owners and operators of assets into purchasers of services from the private sector. Private sector organisations are normally required to combine the responsibilities for designing, building, financing and operating the assets in order to deliver the services required by the public sector.

3.2 From the lessons of recent experience, there is now a better understanding of the processes. This opens up the possibility that PPP might be used in other modified forms. For example, the 'private sector partnership' may be a complete package from concept to operational commitment.

3.3 Alternatively, the range of private sector contributions might be split between (for example) capital provision and the operational commitment. A joint venture may have a group of partners with one holding the overall responsibility. This 'one' may be the public service provider or the private sector group with the long-term delivery responsibility.

3.4 The latter arrangement could still keep the project off the balance sheet of the public sector, a basic Treasury requirement.

3.5 PPP/PFI fits readily into current Government accounting practices, since all Government departments have transferred to 'resource accounting'. Therefore the purchase of services (from a PPP) fits readily with the costing mechanisms where departments must allow for capital depreciation in their annual accounts.

3.6 Only by setting out clear priorities and establishing a user-friendly framework within which both the public and private sectors are happy to operate, can the Government make PPP work as well as it should.

3.7 The main advantage of PPP to the public sector Client is that a building, designed and constructed to meet its needs, can be occupied without the provision of capital cost. As a procurement route, PPP is usually seen as the equivalent of the Design and Build route with "maintenance in use" added.

4.0 The Benefits of PPP/PFI

4.1 A consideration of the potential for Public Private Partnerships (PPP) to contribute to the development needs of Northern Ireland must consider several strands of argument. First, the potential provision from resources available to the Executive is well below what might be regarded as the minimum to secure satisfactory progress. In this context, PPP should be tested for additionality

4.2 Second, the evolution of PPP may improve efficiency in the delivery of some projects. The test, in this context, is of comparative value for money.

4.3 Third, the availability of PPP to deliver projects may release resources from the existing budgets to meet other needs. Then PPP can be evaluated for its substitution effects.

4.4 Fourth, there may be administrative factors that suggest advantages from PPP (other than those linked to the three criteria already outlined). PPP may offer a higher degree of administrative flexibility by being outside some of the direct rules and requirement of Government accounting as laid down by the Treasury. There would be no ambition to gain flexibility at the cost of lower net benefits from a project but the very essence of PPP is that a contract passes much of the operational detail to the contractor and away from Government.

4.5 Whilst the use of PPP requires careful choice, selection and implementation techniques, the experience of the CEF and its members points to potential benefits, possibly under each of these criteria, that should be maximised.

5.0 The Economic Basis of PPP/PFI

5.1 The CEF is concerned at the increasing infrastructure deficit in the Province. The CEF believes that it is important to identify the most cost-effective solutions to address this deficit. PFI/PPP is only part of the solution. It should complement other forms of procurement in partnership with the private sector.

5.2 As we will go on to explain in detail later in this paper, there is a significant lead time of up to two years before a PFI project gets on site. In the mean time it is essential to have a properly planned programme of capital expenditure to address the infrastructure deficit.

5.3 The Northern Ireland Assembly has inherited a major backlog in the provision of public sector infrastructure in many of the key public services. This ranges from inadequate spending to maintain the roads network, critical needs to raise safety standards on the railways, major capital schemes to secure adequate water and sewerage systems and a variety of needs in health and education.

5.4 The CEF published a report in November 2000 identifying the nature and scale of this backlog in capital expenditure on the Province's infrastructure. The evidence on these needs has been quantified. [A copy of that report is attached to this submission.]

5.6 The report also highlighted the fact that capital expenditure within the present budget arrangements in Northern Ireland is proportionately less than other regions of the United Kingdom.

5.7 None of this evidence has come as a surprise to Ministers in the new Executive. Nor indeed, is it disputed by any of the interested groups ranging from the Assembly, to District Councils, civil and public servants.

5.8 Perhaps the least well informed, regarding the emerging issues are the general public. There has been a widely held impression that public spending in Northern Ireland compared favourably with that in other UK regions and that this advantage has been maintained during the period of the troubles. This perception is ill founded.

5.9 Simple arithmetic shows that the higher levels of public spending locally have been reducing for some years. In part this is a consequence of the allocation mechanism under the Barnett formula. Even though spending has been proportionately higher, this has disguised the impact of the extra resources that have been used to compensate for the disruption of 30 years of political instability. The Law and Order budget, combined with policing, compensation, as well as repairs and restoration, have used resources that might otherwise have enhanced the services that now face deficiencies.

5.10 Tackling these deficiencies calls for a rational, logical response over a period of years. Everything cannot be undertaken at once, not lease because large enough financial resources are not available but also because capital programming inevitably calls for planning and analysis to assess the relevant priorities.

5.11 The Northern Ireland Executive does have more budgetary freedom than has existed for many years for two primary reasons. First, the flow of funds into exceptional 'troubles' related services is now expected to diminish. Second, the allocation to Northern Ireland by the Chancellor of the Exchequer is, by the co-incidence of UK policies, increasing more rapidly than at any time for a generation.

5.12 <u>The Public Sector Capital Budget</u>

5.13 A real increase in public spending of some 5% in 2001-2 is planned and is higher than any other recent year.

5.14 The Treasury has published its official analysis of public expenditure for the years from 1998-9 to the plans for 2003-4. The public sector capital budget for Northern Ireland, in current prices, is estimated to be:

	£'m
1998-9	605
1999-0	605
2000-1	693
2001-2	757
2002-3	776
2003-4	743

5.15 No analysis showing the allocation of these sums to particular Departments in Northern Ireland has, as far as we are aware, been published.

5.16 The overall increase from 1999-0 to 2002-3 is an impressive 30%. Nevertheless, these figures suggest that Northern Ireland will be allocated a decreasing share of the UK total: down from 3.3% in 1998-9, to 2.2% in 2003-4.

5.17 Another yardstick can be developed by comparing Northern Ireland with the proposals for Scotland and Wales. Whereas, the local allocation in 1998-9 was 20% of the total for the three devolved administrations, in 2000-1 it is expected to be 17.6%, and in 2003-4 it stays at this lower comparative level of 17.6%. [The population of Northern Ireland is just 17% of the population of the three areas.]

5.18 In an innovative budgetary measure the Executive has created Executive Programme Funds with an allocation for infrastructure renewal of £7m in 2001-2, followed by £40m a year later and then £100m and £147m in two following years. This offers some 'head-room' for an enhanced capital programme.

5.19 However, even these sums, if wholly available for public capital programmes, would not meet the scale of need. Possibly as important, such an expansion of capital spending could place a management strain on existing structures and staffing such that some out-sourcing would be a logical reaction.

5.20 In this setting, the CEF, whose members will inevitably play a part in the building and civil engineering work that will emerge, believes that a range of procurement methods should be employed. Recent experience has shown, that the process of evaluation, design, specification, seeking tenders and awarding contracts can in many, but not all instances, be supplemented by other forms of public procurement.

5.21 Innovative procurement methods may provide supplementary by which the infrastructure backlog can be partly addressed.

5.22 In Northern Ireland these options are at an early stage of development. The CEF particularly commends the merits of consideration of the use of PPP initiatives for larger public works and services contracts.

6.0 Key Factors for Successful PPPPFI in Northern Ireland

6.1 With PFI there is generally an eighteen months to two years lead period from initial concept to the acceptance of a scheme. However if the lessons from GB are heeded and standard contracts and documentation are used, PFI can actually be used to speed up the tendering process as is being demonstrated in the Republic of Ireland.

6.2 PFI is now a well established and proven method of procurement but it is necessary to ensure the Preferred Bidder is identified as early as possible to avoid unnecessary bidding costs for the unsuccessful parties.

6.3 One of the features of PFI is the sharing of risk. Experience has shown however that financial and legal advisors are rarely willing to share in such risks.

6.4 It is vital that the personnel who negotiate a project are experienced and appropriately trained in the concept of PFI. It is also important that personalities are not changed during the negotiation period.

6.5 Key success factors for delivery of PFI projects include political commitment, selection of the right projects and good Departmental planning and preparation.

6.6 Northern Ireland should develop a public procurement programme that is co-ordinated with all Departments and that will include PFI/PPP as one element of a procurement strategy.

6.7 Because private finance is at risk under PFI the ability of private sector management to implement business skills in order to innovate and develop best value methods is maximized.

6.8 Risks associated with providing the service are transferred to those best able to manage them.

6.9 To make PFI more attractive, some of the high cost of the PFI bidding process borne by unsuccessful contractors should be recoverable.

7.0 Conclusions

7.1 If we are to achieve a vibrant, thriving and competitive economy in Northern Ireland, we cannot afford to wait until funding is available to pay for all infrastructure projects. We must encourage and drive the economy forward and PPP is one option to help to achieve this by increasing the level of current investment in priority infrastructure projects.

7.2 Since there are considerable pressures from a backlog of public sector investment, PPP should not be used to justify current or indeed reduced levels of capital expenditure. Existing programmes must be maintained at least at current levels.

7.3 There is a danger however that many major works might be pushed down the PPP route without a logical business plan. Obviously, it is in the interests of clients and providers that the analysis, evaluation and planning of PPP projects should recognise these possible pitfalls.

7.4 Within Government a mechanism is needed to co-ordinate the PPP processes. The Construction Industry Forum, complimented by the work of the CEF, can be a mechanism for the consultations on the evolution of the PPP as it relates to major building and civil engineering work. The Construction Industry Forum might be used to establish criteria for selecting suitable projects for PPP, and on the suitability of other procurement options.

7.5 The Office of Government Commerce for central government departments now expects Departments and Agencies to procure construction projects by one of three main routes.

1. PPP's
2. Design & Build
3. Prime Contracting

7.6 Traditional procurement should however only be used if a Department or Government Agency can demonstrate that it will provide better value for money than any of the other three types of procurement as stated above.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
JARVIS PLC

INTRODUCTION

This response is submitted by Jarvis plc ('Jarvis'). The International Facilities management Group Jarvis are leaders in the PFI market having signed 19 contracts and been appointed preferred bidder for a further 4 projects. We are pre-eminent in the Schools sector with 13 signed deals which range from single Schools to bundles of up to 20 Schools.

Jarvis generally provide a fully integrated service to client comprising project management, finance, construction and facilities management, although on some projects we operate with other partners.

General Context of PFI/PPP

1. ***What do you see as the benefit of PPP/PFI? Are there identifiable benefits to the public and stakeholders?***

   Long term value for money, taking into account the life cycle maintenance of the facilities provided. The nature of a PFI contract ensures that buildings are kept in a good state rather than, as so often happens with traditional procurement, they go into a rapid state of decay due to monies being diverted elsewhere. That later situation usually eventually results in the need for major refurbishment or new re-provision rather than cyclical maintenance. The nature of PPP/PFI procurement usually generates greater public interest and awareness of the particular scheme in a community which with the providers input leads to community ownership of the completed facilities with the benefits of greater usage and care of the facility.

   Third party income is often generated from the provision of additional community facilities.

2. ***What do you see as the key factors for the successful application of PPP/PFI?***

   i. Stakeholder commitment to the project and dedication of an appropriate level of resources, by the client, to ensure smooth progression of procurement process.

   ii. Marketing a package that will be of interest to a range of bidders. Presently this means that projects must be of a significant capital value with a good range of services to be managed in order to justify the bid costs of both the client and prospective providers.

   iii. The client not being too prescriptive in its requirements, there needs to be scope for innovative solutions by bidders.

   iv. The scheme needs to be affordable and realistic public sector comparators need to be established. This information should be shared with bidders and the whole bidding process needs to be conducted in an open manner.

   v. Allocation of risk to where it can best be managed.

   vi. "Deal Flow" – Continuity in bringing forward new PFI/PPP proposals to retain and develop experience, skills and capabilities in both the public and private sector.

3. ***Are there any wider issues, limitations and constraints associated with the environment of the PPP/PFI that have to be addressed? Are there gaps in the supplier market base? Are the skills and guidance available?***

   Constraints

   We believe the major constraint or limitation challenging the development of PFI/PPPs in Northern Ireland is attitudinal. Unfortunately, there is general culture in Northern Ireland which is reluctant to accept change and innovation which has been reflected in the lack of commitment across large parts of the public sector to embrace PFI/PPPs. We firmly believe that PFI/PPPs can help to radically improve the quality of public services – the evidence from existing projects across the UK and further afield is extensive.

Gaps in supplier base

Northern Ireland has now got a range of emerging strong players in the facilities management arena which have the clear potential to develop into significant businesses, provided that this capability is encouraged to develop in a meaningful manner in the near term. There are also significant opportunities for small and medium sized companies to act as sub-contractors, recognising that few SMEs will have the capability of being the leading contractor.

If Government can deliver sufficient "deal flow" we believe the private sector will respond to the challenge. There will also be clear benefits in bringing the private and public sectors together to share experiences, learn together, and explore new ideas.

Skills and guidance

Both the public and private sectors have had to develop a new range of skills and expertise in undertaking PFI/PPPs. Within the public sector these skills cover areas such as project management, contract negotiation, risk assessment and financial appraisal. In many cases, these skills have been in limited supply and there has been undue reliance on a small number of individuals.

The biggest challenge to the public sector is to develop and retain these skills through keeping Departmental teams intact wherever possible and developing closer integration between PFI and other public procurement initiatives.

Current skills gaps can be filled by utilising experienced external advisers.

4. ***How should the strategic importance and prioritisation of PPP/PFI projects, and the inter-relationship with other schemes, be assessed and managed?***

Prioritisation should, in the first instance, take place at assembly level as PFI/PPP are merely delivery mechanisms for projects.

PFI is only suited to certain types of projects, e.g. those genuinely combining capital and service requirements; where the risks are primarily commercial; where scope for innovation exists; and with skilled and committed public sector management. There is clearly a need at an early stage in a procurement process to assess the suitability of the project for a PFI/PPP approach.

Key issues

- Understanding the importance of procurement, including the potential of PFI/PPPs at both the political level and in top management level
- Understand the nature of the core skills requirement by Government in procurement and contract management

5. ***Are there any particular social factors that should be assessed and managed and how have PPP/PFI schemes impacted on them?***

PFI projects are often prioritised to refurbish or renew facilities in areas of multiple deprivation. As an example a school may be renewed in an area of poor housing and high unemployment with high levels of crime. Although the project itself can create some employment and training opportunities the incentive to pupils being taught in well maintained and welcoming surroundings will be diminished by their general environment. In such situations the wider social context needs to be addressed to gain maximum benefit from the PFI project. Simultaneous housing and environmental projects, accompanied by appropriate training programmes, should be implemented.

The particular social factors associated with the differing communities in Northern Ireland will, of course, impact and influence government's ability to initiate change but the benefits of new facilities delivered quicker through PFI is the optimum way of showing progress to all.

6. ***What alternative procurement options do you believe should be considered?***

Government capital procurement schemes will obviously still prevail to the greater extent, but with the increasing constraint on capital budgets the principle of unitary service payments, risk free facilities (from the government's prospective), and better quality environments should, over time, improve the ratio of procurement given to the PFI route.

7. ***How do you suggest PPP/PFI should be taken forward in Northern Ireland?***

PPP/PFI schemes already exists in a number of sectors including Education and Health. In order to attract significant players to this market, the lot size of schemes needs to be increased to, say, the £25m to £50m range. Dedicated PPP units in each sector together worse clearer budgets given that the outset will focus minds on priorities. Quicker delivery is required for private schemes if their reputation and benefits are to be endorsed by the public at large. Hence interest from more established consortia that may exist elsewhere in the UK needs to be generated and welcomed, to provide both competition and value for money, and a panel of such bidders willing to invest in Northern Ireland. The Department of Finance are possibly best placed to ideally drive the strategy and growth of PPP/PFI in the province.

8. ***What are the feasible alternative forms and structures of financing?***

There are different levels of debt funding that could be utilised as the cost of equity and junior debt is often high. This might have an influence on the public sector's risk sharing matrix such that banks can have certainty of payment from an SPC in order to lend at maximum debt levels. The covenant strength of the SPC and the contract structure policy beneath it are then factors to be considered by the public sector and to influence them when assessing any potential requirement to step in and rectify.

The Unitary Service Charge can be set at a flat, escalating, or other variety of variable payment streams over time. The contract term of the project agreement can also be extended to bring value for money benefits.

A grand aid and fundraising sum can be factored into any PPP/PFI financing structure, and the timing of these can also assist with minimising capitalised interest charges during the development phase of any project.

9. ***What do you see as the economic basis of PPP/PFI?***

The value for money engendered over the whole life of the PPP/PFI contract when properly compared with traditional procurement. The added value which private sector innovation can bring to a project, often through the generation of third party revenues.

Limitation on public sector borrowing may also be seen as an economic benefit of PPP/PFI. Due to the long term nature of PPP/PFI, investment is made at the time in order to optimise whole life costs.

10. ***How can value in relation to capital investment and service improvement best be assessed?***

Value should not be assessed purely in relation to capital investment. Value should be assessed in relation to whole life cost as compared to a properly formulated public sector comparator.

Service improvement can be assessed by regular benchmarking and market testing as necessary. Customer satisfaction surveys can also play their part in assessing service improvement.

Specific Projects and Programmes

As stated in the introduction Jarvis have successfully closed 19 PFI Contracts and are currently bidding a significant number of new Projects. The responses given below are of a generic nature based on our wide experience and not related to any one specific project.

Bid Process

1. ***Were output objectives of the project clear and established in relation to needs? Did any of the objectives stray into inputs and delivery mechanisms?***

Generally, output objectives of a project are clear and established in relation to needs.

Difficulties sometimes arise, however, if not all stakeholders have been involved in the preparation of the output specification. Examples of this are in school bundling packages if the individual schools have not been fully involved in the preparation of the output specification and supporting documentation. During the bidding process we may find that the requirements of individual schools differs from the overall specification.

This problem can be overcome if clients fully involve all stakeholders in the project at the appropriate stages of the procurement process.

Written objectives do not usually stray into inputs and delivery mechanisms. The problem usually arises after submission of bids, either during clarification sessions between clients and bidders or, more frequently, during contract negotiations with the Preferred Bidder. At these stages, clients have specific proposals to consider and evaluate, and many have difficulty in resisting the temptation to try and specify inputs and delivery mechanisms. Clients need to appreciate that such activity is likely to impact upon risk transfer and is to be avoided.

2. ***How good was the specification of requirements compared with implementation and operational reality? Please summarise the differences.***

We are not yet able to comment here as our relevant PFI project in Northern Ireland has yet to reach operational stage. However, a clear set of room data sheets at ITN stage is most helpful, such that concentration can then be given to the layout of departmental relationships, circulation and communal areas (which affect price) and also to the general overview and elevational treatment of the facilities. The public sector comparator is beneficial at the outset to both the private sector and public sector in that it focuses on the key drivers and parameters that are being assumed in any original business case. An output specification in the ITN needs to be balanced between offering flexible scope in giving opportunity for innovation, whilst giving enough detail to develop a design and the ability to formulate a price in what is often a tight timescale for the tender process.

3. ***Did the project benefit from any initial enquiries into private sector interest and were potential areas of innovation identified?***

Both clients and bidders benefit from initial enquiries into private sector interest.

Potential areas of innovation will not often be identified during these sessions as most potential bidders would wish to reserve innovative proposals until making a formal submission in order to seek to gain a competitive advantage. The benefit arises in that potential bidders gain an early understanding of the objectives of the project and can assemble an appropriate team in order to deliver innovative solutions during the formal procurement process.

Clients benefit from gaining a greater understanding of the requirements of bidders in order that they can package their project to maximise bidder interest.

4. ***What areas were identified for risk transfer?***

Areas identified for risk transfer are summarised below:

Planning	**Delay to detailed planning permission**
Construction	Ground conditions Access to site Safety on site Design risk Construction risk Construction cost overruns Delays Theft or damage by trespassers Decant
Operational	Availability of facilities Maintenance and repair Quality standards Cost Overruns Energy pricing Energy consumption Uninsurable risks Force majeure – shared Latent defects General legislative change TUPE costs higher than anticipated
Environmental Contamination	Archaeological finds
Income Generation	Income generation not meeting targets Investment to maintain income generation Realised value of any surplus land and buildings
Financing	Interest rate changes post financial close Inflation VAT changes Tax rate changes (non-VAT) Availability of funds

5. ***What were the evaluation criteria used and how were they applied? In particular how were risks and variants assessed in the ranking of bids?***

The elements used to evaluate bids are usually Financial, Legal and Commercial, Design and Facilities Management. A not untypical weighting is:

▪ Financial	20%
▪ Legal & Commercial	20%
▪ Design	30%
▪ Facilities Management	30%

That weighting would vary to suit the needs of a particular project. Where, for instance, a landmark building is required because of the nature of the facility to be provided or its location, then the design element would carry a higher weighting.

The financial evaluation will be tested against:

- Affordability
- Value for Money
- SPV Robustness
- Funding Proposals including investors and lenders
- Life Cycle Costs Fund
- Third Party Income

The Legal and Commercial evaluation will be assessed in relation to a number of criteria, including:

- Compliance with any standard documentation and market norms
- Commentary on the payment mechanism
- Mark up of the Direct Agreement
- Commitment and Involvement of funders
- Bidder's proposals for risk allocation and proposals for managing the shared risks

Amendments to the proposed Project Agreement including, in particular, those in relation to termination, compensation termination, and performance monitoring.

Design evaluation key issues are:

- Compliance with the output specification
- Architectural Design Quality
- Internal planning and access
- External planning and access
- Construction process and deliverability

Facilities Management will be evaluated by examining method statements, quality management proposals and detailed responses to the output requirements. Responses to TUPE, Health and Safety, and equal opportunities issues will also have a significant impact on marking. Key issues to be considered will include:

- Compliance with the output specification
- Interface with the operational staff of the facility
- Operational Issues including help desk proposals
- Personnel issues

Variant bids are ranked equally with mandatory bids.

6. ***What were the key features of the business case?***

In our experience clients very rarely make their business case available to bidders, citing commercial confidentiality as the reason for withholding the information. We are not therefore able to make any meaningful comment on the contents.

We feel that it would greatly benefit bidders to be issued with copies of such documents in order to gain a greater insight into the project objectives.

7. ***What were the nature, form and features of the public sector comparator?***

Client attitude towards release of Public Sector Comparators (PSCs) vary. Many do not issue the PSC to bidders whilst others may only issue a short summary showing capital expenditure, operational costs, and life cycle sinking, often with no indication as to whether the figures are risk adjusted or not.

The most successful projects, in terms of speed and smoothness of the procurement process and quality of bids, have benefited by the issue of detailed PSCs. In these cases, clients also give details of their affordability parameters where these vary from the PSC.

Detailed PSCs will identify capex split between new build costs and refurbishments, where appropriate, detailed operational costs e.g. cleaning, energy, life cycle maintenance provision and risk adjustment figures.

8. ***What were the skills and expertise recruited into the Project Team and when? Please list the Advisers, Contractors and Financing organisations involved.***

Most clients recruit legal and financial advisers into their project teams. Financial advisers are best appointed when the OBC is being prepared in order that they can input into the preparation of the public sector comparator and the costing of other options. Legal advisers should be appointed before the procurement process commences.

The skills and expertise required, in both cases, are skilled negotiators with experience in out-put based project agreements and payment mechanisms which are dependant upon availability of facilities and standards of performance. The financial advisers should be skilled in the application of complex financial models and have experience of project finance. Clients without previous PFI experience should not embark upon such projects without legal and financial advisers.

Some clients have in-house technical capabilities, particularly in relation to design, but many clients do use external technical advice particularly for operational issues. Where technical advisers are recruited, that should take place before commencement of the procurement process. We have experience of a few cases where technical advisers have not been appointed until bids are being submitted and that has created delays in the evaluation process.

All of the major legal and financial firms have staff experienced in the PFI process available to assist procurement bodies.

9. ***What were the key contractual issues and when were they identified?***

Key contractual issues fall into two broad categories: those of concern to the service providers; and those of concern to the funder.

Key contractual issues are usually identified early in the bidding process, after receipt of the draft project agreement from the client.

Service Providers' issues are likely to include, where applicable:

- Ground Conditions
  Latent Defects
  Relief and Compensation events
  Completion dates
  Response times
  Standardisation of existing buildings
  Self Help procedures and Step In
  Payment Mechanism

Funders' issues are likely to include:

- Termination Events
  Compensation on Early Termination
  Direct Agreement

10. ***How realistic was the procurement timetable and tendering requirements?***

Whether or not the procurement timetable and tendering requirements are realistic is usually dependant on the timing of appointment of external advisers. Where the timetable has been set before any advisory input, it is often unrealistic as clients fail to appreciate the full requirements of the negotiated procurement process.

It is usually clients who fail to allow sufficient time and resource for clarification, both during bidding and post submission of bids and evaluation, rather than bidders requesting extensions of time.

11. ***What were the sources and amounts of funding and payments required to deliver the PPP/PFI?***

A wide range of financial institutions are willing to fund PFI contracts and have experience of such projects.

We have arranged funding for various projects ranging from £10 million to £125 million and other higher value PFI projects have successfully been completed.

As the PFI market has become more mature, very competitive interest rates are being offered and we maintain a panel of potential funders in order that we can ensure we can provide clients with the best possible terms for their particular project.

COMPLETED DEALS

Performance Management

12. ***Were the requirements and specification appropriately output-orientated? Did they encourage innovation? Were the quality of service targets and standards required reasonable?***

Requirements and specifications issued to bidders are appropriately output-orientated and encourage innovation.

A number of recent examples are major school refurbishment projects where the successful bidders have chosen to provide a higher level of new build than the clients anticipated, due to the better value for money achieved over the whole life of the contract.

In an earlier response, we identified a tendency of some clients to seek to dictate inputs during post bid negotiations.

The quality of service targets and standards required are reasonable in themselves, however they sometimes exceed the standards used when determining the PSC. A particular problem can arise in projects involving a mix of new build and repair/refurbishment. Service targets and standards are usually set in relation to the new build element without acknowledging the problems of achieving those standards in existing buildings within the resources available.

13. ***How valid were the assumptions made in the business case, and how accurate were the initial estimates of project and service costs?***

Bidders do not usually have access to the business case. Usual areas of shortcomings in initial estimates relate to life cycle maintenance and refurbishment costs.

14. ***How accurate and appropriate were the demand forecast of the services required?***

In many cases, it is for the bidders to forecast demand in areas such as energy use and catering. Service user forecasts made by clients are usually appropriate and accurate.

15. ***What were the performance measurement systems and how effective were the associated payment regimes?***

Bidders normally have sophisticated performance management systems in place and clients are happy to rely on those for contract monitoring. Jarvis offer clients a terminal so that they can directly monitor performance should they wish.

Monthly reviews are held with direct users of the facilities.

The associated payment regimes have proved to be very effective for all parties.

Financial

16. ***How accurate and complete was the financial model and the assumptions made? What were the estimated financial risks? How did they impact on the deal?***

Financial models submitted at financial close are complete and as accurate as it is possible to be, given the duration of the contracts. Assumptions are made with regard to indexation and it is usually the client who decides on the rate to be used. All financial models are subject to external audit prior to financial close as part of the funder's due diligence process.

During the period between appointment as preferred bidder and financial close, it is normal for planning approval to be obtained and any necessary intrusive surveys of land and existing buildings are undertaken. Construction risks are, therefore, mitigated before financial close to protect the robustness of the SPV. Again, as part of the funder's due diligence process, external audits of the life cycle sinking fund are carried out.

As stated above, the rate of indexation used in the financial model is usually determined by the client and does not, therefore, impact on the deal.

The other area of uncertainty during the bidding process is the underlying interest rate adopted. Again, it is normal for the client to determine the rate to be used to aid comparability of bids submitted. Interest rate movement is a client risk until financial close. Movement in interest rates have impacted on deals both favourably and adversely. As yet, such movement has not caused any deal to flounder, but has necessitated changes to the specification and bid cost.

17. ***How relevant were the Public Sector Comparator costs to the PPP/PFI?***

The major relevance of PSC cost is to the Public Sector in order to demonstrate value for money by utilising PFI/PPP as the favoured option and procurement route.

In reality, they have often proved misleading, as explained elsewhere in this response, particularly in the area of repair/refurbishment of buildings.

18. ***What assessment has been made of the rates of return payable to banks, providers of equity and subordinate debt and how do these compare with returns on similar projects.***

As the PFI/PPP has both matured and become more competitive, senior lender margins have reduced. Jarvis use a panel of funders and always retain the right to change a funder mid-bid if, through our constant monitoring of the market, we believe we can obtain better terms for clients.

Very little difference exists in the rates of return payable to providers of equity and subordinated debt due to competitive pressures. The position is monitored by bidders regularly to ensure the competitiveness of their bid.

Contractual

19. ***How complete, appropriate and enforceable was the contract provisions and what issued and variations were necessary later?***

Generally, contract provisions have been found to be complete, appropriate and enforceable, however, existing contracts still have lives in excess of 20 years and changed circumstances may prevail in the future. Due to the longevity of PPP/PFI contracts, it is necessary to include provisions for variations within the project agreement. Such provisions should be simple in the case of minor variations, otherwise it is possible to have a situation where the legal and funding costs of a variation exceed the cost of implementing the variation.

Much more important than the completeness and enforceability of the contract and the spirit of partnership which should be engendered between the parties. Working in true partnership can overcome problems which might otherwise develop into a contractual dispute.

Change is inevitable. Variations have been made within months of signing contracts due to new factors. As stated above, the project agreement needs to contain appropriate provisions to implement such changes easily and efficiently.

20. ***What risks were allocated in the contract?***

Please see response to question 4 for typical risk allocation.

Social

21. ***What staff transfer and TUPE issues were present and how were they managed? Are there any lessons to be learnt about consultation with stakeholders and other affected by the PPP/PFI?***

Staff are naturally concerned about their future employment prospects when faced with a transfer of employer. The major area of concern for employees transferring from the public sector to the private sector company are over pension rights, even though a broadly comparable pension scheme has to be provided by the new contractor. Recent changes in the Local Government Superannuation Scheme in England have allayed many fears, as private sector employers are now able to become admitted bodies to those schemes for ex-local government employees. It would be helpful to employees if similar arrangements could be made for all public sector groups.

Clients need to have regular briefing sessions with employees and their representatives during the bidding process and, as a successful bidder, we at Jarvis have group consultation meetings with employees to be transferred and then meet them on an individual basis.

Whilst the concept of PFI/PPP is still relatively new, we seek to consult with all stakeholders in a particular project i.e. Teachers, Governors, Parents and pupils in education projects.

Property

22. ***What property disposals and gains were included and how did the PPP/PFI benefit from their presence? Were there any clawback arrangements and how would any surplus value be shared in the deal?***

A number of our signed deals have included a requirement to dispose of specified surplus land. Our usual approach is to arrange the disposal of the surplus land during preferred bidder negotiations and contract to sell the land on financial close. The project benefits from the full proceeds of the sale which is reflected in a reduced unitary charge.

In such circumstances, clawback arrangements are not appropriate.

Vacant possession of the land is not usually available until completion of the initial capital works, and clients may have achieved better value for money if they had retained the land until it was vacant then disposed of it themselves on the open market.

A more innovative approach adopted is to create surplus land and property through creative solutions to the output specifications. In these circumstances, the client receives effectively a windfall gain in the form of a capital receipt which is used to offset the development cost of the project and hence the annual unitary charge.

Construction

23. ***How did the construction costs compare with the estimates in the Public Sector Comparator?***

Construction costs for newbuild are generally comparable with estimates in public sector comparators. On occasion, the rate per m^2 is similar but the PSC did not allow for the quantity of work required to meet output specification. The area of greatest disparity has been found in refurbishment projects where, almost without exception, the PSC has underestimated the amount of work required in order to meet the output specification.

There are two common causes for the problems identified above. The first being that the PSC is developed when the outline Business Case is prepared and that can be a significant time before the output specification is prepared. Aspirations of the stakeholders in projects can lead to the output specification seeking to achieve an enhanced facility beyond that costed in the PSC.

The second problem is in carrying out conditions surveys of existing buildings for refurbishment projects. Two issues often arise. The first being that the requirements of the output specification are usually more demanding than the reinstatement costs identified in the survey.

Typically a survey will identify existing life remaining in Mechanical and Electrical Equipment not whether that equipment currently will meet the requirements of the output specification. The second issue is further deterioration of the premises between the survey and the issue of the output specification.

24. ***How well did the construction and property specification match the completed works?***

Completed works have always met the construction and property specification and, in a number of cases, exceeded the specifications.

25. ***What is the summary of the findings of any project evaluation report?***

Jarvis successfully signed the first schools PFI project in the UK with Dorset County Council for the replacement of the Sir John Colfox School in Bridport. The project was the subject of an extensive case study by the Treasury Task Force, the Executive Summary of which is set out below:

1. EXECUTIVE SUMMARY

A. The Purpose of the Case Study

1. The contract for the provision of replacement fully serviced school accommodation for Colfox School, Dorset was signed on 17 November 1997, representing the completion of the first PFI project in the school sector and one of the first local authority schemes completed under the regulations introduced for PFI in local government in October 1996.
2. The purpose of this Case study is to set out the process followed by Dorset County Council in letting this contract, the key features of the agreement reached, and the lessons learnt.

B. The Parties Involved

1. The successful letting of this contract required a number of organisations to work together on the public sector side, including:
   - the local authority, Dorset County Council (DCC)
   - DCC's advisers, including the Private Finance Panel Executive (PFPE)
   - the school Governing Body
   - the Department for Education and Employment (DfEE)
2. The constructive co-operation of these parties, and, of course, the preferred bidder, was instrumental in achieving a prompt completion of the contract, 16 months after it was initially advertised.

C. Local Authority Objectives

1. DCC defined its objectives at the outset of the procurement process, including :
   - to provide new school accommodation for a defined number of pupils, by September 1999, securing value for money (VFM) over the life of the contract and meeting the Authority's output requirements;
   - a long contract with a reliable partner that protects the school's autonomy and integrity;
   - to transfer risks in relation to design, build, finance and operation (DBFO) of the
   - accommodation, in return for an fixed annual fee.

D. Previous Method of Procurement

1. Replacement of a local authority secondary school would traditionally be financed out of the capital resources of the authority, as opposed to its recurrent funds. The sources of capital funds available to local authorities are :
   - borrowing, subject to receipt of sufficient borrowing approvals from central government;
   - capital receipts from the sale of assets, subject to the requirements to "set aside" a defined proportion of all receipts for repayment of debt;
   - capital grants; and
   - contributions from recurrent revenue funds.
2. DCC is a debt free authority, which means that, in general terms, it has free use of its capital receipts. If the replacement of Colfox School were to have been undertaken traditionally, the capital expenditure would have been financed from the accumulated capital receipts that the Authority holds or from revenue. In terms of the ongoing operation of the facilities, a variety of arrangements would have been in place
   - expenditure on structural repair and maintenance met directly from capital and revenue budgets by the local authority;
   - local authority let contracts for activities such as cleaning and grounds maintenance; school employment, for example of a caretaker; and
   - school Governing Body expenditure, as required, for items such as minor maintenance, utility costs and furniture and equipment.

E. Main Contractual Features

1. The contract provides for the private sector partner to design, build, finance and operate a new 1,060 place school over a 30 year period. Payment will commence from when the accommodation

becomes available, and will be made on the basis of required spaces made available, to the defined standard, and to specified performance standards relating to a range of associated services, including catering, cleaning, buildings and grounds maintenance, security and IT requirements.

2. The contract will enable the Authority to change its requirements during the contract, and provides for the arrangements that will apply if there are circumstances necessitating a change in the service provider, termination, a transfer of equity, transfer of contractual responsibilities etc.

3. Alongside the main agreement, the Authority also had to reach agreement with the school Governing Body, concerning the contribution that would be made from the school's delegated budget to meeting the contract fee, and with the DfEE, who provided additional revenue support which flows from the award of PFI credits under the October 1996 relaxations in local authority financing, intended to promote local authority PFI.

4. There is also a direct agreement with the provider's funders, covering step-in rights of the funder or the Authority in the event of default by the provider.

F. Key Messages

1. The successful completion of this scheme was brought about by a number of contributory factors, but crucial amongst them were:
   - a project team, and approval structure, that ensured that all of the relevant interests were represented and consulted, that gave the negotiating team sufficient authority to negotiate and agree contractual terms, and provided the expertise and continuity to manage the procurement process effectively;
   - clear commitment from the local authority officers and councillors, and the school Governors to deliver the scheme to the original timetable.

2. There are nonetheless some useful learning points arising from the scheme. A general message is that completion of the contract could have been achieved earlier than it was, if some key issues had been addressed earlier, for example:
   - the completion of both a fully worked Public Sector Comparator, as a benchmark in the evaluation process, and affordability analysis before the issue of the Invitation to Negotiate (ITN);
   - the "promissory note," showing the conditional commitment from the DfEE to the PFI Credit and provision of the consequent revenue support, should be applied for in time for it to be received early in the negotiations with the preferred bidder. This would require the parties to agree heads of terms, including the payment structure, at an early stage, in order to demonstrate that the contract will meet the "Contract Structure Test" under the Capital Finance Regulations 1997;
   - bidders should be encouraged (if they cannot be required) to involve their funders in the bid process as early as possible, and not to leave it until the end of negotiation of the contractual terms;
   - standardisation of documents, where appropriate; eg. ITN, risk matrices, bidders' responses (particularly financial returns and models);
   - clarification of local authority powers to enter into PFI deals (a point now addressed by the Local Government (Contracts) Act 1997);
   - better understanding by the private sector of the public sector covenant and especially how local authorities are financed.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
THE MAJOR CONTRACTORS GROUP

INTRODUCTION

1. The Major Contractors Group (MCG) welcomes the opportunity to participate in the Northern Ireland Assembly Committee for Finance and Personnel inquiry into the use of Public and Private Partnership (PPP) including the Private Finance Initiatives (PFI).

2. The MCG comprises twenty-three of the largest construction companies in the United Kingdom, carrying out in excess of £23 billion-worth of construction work each year or 35% of the total industry turnover of £65 billion. A full list of the members is attached for reference (Annex A). Companies participate in MCG at Chairman or Chief Executive level. MCG is also a leading member of the Construction Confederation, which is the main representative organisation for contractors in the construction industry – its 5,000 members are responsible for 75% of the industry's work.

3. MCG liases with key players in other parts of the construction industry and with Government on its policies and initiatives affecting construction. MCG has worked closely with Government – particularly the Treasury and the Department of Health - on the PFI and is acknowledged as the leading voice on the practical implementation of this method of procurement.

4. MCG's members have been at the forefront of Government moves to introduce private capital and expertise into the provision of public infrastructure and services. Members of the Group are responsible for most of the major hospital and road deals signed to date, over half of the prisons and more than a third of the schools and colleges.

5. Companies have developed their businesses to allow them to play a long term role in PFI, for example establishing their own service providers, such as Carillion Services, and entering into long-term partnerships, such as Skanska Construction's agreement with Serco and Wackenhut Corrections, to meet the particular skills required for this type of procurement.

6. Using the experience of PFI in the UK, MCG has also worked with its European counterparts to help shape the European Commission's efforts to develop the EU's procurement regime.

7. MCG is pleased to give below an overview of the progress of current procurement practices adopted by Government departments for PFI and to set out its recommendations on changes to current practice.

Progress to Date

8. As the Committee will be aware, PFI involves the delivery of a service by a private sector entity. This normally – although not invariably - involves the provision of a new or substantially upgraded capital asset. PFI focuses responsibility for the service on a single private sector entity – usually a special purpose vehicle (SPV) created specifically for that project, and so avoids the fragmentation which characterises conventional procurement where designers, constructors, facilities managers and operators are each employed separately. In the past, this has led to overlaps and gaps in legal responsibility and a poorer, less reliable product for the public sector.

9. The PFI projects completed so far have shown that this initiative has a crucial role to play in helping the Government to deliver improved public services. It is a good example of modern Government in practice, with the private sector contributing funding, innovation and the ability to carry risk, whilst the public sector concentrates on defining the required outputs and on delivering core public services such as healthcare and education. The positive aspects of our experience of PFI include:

   - **project delivery:** the availability of private finance has resulted in the delivery of many major projects where the need was established some years ago, but which have proved impossible to fund through public expenditure. One example is the new Cumberland Infirmary in Carlisle, which has been planned since the 1970s but which was only brought to fruition through PFI;

- **ability to aggregate:** a good example of this is the Falkirk Schools, where the Council openly acknowledges it could neither have funded nor managed a project of this size (£65M) involving five different sites. PFI has not only provided the Council with the ability to upgrade its facilities, but also to plan for the demographic changes which it will face over the next five to ten years;
- **guaranteed standards:** the SPV is bound by the PFI contract to provide a specified level of service for the full duration of the contract. Traditionally, public sector building stock has suffered from lack of maintenance and this has, in turn, adversely affected the public services which they house. The leaking school roofs, the tatty and poorly insulated hospital buildings now being upgraded through PFI are ample evidence of how damaging this lack of maintenance can eventually become. In contrast, the buildings now being delivered under the PFI will be maintained to the specified standard for the full life of the concession;
- **completion on time or early:** virtually all PFI projects which have been completed or are in construction are on schedule or early. This is in sharp contrast to the norm in the public sector: in a benchmarking study of Government contracts recently carried out by Bath University involving sixty projects across eight Departments, Professor Andrew Graves found that two thirds were completed late. Much of the improved performance in terms of time is due to the clear definition by the public sector of what is required before the construction process begins;
- **synergy between construction and operation:** PFI is creating a level of dialogue between operators and constructors which is unprecedented. One of our leading members, Alfred McAlpine, has cited the example of floor finishes in hospitals. The type of finish chosen has considerable implications for the operation of the building – in terms of cleaning cycles, wear characteristics, slip, hygiene and overall life cycle. On one of Alfred McAlpine’s projects, the members of the SPV negotiated with the flooring manufacturers who offered to produce a higher quality of finish **at the same price** as a standard finish in return for a share of the operational savings which will be achieved by reduced cleaning cycles and lower maintenance costs. They also negotiated a fifteen-year warranty – previously, it was impossible to negotiate protection beyond twelve months. In our experience, this type of deal is unique to PFI projects, and is possible only because the same organisation is responsible for both construction and operation;
- **whole life costing:** PFI permits the private sector provider to spend on construction to save on operation and maintenance. In traditional public sector procurement, the spotlight almost invariably falls on initial capital cost, and takes little account of operating costs. This is contrary to current good practice – it is notable that Peter Gershon, in his 1999 Review of Civil Procurement for the Treasury, defined procurement as spanning “the whole life cycle from initial concept and definition of business needs through to the end of the useful life of an asset…”;
- **improved communication with end-users:** the need to define public sector requirements in output terms has resulted in much more involvement of end-users early on in the life of the projects, which is resulting in higher quality, more appropriate facilities. Previously, designers tended to focus on written standards such as the HBNs and HTMs in the health sector, but now there is a lively dialogue with clinicians and others during the preparation of output specifications for hospitals. On the Calderdale Project in Halifax, this has led to the contractors locating the energy centre (which contains the boilers and other major plant items) on the roof of the hospital, which was contrary to their original intention when they tendered for the work. Although this will result in a higher capital cost for the consortium, it will be more than offset by lower running costs and improved accessibility. This is a decision which the contractor could not envisage taking on a conventionally procured project.

10. It would, however, be wrong to paint an unremittingly positive picture. The early days of PFI have presented enormous challenges for both the public and private sectors – it is a new and complex method of procurement which requires a unique combination of financial, legal, construction and operational skills. The private sector has risen well to this challenge by adapting and building on skills it already has, by buying in expertise from abroad, and by ensuring that expertise acquired on one project is transferred to subsequent ones. Building an appropriate skill base has proved a much harder task for the public sector, although there are some Departments which now have an intelligent client capability for PFI projects, notably the Highways Agency and the Prison Service. It is no accident that they are both Departments with centralised procurement functions which allow them to transfer learning from one project to another in much the same way as the private sector.

11. The unfamiliarity and complexity of the PFI process, coupled with the steep learning curve facing many public sector clients, has led to exceptionally high tendering costs for these projects – on average, we

estimate they are currently running at £1M per project. They could be dramatically reduced by greater use of standard clauses, and this is one of the recommendations we make in paragraphs 20 to 23 of our evidence.

Contractors' Concerns

12. Contractors acknowledge that there have been very significant improvements in the PFI process in recent years.

13. The two reviews of PFI by Sir Malcolm Bates, and the work of the Treasury Taskforce, have done much to ensure that projects do not reach the market until the procuring Department has fully thought out what it requires, established that there is likely to be an affordable option, and obtained any necessary approvals from central government. The Project Review Group in the local authority sector and the CPAG process in the Department of Health have both proved effective in this area.

14. There are, however, aspects which continue to give cause for concern to contractors, including:

- **public sector comparators:** despite extensive guidance, contractors continue to find that public sector comparators are often unrealistic, do not properly allow for the risks which the public sector would retain under a publicly-funded solution, and do not accurately cost the maintenance and operation elements of the project;
- **lack of a clearly identifiable client:** the true client for the project is often difficult to identify, particularly in Departments where procurement is devolved to local bodies such as Trusts or individual schools. In addition to the school or Trust itself, during the procurement process the private sector bidders will be confronted by a bewildering array of organisations, including regional health authorities, local councils, relevant central government Departments, the Treasury, perhaps the 4Ps, all of whom appear to be some part of "the client". Whilst the involvement of many of these is intended to be – and often is – helpful to the process, it can also add duplication and confusion. Clarity as to the precise role of each organisation – and open acknowledgement of that role by all of the other parties - would be very helpful;
- **a protracted procurement process:** particularly the period between the submission of detailed bids and the appointment of a single preferred bidder. It is not until a single company is identified that a partnership can be established between procurer and provider;
- **poor professional advice:** we are still seeing instances of professional advisers being appointed on the basis of cost rather than quality, and our experience is that this is a false economy for the public sector. The cost of good professional advice should be recovered many times over in the quality of the deal it will help to deliver.
- **Failure by procurers to manage the end-users:** there has been substantial evidence recently with regard to buildings recently completed under PFI of procurers allowing the end-users (normally clinicians or scientists) to secure free enhancements as the price of those end-users agreeing the sign off of working drawings on a timely basis. Accordingly the respective parties are unable to achieve a proper partnership (defined by the NAO as the public procurer getting value for money and the contractor making a reasonable return)- the procurer has got very good value for money but the contractor has received no return.

Partnerships UK

15. MCG is supportive of the main objective of Partnerships UK, namely to enhance the public sector's procurement skills for PFI projects, and we appreciate that the creation of a private sector environment for staff is very helpful in achieving this objective.

Recommendations for further improvements

16. MCG believes there are a number of steps which Government could take which would further improve the operation of the PFI process. We would suggest its main objectives should be to:

- enhance the value for money being delivered by PFI projects;
- improve the procurement process;
- secure continued market enthusiasm and support for this method of procurement.

17. There is a package of measures we would suggest to **enhance value for money**, comprising:

- ensure clients express their requirements in output, rather than input terms. This will provide the maximum opportunity for private sector innovation. For example, in some of the early roads projects, there was a tendency to be prescriptive as to the materials used, rather than specifying quality and durability. This prevented the SPV from using new construction methods and using its skills to balance capital and maintenance spending to offer best value for money over the whole life of the road;

- assess bids as a whole when determining whether they offer value for money. On some of the earlier projects, professional advisers have insisted on disaggregating the bid into each element of construction and operation, and testing each element against market prices to see whether it offers the lowest price solution. This deprives the public sector of one of the greatest benefits of PFI – the ability to spend on capital cost to save on maintenance and operating costs, and to place the risk and responsibility for through life cost on the SPV;
- strenuously publicise the attitude of the National Audit Office to PFI throughout the public sector. Public servants remain understandably cautious about the difficult and often unprecedented decisions they need to take during a PFI procurement process, and we have seen many instances of individuals refusing to take any decisions at all for fear of making a mistake. At the highest level, the NAO has done much to encourage good quality decision taking in the context of PFI. In 1997, the NAO stated:
  - 'We support the concept of PFI because it offers the prospect of improvements in the value for money achieved in public projects and we recognise that successful implementation of the principles likely to require innovation and risk-taking by public servants and we support well thought through risk taking and innovation.'

The publication of the NAO's analytical framework for examining value for money under PFI deals in August 1999 is also helpful, and in particular its acknowledgement that evaluation of bids should not be over-mechanical and is likely to require the exercise of informed judgement. However, in our members' experience this message often fails to percolate to local level, to the detriment of the value for money in individual deals;

- as we have explained above, an important element of the value for money equation is the synergy between construction and operation, and we are therefore concerned at the proposal that so-called "soft" services – such as cleaning, catering and portering – should be excluded from some PFI projects in the future. We believe that this may be based in part on a misapprehension as to the treatment of staff who are transferring to the private sector as part of a PFI deal. Virtually all of the staff transfers in which our members have been involved have gone smoothly and, in many cases, the staff are enjoying better terms and conditions and enhanced career opportunities. We have been given one example where an NHS Estates Director has transferred to a Facilities Management company owned by one of our members. Having reached the ceiling of his career development in the public sector, he now has good opportunities for promotion because of the number of premises managed by his new employer, and is already appreciating the links he is building up with the other parts of its business. At the other end of the spectrum, some of the major service providers are undertaking special training for their staff, for example a literacy programme for cleaning and other support staff to which they would not have had access in the public sector;

18. **To improve the procurement process**, we agree with Sir Malcolm Bates' recommendation that Departments should be required to adopt and follow the template guidance produced by the Treasury Taskforce. Departments should also be encouraged to be open with bidders regarding the evaluation criteria they will use, and the weightings to be applied. This was a key recommendation of the Gershon Review, which applies to PFI and PPPs as well as to other types of procurement. This information will encourage bidders to focus on those aspects of their bids which are most important to their public sector clients, as well as encouraging fairness and consistency in the evaluation of tenders. Good professional advisers can also do much to speed up and improve the procurement process and, as mentioned above, we believe the public sector should resist any temptation to economise in this area.

19. **To secure continued market enthusiasm for PFI**, a renewed Government commitment to PFI, as recommended by Sir Malcolm Bates in his second report, would do much to boost market confidence. Major contractors have invested heavily in acquiring the appropriate expertise to allow them to deliver these projects, but this investment is likely to be reviewed if there are signs of weakening in the Government's commitment to the use of PFI as a mainstream procurement tool.

    Further, whilst we appreciate that the number and type of PFI deals will be dictated by policy priorities and the need for particular services, a steady flow of PFI deals onto the market will do much to ensure good levels of market participation and therefore robust competition.

April 2001

ANNEX A

MCG MEMBERS

Alfred McAlpine Plc

AMEC Plc

Ballast Plc

Birse Construction Ltd

Bovis Lend Lease Ltd

Carillion Plc

Costain Group Plc

M.J. Gleeson Group Plc

HBG Construction Ltd

Kier Group Plc

Skanska Construction

John Laing Plc

Mansell Plc

The Miller Group Ltd

Morgan Sindall Plc

Morrison Plc

John Mowlem & Co Plc

Norwest Holst Group Plc

Sir Robert McAlpine Ltd

Shepherd Building Group Ltd

Taylor Woodrow Plc

Wates Group Ltd

Willmott Dixon Ltd

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
NORTHWIN CONSORTIUM

13 April 2001

1. Introduction

The Northwin Consortium is the leading Educational Private Finance Initiative provider in Northern Ireland. Our Consortium brings together three of the prominent Construction, Facilities Management and Property Developers in the Province to include Farrans Limited, John Graham (Dromore) Limited and Braidwater Enterprises Limited. We have been successful in securing four of the six Educational Pathfinder Private Finance Initiative projects in the Province. This has entailed a substantial investment by the Consortium and its members, together with the support of the premier financial institutions in the UK which has enabled Northwin to progress successfully these multi-million pound projects.

1.2 Under this form of procurement the Consortium is delivering a range of Secondary and Tertiary education facilities with responsibility for their design, construction, financing and operation over a 25-year period.

1.3 To date, the projects secured are:

- The North West Institute for Further and Higher Education, Londonderry (80,730 sq ft), a new build facility.
- Belfast Institute of Further and Higher Education, Belfast (22,660 sq ft), a new build campus.
- Wellington College, Annadale Avenue, Belfast (97,962 sq ft), a new build facility.
- Balmoral High School, Blacks Road, Belfast (86,090 sq ft), a new build facility.

In total, the capital construction value will exend to £50m to be completed end of December 2002.

The first facility at the North West Institute is now fully operational and the remaining projects are well advanced.

1.4 The Consortium working in partnership with the User is committed to the provision of value-for-money facilities and services to the Education Sector throughout the Province. The partnership approach adopted throughout has been one of the major success factors in the delivery of the various projects.

2. General Context of PFI/PPP Projects

For reasons of confidentiality we are unable to comment in detail on specific projects in which we have been involved but are happy to disclose here headline topics that we believe have added to the success of PPP/PFI to date in the Province. We have included a brief synopsis of the Belfast Institute of Further and Higher Education's project outlining some of the practicalities of the project at Appendix 1. We would deal with the issues raised in the Paper circulated by the Committee for Finance and Personnel under the following headings:

- Potential benefits of the PFI process.
- Success factors – the key to future projects.

3. Potential Benefits of the PFI/PPP Process

3.1 The underlying assumption inherent in all PFI/PPP projects is a mechanism whereby the Public Sector can achieve value-for-money. The Public Sector will have had to rigorously review, in all cases, its economic and business cases to formulate a Public Sector Comparator. This must be bettered by the Private Sector. This means that a successful bidder on any project should be able to deliver improved value-for-money throughout the whole life of the project. In essence, the creativity, innovation and management skills of the Private Sector should be able to deliver better ongoing value-for-money for the Public and the stakeholders.

3.2 The key to the successful delivery of a PFI project is a thorough understanding of the client's requirements and aspirations that will have been detailed at the onset of the project. This is outlined in broad terms to allow for innovation, risk allocation and competitive pricing by the Private Sector and may include creative new build facilities, funding mechanisms and risk allocation away from the Public Sector to the Private Sector. The direct financial penalties which the Private Sector is likely to suffer for sub-standard levels of service should ensure at all times that value-for-money is being delivered by the Private Sector. As the Public Sector is not paying for the new facilities, but rather for the service provided by the Private Sector over the concession period, the penalties suffered by the Private Sector and its funders are designed to incentivise and be punitive yet enhance the overall performance of the Private Sector.

3.3 Undoubtedly, one of the most important benefits of this process is to address the infrastructure deficit in Northern Ireland more quickly than can ever be achieved under a traditional procurement route. The funding has not been made available in the past to address all of these needs and, through the introduction of more innovative funding methods, there is no reason to assume that the needs of the Education, Health and Transportation and other sectors, cannot be addressed more expeditiously.

3.4 As these projects generally run for a term of 25-30 years the Private Sector, working in partnership with the Public Sector, has a vested interest in ensuring that the facilities and services are provided to a high standard for the whole life cycle of the project. This is radically different from the past where traditional design and construction techniques allowed the contractor to walk away on completion of the contract. The improved morale of staff, students and transferring employees during the operational phase has obvious tangible benefits for all with a marked reduction in truancy and sickness leave together with improved academic and vocational results.

3.5 Areas that would benefit greatly from further exposure to the PPP/PFI process are:

- Education
- Health
- Roads
- Water
- Social Housing

4. Success Factors for Future Projects

4.1 Under the direction of the Government, the Treasury Taskforce has firmed up on its Guidelines in relation to future projects and, without a doubt, this will assist in accelerating the flow of projects by bringing clarity for both the Public Sector and Private Sector during the bidding and negotiated process.

4.2 It is imperative that the output objectives are stated clearly in the Invitation to Negotiate. These should detail areas of risk that the Public Sector wishes to transfer with a greater disclosure of the evaluation criteria used for bid assessments and the formation of the Public Sector comparator and/or business case.

4.3 The role of the advisors during the bidding process is critical – in particular, legal, financial and taxation.

4.4 It is critical that there is joined-up Government thinking in relating to a broad band of issues that may affect PFI projects. The planning process is just one case in point. We understand that Government is currently addressing this issue.

4.5 The Procurement and Tendering timetable for the Pathfinder projects was quite elongated due to their very nature. As Pathfinder projects, both the Public Sector and the Private Sector were finding their feet in trying to move forward in a new and different procurement World.

4.6 It is imperative that the project teams working for the Public Sector are fully briefed and have delegated authority to agree commercial matters, within clearly defined parameters, without further reference to the higher echelons of Government.

4.7 In an effort to speed up the process, the standardisation of documentation by the Treasury Taskforce should undoubtedly help this process. Preparatory work by the contracting authority in areas such as the financial covenant of the Contracting Authority, Planning Permission, Legal Title and early consultation with employees who may be transferring under TUPE legislation is critical to ensure the expeditious conclusions of any project.

5. Conclusion

It is critical, from the Private Sector's perspective, that it is permitted to remain innovative and creative, ensuring a dynamic and holistic approach to future projects. This extends to such issues as design, surplus land transfer, the provision of services, risk transference, insurance and other related financial matters.

- We should be pleased to meet with the Committee to discuss any of the issues or projects in which we have been involved, referred to above and, should the Committee wish to discuss specific projects, we would be only too happy to accommodate it.

APPENDIX 1

BELFAST INSTITUTE OF FURTHER AND HIGHER EDUCATION

Introduction

Belfast Institute of Further and Higher Education (BIFHE) was one of the six pathfinder education projects announced by the Department of Education in Northern Ireland. BIFHE has an enrolment figure of more than 43,000 and is located at six main sites, five smaller sites and from over 130 out centres across various parts of Belfast.

The project was initialled conceived as a refurbishment of existing dilapidated and run down two blocks on the main campus in Belfast incorporating the further accommodation requirements of the Institute. This would have resulted to the Institute facilities remaining dispersed throughout the city and the administration of the Institute remaining off-site. For students and staff alike the logistical problems of commuting around a large city would have persisted for years to come.

The successful variant bid proposed by Northwin which is to redevelop with new facilities the site in its entirety has received overwhelming support from the Institute, the Department of Education, the Department of Further and Higher Education Employment and Training, Belfast City Council and the local communities.

The ground breaking proposals and redevelopment of the site which is now well underway is situated at a critical interface area in Belfast and its redevelopment will encourage all sectors of society to mix freely and interact in a vibrant educational environment. The Institute and the City recognise that the project is a catalyst to the dynamic regeneration of this area and is a bold statement of confidence in the future for both Belfast and Northern Ireland.

The Selected Bidder

After a competitive process between the shortlisted bidders (Amey, BES, Northwin) the preferred bidder was selected as Northwin. The Northwin Consortium comprises local Northern Ireland companies, Graham, Farrans and Braidwater Enterprises as the equity holders in the project. Together they bring the highest level of Facilities Management, City Centre Regeneration innovation and building knowledge expertise to the project. Architects for the project were JNP Belfast and the Consortium's legal advisors were L'Estrange and Brett. Funders of the project were Bank of Scotland (Ireland) Ltd, advised by A & L Goodbody. Financial Advisors to the Consortium were NCB Corporate Finance and to the Institute, PWC Belfast.

The Project

The PFI project will release the Institute from multi site poor quality educational buildings to a new completely redeveloped campus providing some of 20,000m^2 of teaching and ancillary accommodation on the Millfield site in Belfast city centre. This accommodation to be constructed to an exacting specification has an innovative design solution centred on multi flexible pavilions surrounding an open space quadrangle, allowing student and staff interaction on the one Campus. The new facilities include Hi-tech suites, facilities for Technology students, Information Technology laboratories, a Media Studies suite, Fashion Studies, Tourism and Retail Studies, Lecture Theatres and a management and administration suite.

The development is carefully phased to ensure the existing facilities will continue to operate during the construction period. The demolition of the existing accommodation is to occur after the Institute is in occupation of the new Facilities.

The Operator will be responsible for the running and maintenance of the new third level facility including the provision of catering, porterage, security, crèche and the replacement and full maintenance of furniture and equipment supplied under the terms of the Project.

Value for Money

Northwin's Best and Final Offer was accepted as the most economic solution to meet the requirements of BIFHE.

Of equal importance was that the design would meet BIFHE's requirements for an educationally operational building and spatial requirements.

The successful proposal involved a complete new build, whereas the Public Sector Comparator and the other bidders had only allowed for a refurbishment of the existing buildings.

Innovation in the Process

As a result of the rationalisation of the Estate Surplus Land was released adding to the affordability of the Project. The maximisation of the value for surplus land in the existing sites, which will be transferring to the ownership of the Consortium at Certification Date, was confirmed and agreed with the advisors to the Institute and the Valuations and Lands Office on an Open Book basis thereby ensuring transparency of this delicate issue to the Public. The construction of the new facility has advanced quickly since contract signing and the new facility is scheduled for opening in August 2002. The construction of the new facility will allow the existing structures to be demolished and the new facility will significantly regenerate this part of the city skyline.

Disruption to the ongoing needs of Staff and Students has been kept to a minimum, as there is no requirement for decanting or transfer from building to building.

As part of the security provision the consortium proposes to install a swipe card system, which will also function as a library card, car parking permit, catering payment voucher and other ancillary uses.

JAMES GIBBONS

COMMITTEE FOR FINANCE AND PERSONNEL INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY: PRICEWATERHOUSECOOOPERS (PWC)

24 April 2001

I. EXECUTIVE SUMMARY

Background

1.1 The Committee for Finance and Personnel is undertaking an Inquiry into the use of Public and Private Partnerships (PPP), including the Private Finance Initiative (PFI), to finance and provide public services and infrastructure improvements.

1.2 PricewaterhouseCoopers (PwC) is pleased to make a submission in respect of this Inquiry. As well as being the largest professional services organisation in Northern Ireland and in the world, PwC is well qualified to make a submission in respect of PPP for the following reasons:

- PwC is the world's leading firm of business advisors to the public sector on the development of Public Private Partnerships;
- PwC is currently working on over one hundred PPP projects across the public sector;
- PwC partners have served as members of the Executive of the Private Finance Panel and senior staff have been seconded to the Treasury Taskforce and the Public Private Partnerships Programme;
- PwC provides Public Private Partnership training to the Civil Service in both the United Kingdom and the Republic of Ireland; and
- PwC was recently named *Advisor of the Year* at the Project Finance International Awards 2000, and was named *PPP Company of the Year* by the Irish Business Employers Confederation at its Second Annual PPP Advisory Dinner in March 2001.

Northern Ireland Context

1.3 Northern Ireland is suffering from significant under-investment in public infrastructure and services. Much of its existing infrastructure has either reached the end of its useful life, does not comply with industry standards or is operating at the limit of its design capacity.

1.4 The CBI has estimated that Northern Ireland's infrastructure requires a total capital investment in excess of £400 million per annum over the next ten years. The ability of the NI Assembly to deliver an investment programme of this magnitude is constrained by the Barnett formulae. Public Private Partnerships may offer alternative ways to meet the infrastructure deficit and achieve better value for money.

1.5 Many parts of the European Union have suffered similar under-investment in public infrastructure and services. A number of these regions, including Ireland, Portugal and Spain, have recently established aggressive investment programmes to address their infrastructure deficits through the use of Public Private Partnership arrangements.

1.6 A more proactive policy towards the use of PPP will help to address some of the infrastructure deficit. However, even a dramatic increase in PPP will not solve the difficulties facing the Assembly in confronting historic under-investment in public infrastructure and services. The use of PPP can be only one element in what must be a wider strategy intended to address Northern Ireland's public sector funding gap.

Public Private Partnerships

1.7 A simple definition of Public Private Partnerships is that they exist wherever the public and private sectors work together with a common purpose. This commonly breaks down into three areas:

- ***Contracts to supply assets and services*** – where the public sector enters into a contract for a defined period with the private sector for the provision of specified assets and services;

- ***Contracts to sell services*** – where the public sector enters into a relationship with a private sector partner to exploit the commercial potential of Government assets. In the UK this is called the Wider Markets Initiative; and
- ***Ownership options*** – where private sector ownership is introduced into state-owned businesses. Examples include partial sale, joint venture, private trust, flotation and trade sale.

1.8 Internationally, the use of Public Private Partnerships has been founded on a relatively common set of objectives. These objectives are:

- To achieve increased value for money in the provision of infrastructure through the delivery of more buildable and innovative designs, lower capital and operating costs, and higher operational standards;
- To promote the faster delivery of the public capital programme in order that more infrastructure projects can be carried out within a defined period;
- To support the long-term growth potential of the economy by relieving bottlenecks and improving overall efficiencies;
- To utilise external sources of finance to minimise the funding required from government for capital expenditure;
- To maximise usage of Public Private Partnerships consistent with the principles of efficiency and best value for money;
- To transfer risk to the party that can manage it best and at least cost.

1.9 PPP is not the same as privatisation. Under PPP, the public sector retains ownership of the assets and controls the specification of services and the monitoring of performance. The key benefits of PPPs include:

- Earlier delivery of projects with better incentives to perform;
- Reduced costs over the whole life of the project;
- Improved quality of service over the whole life of the project; and
- Increased investment, which supports economic growth.

International Experience

1.10 Evidence from international experience suggests that these benefits are real and measurable. However, there are risks associated with Public Private Partnerships and the management of risk requires careful consideration during the initial project appraisal stage.

1.11 There are also many misconceptions associated with Public Private Partnerships. It is important that misconceptions are identified, defined and overcome so that Public Private Partnerships become an accepted and standard form of public procurement.

1.12 The PPP approach is now internationally accepted. The country that is most active in the use of PPPs is the United Kingdom, which has undertaken a large number of PPP projects under the auspices of the Private Finance Initiative (PFI).

1.13 In 1999, the Treasury Taskforce examined the value for money aspects of 29 projects undertaken under the Private Finance Initiative. The study concluded that procurement under the Private Finance Initiative had delivered, on average, a saving of 17% when compared with the estimated whole life cost of implementing the projects through traditional procurement.

1.14 In addition, international experience has shown that the Public Private Partnership approach has the potential to generate significant cost savings in a wide range of sectors. For example:

- ***Water*** - in the United States and Canada, Public Private Partnerships in the water sector are estimated to have generated cost savings of between 10% and 40% whilst in Scotland the average saving achieved on the Private Finance Initiative schemes is estimated to be over 20%;In Ireland, the experience of early Public Private Partnership projects such as Dublin Bay suggests that savings of around 25% to 30% are achievable;
- ***Roads*** - in the United Kingdom, the National Audit Office and the Construction Industry Council suggests that total cost savings of between 10 and 20% have been achieved on PFI highways projects;
- ***Accommodation*** - in the United Kingdom, the Construction Industry Council suggests that total cost savings on accommodation related projects are typically in the region of 0% to 5%, constrained by a lack of opportunity for private sector innovation; and

- ***Public Transport*** **-** the European Commission suggests that the introduction of competition in public transport can generate cost savings of 10% to 35% depending on the nature of the project.

Key Success Factors

1.15 International experience indicates that the ability of a Public Private Partnership programme to deliver best value for money is dependent on two key areas:

- the environment for Public Private Partnerships within government; and
- the specific characteristics of projects.

1.16 In terms of the environment for PPP within Government, international experience suggests that the key factors that support the successful delivery of a Public Private Partnership programme across government are as follows:

- A strong political commitment;
- A Minister to champion and promote the PPP process within government;
- A strong sustainable flow of Public Private Partnership projects coming to the market; and
- The establishment of a centralised support unit (usually within the Department of Finance).

1.17 In terms of the specific characteristics of projects, international experience suggests that the key factors that support the successful delivery of a Public Private Partnership project are as follows:

- The project has clear boundaries and measurable output performance, so that there is clear differentiation between private sector responsibilities and remaining public sector accountability;
- There is scope for innovation in design that enables the service provider to design away risks and bring new ideas to the way the service is provided;
- The project has a substantial operating content, which encourages the private sector to adopt a whole life cost approach to design and operation;
- There is scope for the service provider to find alternative uses for the asset provided;
- Any surplus assets intrinsic to the project are included in the package;
- The risks transferred to the service provider are commercial in nature and controllable;
- The project involves significant capital expenditure. PPP contracts are complex long-term arrangements and there may be significant costs associated with the transaction itself. This tends to make PPP more suitable for larger value projects;
- There is credible private sector interest; and
- Public sector management is committed to a PPP solution and sensitivities are manageable.

The Northern Ireland Experience

1.18 As at 31 March 2001, we estimate that a total of twenty-three projects had been procured under the Private Finance Initiative in Northern Ireland. The total capital value of these projects is in excess of £140 million and the average capital value is in the region of £6 million. In addition, a small number of projects are currently being procured through the Private Finance Initiative.

1.19 Thus far the Private Finance Initiative within Northern Ireland has focused primarily on projects in the health, education and information technology sectors. Taken together, these three sectors account for 65% of the capital value of projects and 80% of overall number of projects awarded.

1.20 There has been very little use of the Private Finance Initiative in the water and sewerage, roads and public transport sectors. However, there is a need for substantial capital investment in these sectors, and international experience suggests that projects in these sectors are suited to the Public Private Partnership approach.

1.21 The experience of Private Finance Initiative projects procured to date in Northern Ireland has been mixed with some projects achieving marginal value for money benefits and other projects delivering more significant benefits.

Benchmarking

1.22 Use of the Private Finance Initiative in Northern Ireland between 1995 and 2001 can be compared with experience in Scotland during the same period and with the proposed use of the PPP approach in the Republic of Ireland in the period to 2006:

- In Scotland in the six-year period to March 2001, a total of 53 projects were awarded under the Private Finance Initiative. The total capital value of the projects is close to £1.8 billion and the average capital value is in the region of £34 million;
- Twenty-three projects were awarded in Northern Ireland in the same period and the average capital value of these projects is around £6 million;
- In Ireland 20 infrastructure schemes have been identified as PPP pilot projects with a total capital value in excess of IR£5.5 billion and a minimum project size of £40 million; and
- An estimated additional 120 projects may be procured over the next five years as PPPs in Ireland. The total capital value of these projects is likely to be in excess of IR£2.6 billion.

1.23 When compared with the experience of Scotland and the Republic of Ireland, the use of PPP in northern Ireland gives rise to the following comments:

- ***Number of projects*** - small compared to Scotland over the same period and compared to the proposed level of activity in the Republic of Ireland;
- ***Size of projects*** - small by comparison with Scotland and the Republic of Ireland (£6m compared with £34m and £60m, respectively). Over half of the projects completed in Northern Ireland have a capital value of less than £5 million compared to a quarter of the projects procured in Scotland. In the Republic of Ireland no PPP projects have a capital value of less than £5 million;
- ***Deal flow*** - Scotland has fifty-three projects awarded to date and seventeen in procurement. In Northern Ireland most of the projects entered procurement in 1996 or 1997. Since then only a limited number of new projects have emerged;
- ***Range of sectors*** - in Northern Ireland, use of the Private Finance Initiative has focused on the education, health and information systems sectors. In Scotland and the Republic of Ireland, however, PPP's are being applied in a wide range of sectors including water and sewerage, roads, public transport and waste management. Internationally, it is more usual for the first PPP projects to be in either the roads, water or transport sectors;
- ***Value for money*** - the cost savings achieved by PPP projects in Northern Ireland have varied between 1% and 15%. This compares with the average saving of 17% reported the Treasury Taskforce and an average saving of around 20% reported by the National Audit Office; and
- ***Procurement timescale*** - the length of time taken to PPP projects in Northern Ireland has varied between 15 and 40 months, broadly consistent with the experience of PPP procurements in Scotland over the same period. However, the *average* duration of PPP procurements is falling rapidly. It is now possible for most Public Private Partnership projects to be procured in a period of less than twenty months. The pilot education projects being developed in the Republic of Ireland are expected to be procured in less than fifteen months.

Recommendations

1.24 Based on international benchmarking, the direct experience of other regions in PPP procurement and the recent performance of PPP in Northern Ireland, we recommend that the Committee consider a number of options based around a strong political commitment to the use of PPP in Northern Ireland. These include:

- Nominating a Minister to champion and promote the use of PPPs in Northern Ireland;
- Identifying and committing to the delivery of a specific programme of Public Private Partnership projects each year in order to establish and maintain a flow of high quality deals;
- Establishing a centralised PPP unit with cross-government mandate to:
  - Develop Public Private Partnership policy in Northern Ireland
  - Assist Departments to select, prioritise, scope and procure projects;
  - Establish a consistent and co-ordinated approach to Public Private Partnerships;
  - Recycle knowledge and experience within and between Departments

1.25 In addition, Government should develop greater understanding, acceptance and commitment within Departments and Agencies to the use of Public Private Partnerships by:

- Appointing a PPP Co-ordinator within every Department and Agency, who has the authority to influence project appraisal and procurement decisions;
- Conducting an independent review of PPP opportunities within each organisation; and
- Establishing robust policy statements and guidelines on the use of PPPs within each Department and Agency.

1.26 Government Departments and Agencies should consider a wider range of Public Private Partnerships instead of focusing on the Private Finance Initiative. The Department of Finance and Personnel should develop guidance on the wider forms of Public Private Partnership and their potential use in Northern Ireland.

1.27 Government should develop the commercial skills and experience of Departments and Agencies to enable them to procure projects with minimum assistance. Mechanisms should be established to ensure that the skills and experience gained by key personnel are retained and recycled within the Civil Service.

1.28 Government should consult and communicate with public sector staff and unions in relation to its future plans for the use of Public Private Partnerships.

1.29 Project teams should undertake all necessary preparatory work before commencing Public Private Partnership procurements. Procurement teams should make use of standardised documentation / processes, draw on the experience of other projects and appoint suitably experienced financial, legal and technical advisers to ensure that projects are procured in the most efficient and effective way possible.

II. INTRODUCTION

2.1 The Committee for Finance and Personnel is undertaking an Inquiry into the use of Public and Private Partnerships (PPP), including the Private Finance Initiative (PFI), to finance and provide public sector services and infrastructure improvements.

2.2 The Clerk to the Committee, indicated that it was the intention of the Committee to make recommendations to the Minister of Finance and Personnel and the Northern Ireland Assembly as to how any future investment in public services and infrastructure might be made. In making its recommendations the Committee will have regard to achieving value for money, whether PPP is the best means of achieving service improvements and the social and economic impact of PPP.

2.3 In a letter of 22 March 2001, the Clerk to the Committee for Finance and Personnel invited PricewaterhouseCoopers (PwC) to make a written submission in respect of this Inquiry.

2.4 PwC is pleased to make a submission and we have structured out submission in order to demonstrate;

- Our qualifications to comment on PPP in Northern Ireland and further afield;
- Our understanding of the context in which the Committee will make its deliberations;
- Our understanding of PPP and the various definitions and applications;
- International examples of PPP and global best practice;
- Opportunities for PPP in Northern Ireland; and
- Conclusions and recommendations based on our experience.

2.5 PwC will be pleased to elaborate on this submission and to provide oral evidence to the Committee, if requested

III. BACKGROUND TO PRICEWATERHOUSECOOPERS

3.1 PricewaterhouseCoopers (PwC) is the largest professional services organisation in the world and the largest firm of professional advisors in Northern Ireland. PwC is also the world's leading firm of business advisors to the public sector on the development of Public Private Partnerships.

3.2 We are currently working on over one hundred significant projects across the public sector and we are especially active in relation to the public transport, roads, water and wastewater, education, healthcare and waste sectors. The strength of the market position of PricewaterhouseCoopers is illustrated by the table below.

Project Finance International League Advisory Mandates Won in Global

		1	2	3	Total	Overall*
1	PricewaterhouseCoopers	19	56	24	99	229
2	Macquarie	29	11	16	56	81
3	Deutsche	20	8	22	50	86
4	Ernst & Young	6	29	11	46	49
5	KPMG	0	20	19	39	112
6	Fieldstone	30	2	5	37	72
7	SG	19	1	15	35	54
8	BNP Paribas	24	1	9	34	39
9	Taylor deJongh	17	8	6	31	53
10	Bank of America	13	4	14	31	53

Key:

1 - Privately owned sponsors 2 - Government or government-owned sponsors 3 - Bidders in a competition

* - Mandates won, ongoing and closed in 1999

Source - Project Finance International, January 2000

3.3 We have played an important role in helping to shape government policy on Public Private Partnerships and in establishing best practice. Two of our partners served as members of the Executive of the Private Finance Panel and five of our managers have recently returned from secondment to either the Treasury Taskforce or the Public Private Partnerships Programme.

3.4 We are also responsible for providing Public Private Partnership training to the civil service in the United Kingdom and within the island of Ireland we have the largest dedicated Public Private Partnership advisory team comprising some fifteen staff.

3.5 We have worked closely with the Treasury Taskforce to develop policy statements on consultation with employees and the public sector comparator. We also developed the detailed technical guidance on the preparation of Outline Business Cases and the accounting treatment to be adopted for Private Finance Initiative transactions. In addition, we have recently developed detailed policy guidance on the use of Public Private Partnerships for the governments of Ireland, Israel and South Africa.

3.6 PricewaterhouseCoopers was recently named 'Advisor of the Year' at the Project Finance International Awards 2000, and was named 'PPP Company of the Year' by the Irish Business Employers Confederation (IBEC) at its Second Annual PPP Advisory Dinner in March 2001.

3.7 Our international presence means that we are able to bring the best experience to bear from ground-breaking projects all around the world. Our Public Private Partnerships advisory team has been involved in Public Private Partnership projects from the High Speed Rail Link in Holland to the Olympic Games in Australia, from the Pudong Waste Management Scheme in Shanghai to the Lahore Expressway in Pakistan and the Aberdeen Wastewater Scheme in Scotland.

IV. NORTHERN IRELAND CONTEXT

4.1 Northern Ireland is suffering from significant under-investment in public infrastructure and services. Much of its existing infrastructure has either reached the end of its useful life, does not comply with industry standards or is operating at the limit of its design capacity. In particular, significant investment is urgently required in the water and sewerage, roads, public transport, education, health and waste management sectors. The CBI has recently estimated Northern Ireland's infrastructure investment needs in five of these areas to be:

- ***Water and sewerage*** – approximately £2.5 billion over the next 20 years, with a significant proportion urgently required to achieve compliance with EU Directives.
- ***Roads*** – approximately £700 million over the next ten years.
- ***Public transport*** – immediate investment needs of at least £100 million, plus a further £200 million over the next ten years.
- ***Education*** – immediate investment needs of £500 million in the schools sector with further requirements in the further and higher education sector.
- ***Health*** – immediate investment needs in the region of £250 million.

4.2 This suggests that total capital investment in excess of £400 million per annum is required across these sectors during the next ten years.

4.3 Urgent action is therefore required to raise the standard of public infrastructure in Northern Ireland to support the region's future economic growth.

4.4 The capital spending plans of the Government Departments for the next three years go some of the way to address the investment needs, but further action is still required if Northern Ireland is to maintain its competitive position in the modern economy.

4.5 The sectors in which major investment is planned by Government Departments during the next three years are set out in the table below.

Capital Spending Plans 2001 to 2004 (£m)

Sector	2001/02	2002/03	2003/04	Total
Water & sewerage	109	110	110	329
Roads	20	30	30	80
Public transport	50	80	60	190
Education (all levels)	127	130	120	377
Health	54	40	40	134
Social housing	120	120	120	360
Special infrastructure programme	10	40	100	150

Source: Department of Finance and Personnel, Budget 2001/02

4.6 Across Europe there are many regions that suffer from a history of under-investment in public infrastructure and services. However, many of these regions (including Ireland, Portugal and Spain) have recently established aggressive investment programmes to address their infrastructure deficits. In many instances, and particularly in the roads, water and sewerage sectors, investment requirements are being met through the use of Public Private Partnership arrangements.

4.7 In order to maintain Northern Ireland's competitive position within Europe and support future economic growth, there is a need for a substantial and co-ordinated programme of investment to deliver a radical improvement in infrastructure provision over the next five to ten years.

4.8 The ability of the NI Assembly to deliver this programme of investment is constrained by the allocation of funds received under the Barnett formulae. Therefore, in accordance with current government policy, there is a clear need to consider alternative ways to meet the infrastructure deficit and achieve better value for money. This includes the use of Public Private Partnerships.

V. PUBLIC PRIVATE PARTNERSHIPS

Definitions

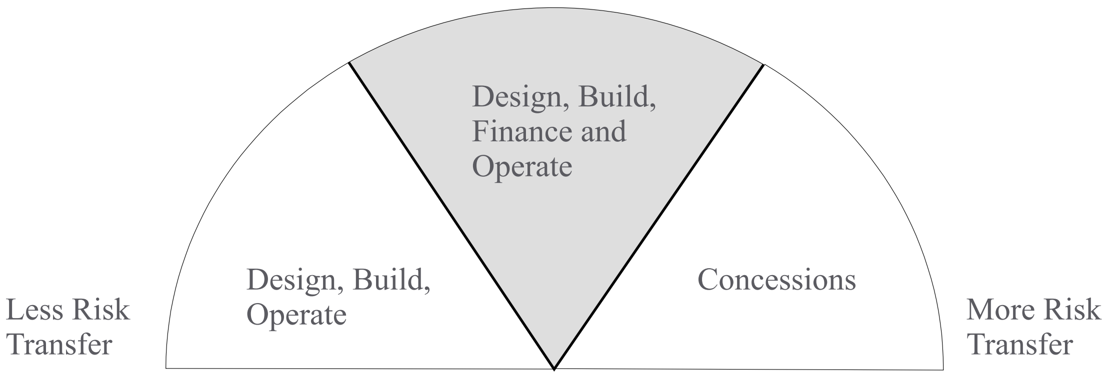
5.1 Public Private Partnerships are not well defined within international markets, and in their widest sense they embrace a wide variety of relationships. A simple definition is that a Public Private Partnership exists wherever the public and private sectors work together with a common purpose. In terms of international experience to date, this commonly breaks down into the following three areas:

- ***Contracts to supply assets and services*** – where the public sector enters into a contract with the private sector for the provision of specified assets and services for a defined period;
- ***Contracts to sell services*** – where the public sector enters into a relationship with a private sector partner to exploit the commercial potential of Government assets. In the UK this is known as the *Wider Markets Initiative*; and
- ***Ownership options*** – where private sector ownership is introduced into state-owned businesses. Examples include partial sale, joint venture, private trust, flotation and trade sale.

5.2 In the context of Northern Ireland's infrastructure deficit, the term Public Private Partnership is most usefully considered in terms of the first area listed above - contracts with the private sector for the provision of specified assets and services.

Contracts to Supply Assets and Services

5.3 In the context of Northern Ireland's infrastructure deficit, the most relevant forms of Public Private Partnership are set out in the diagram below and are described in the paragraphs that follow:



5.4 Design, Build and Operate (DBO) contracts are arrangements between the public sector and the private sector for the design, construction and operation of public facilities and infrastructure. The private sector contractor designs and builds the facility to meet public sector performance requirements and is also then responsible for operating and maintaining the facility for a predefined period, at the end of which it is transferred back to the public sector. The construction of the facility is financed by the public sector and it remains in public ownership throughout the term of the contract.

5.5 Design, Build, Finance and Operate (DBFO) contracts are arrangements between the public sector and the private sector for the design, construction, operation and financing of public facilities and infrastructure. The private sector contractor is responsible for designing, building, operating and financing the facility and recovers its costs solely out of payments from the public sector. The private sector contractor is granted a lease or licence to operate the facility for the duration of the contract, at the end of which the facility transfers back to the public sector. In the UK, DBFO contracts are commonly called Private Finance Initiative contracts.

5.6 Concession arrangements are similar to Design, Build, Finance and Operate arrangements, except that the private sector contractor recovers its costs either through direct user charges or through a mix of user charging and public subvention.

5.7 It is important to note that the forms of Public Private Partnership set out above consist of contractual arrangements between the public sector and the private sector and all involve a long-term relationship between the public and private sectors.

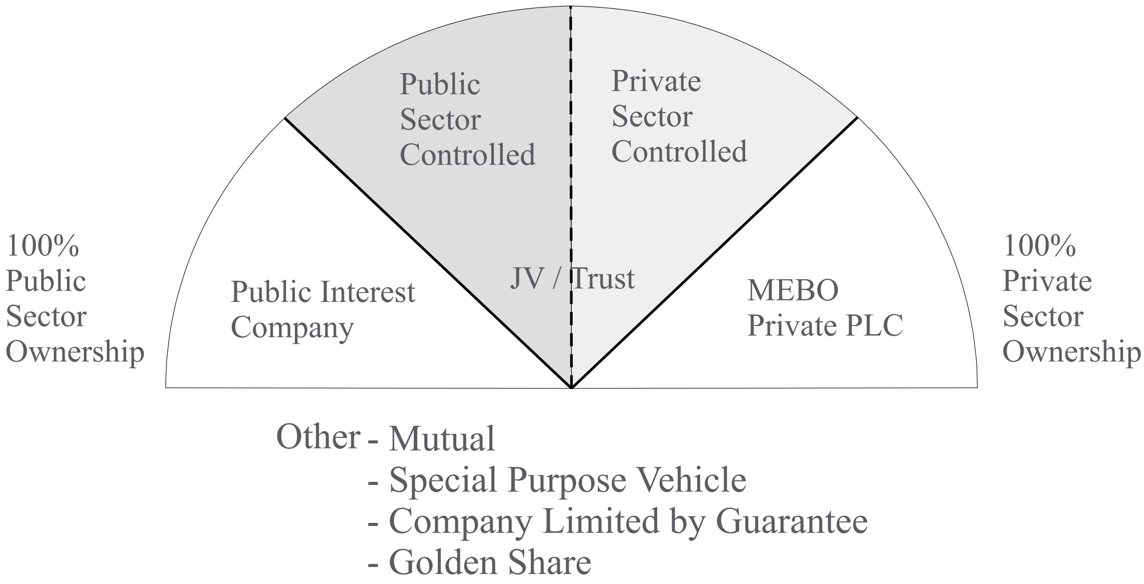
5.8 However, these forms do not amount to privatisation in that legal ownership of any assets created rests with the public sector and the public sector retains a key role in service specification, procurement, contract monitoring and market regulation.

5.9 The experience of privatisation has shown that the freedom to invest combined with private sector management skill can drive improved efficiency. However, at the same time privatisation can lead to poor public accountability, a reduction in competition and the development of monopolies.

5.10 On the other hand, Public Private Partnerships offer a longer term, sustainable approach to improving public services, enhancing the value derived from government assets and making better use of public money, while at the same time retaining control of core areas of responsibility in the public sector.

Ownership options

5.11 In addition to the contractual forms of Public Private Partnership set out above, it is our understanding that government is also considering a variety of ownership options as a way of attracting private sector skills and finance into the delivery of public services in Northern Ireland. The range of ownership options that might be considered in Northern Ireland include the following:



5.12 Two ownership forms that are generating significant interest in Northern Ireland are joint ventures and trusts. A brief description of these forms is provided below.

- ***Joint venture*** – these are established where the public sector and private sector wish to share in the risks and rewards associated with a particular commercial enterprise, with each party undertaking the specific roles for which it has particular skill and expertise. The parties share in the risks and rewards of the enterprise either in accordance with their respective shareholdings or through other contractual arrangements.

- ***Trust*** – Trusts are usually established to provide an instrument to administer funds. They are not a separate legal model, and are commonly structured as a company limited by guarantee. The absence of shareholders means that any profits generated by the trust are reinvested in the company. This provides reassurance to customers that the entity will remain independent and impartial. Structured appropriately, trusts can raise debt finance to provide working capital. However, trusts lack the commercial incentives associated with other private sector companies and therefore are not always the best solution for delivering improved value for money.

OBJECTIVES

5.13 Internationally, the use of Public Private Partnerships has been founded on a relatively common set of objectives. These objectives can be summarised as follows:

Typical PPP Objectives

- To achieve increased value for money in the provision of infrastructure through the delivery of more buildable and innovative designs, lower capital and operating costs, and higher operational standards.
- To promote the faster delivery of the public capital programme in order that more infrastructure projects can be carried out within a defined period of time.
- To support the long-term growth potential of the economy by relieving bottlenecks and improving overall efficiencies.
- To utilise external sources of finance to minimise the funding required from government for capital expenditure.
- To maximise usage of Public Private Partnerships consistent with the principles of efficiency and best value for money.
- To transfer risk to the party that can manage it best and at least cost.

BENEFITS

5.14 Appropriately designed, Public Private Partnerships have the potential to generate substantial benefits for consumers and taxpayers. The scope of potential benefit will, however, depend on the type of project being undertaken and the exact terms of the contract governing the Public Private Partnership. Experience elsewhere in the world suggests that the more significant potential benefits can include:

- ***Acceleration of infrastructure provision*** – Public Private Partnerships provide an opportunity for the public sector to translate upfront capital expenditure into a flow of ongoing service payments. This enables the public sector to proceed with projects at times when the availability of public capital may be constrained, thus bringing forward much needed investment.
- ***Faster implementation*** – the allocation of design and construction risk to the private sector, combined with payments linked to the availability of a service, provides significant incentives for the private sector to deliver capital projects within short construction timeframes. However, this benefit can be sometimes offset by a longer procurement timetable.
- ***Reduced whole life costs*** – Public Private Partnership projects often require the private sector to be responsible not only for constructing the asset, but also for maintaining and operating it over time. This provides the private sector with a strong incentive to ensure that it minimises cost over the whole life of a project, something that is inherently difficult to achieve within the constraints of traditional public sector budgeting.
- ***Better allocation of risk*** – a core principle of any Public Private Partnership is the allocation of risk to the party best able to manage it at least cost. The aim is to optimise rather than maximise risk transfer to the private sector, so that there is greater consideration and control of project risks across the whole life of the project to ensure that best value is achieved. Typical risks include the risk of construction cost overruns, inability to meet operating performance standards, difficulties complying with environmental or other regulations, and the risk that revenues may not be sufficient to pay operating and capital costs.
- ***Better incentives to perform*** – the allocation of project risk should incentivise a private sector contractor to improve its management and performance on any given project. Under most Public Private Partnership projects, full payment to the private sector contractor will only occur if the required service standards are being met on an ongoing basis.
- ***Improved quality of service*** – international experience suggests that the quality of service achieved under a Public Private Partnership is often better than that achieved by traditional procurement. This may reflect the better integration of services with supporting assets, improved economies of scale, the introduction of innovation or new technologies in service delivery, or the performance incentives and penalties typically included within a Public Private Partnership contract.
- ***Generation of additional revenues*** – the private sector may be able to generate additional revenues from third parties, thereby reducing the cost of any public sector subvention required. Additional revenue may be generated through the use of spare capacity or the disposal of surplus assets.
- ***Enhanced public management*** – by transferring responsibility for providing public services to the private sector, government officials will act as regulators and will focus upon service planning and performance monitoring instead of the management of the day to day delivery of public services. In addition, by exposing public services to competition Public Private Partnerships enable the cost of public

services to be benchmarked against market standards to ensure that the very best value for money is being achieved.

- ***Economic benefits*** – Public Private Partnerships enable the public sector to proceed with a greater number of infrastructure projects by translating up front capital expenditure into a flow of ongoing service payments. This increased investment profile can help to stimulate the private sector and contribute to increased employment and economic growth. Local firms that become proficient in the Public Private Partnership approach have the opportunity to “export” their expertise and earn significant income outside of Northern Ireland.

RISKS

5.15 Public Private Partnerships are not a universal panacea or the only option that should be considered in the effort to provide high quality public services at the lowest possible cost. Under no circumstances should Public Private Partnerships be seen as a substitute for strong, accountable and effective governance.

5.16 As with conventional forms of service delivery, there are risks as well as potential benefits associated with Public Private Partnerships. Potential risks can include:

- ***Inappropriate structure*** – if not properly structured, Public Private Partnerships can result in a reduction in service quality and/or an increase in service cost. It is therefore essential that the structuring of a Public Private Partnership is considered in detail prior to commencing a procurement, and that decisions are based on a robust assessment of all relevant factors. This assessment must include the views of stakeholders and potential service providers.
- ***Stakeholder issues*** – even though Public Private Partnerships are covered by specific legislation to protect the interests of employees, there is sometimes an adverse reaction from public sector staff and unions in relation to the transfer of their employment terms to a private sector company. Stakeholder issues have to be very carefully managed throughout the process of developing, procuring and implementing a Public Private Partnership, and the development of a robust communications strategy is essential.
- ***Reliability of service*** – projects of every nature may be prone to external pressures and circumstances that can prevent them from delivering services to the standard required. These risks are common to both the public and the private sectors. However, public-sector funded projects cannot militate against such risks or transfer the risk beyond government. Under a Public Private Partnership contract the public sector can anticipate risks and incorporate measures to mitigate against them through performance-related payments, step-in rights and similar risk-transfer strategies.
- ***Competition*** – strong competition for a Public Private Partnership contract will encourage private sector innovation, efficiency and lower costs. However, these benefits will be lost if there is only a limited number of potential private partners with the expertise or ability to deliver the services required. It is important therefore that the structure of the Public Private Partnership is attractive to potential bidders, and this can be tested through the use of a market sounding exercise.
- ***Regulatory capture*** – where a single company is appointed to provide services under a long term contract (e.g. one public transport company covering the whole of Northern Ireland), there is a risk of regulatory capture by the service provider. This increases the burden on the regulator to ensure that the operator is delivering services effectively and establish a competitive market for the service when the contract is re-tendered. The risk of regulatory capture can be managed by ensuring that there are multiple service providers operating in the local market (thereby enabling performance to be benchmarked), and by minimising the length of contract to maintain competitive pressure on the operator.
- ***Legal challenge*** – Public Private Partnerships typically involve the award of multi-million pound contracts, and the cost to the private sector of bidding for these contracts is significant. There is therefore a greater risk of legal challenge from losing bidders, and it is essential that procurements are managed using well-developed policies and procedures and that the decision making process is transparent.

MISCONCEPTIONS

5.17 As discussed previously, there are a number of different forms of Public Private Partnership. This sometimes leads to misconceptions regarding the implications of a Public Private Partnership. The most common misconceptions are as follows:

Public Private Partnerships are the same as Privatisation

5.18 The most common forms of Public Private Partnership (DBO, DBFO and concession contracts) are very different from Privatisation. Full privatisation transfers the activities of a public sector monopoly to one or more private sector companies in perpetuity. Under a Public Private Partnership, the public sector retains control of the specification of services and the monitoring of performance. Private sector companies are invited to deliver services to the required standards for a defined contract period, after which the services may be re-tendered or transferred back to the public sector.

Public Private Partnerships are primarily used to avoid capital expenditure

5.19 In its recent publication *Public Private Partnerships The Government's Approach*, the government re-affirmed its position that Public Private Partnerships should only be used where they are likely to deliver better value for money in the delivery of services. The new fiscal framework introduced by the government in 1998, comprising the golden rule and the sustainable investment rule, has made it easier for government to provide publicly funded investment. In addition, the introduction of resource accounting means that in future the cost of capital investment will be spread over the life of the project, irrespective of the procurement approach that is adopted.

Public Private Partnerships only apply to infrastructure projects

5.20 The primary reason for entering into a Public Private Partnership agreement is the achievement of better value for money (lower costs or higher service quality). For this reason, Public Private Partnerships can be used to deliver a wide range of government services, facilities and infrastructure. Examples of non-infrastructure projects include the provision of IT and data management services for the Land Registry and the Planning Service, and the provision of a renal dialysis unit for Antrim Hospital.

Government loses control of services under a Public Private Partnership

5.21 Public Private Partnerships often result in the transfer of commercial decisions on investment planning, service delivery and pricing to the private sector. However, the government retains control through its ability to implement policies, specify service standards and regulate the provision of services. The issue of control is considered in detail prior to commencing the PPP procurement (i.e. in the Outline Business Case). The government shapes the Public Private Partnership to reflect its own objectives, and retains significant control through the institutional and regulatory structures that are established, and the standards of service and contractual remedies that are included in the PPP agreement. These contractual remedies are not available for services provided by the public sector.

Quality of service will decline under a Public Private Partnership

5.22 Under a Public Private Partnership, government has the ability to stipulate the quality of service to be provided. Payments made to the private sector are performance related, and as a result the quality of service achieved by the private sector is often higher than that achieved by the public sector. The Public Private Partnership contract is structured to incentivise the private sector to invest in the service, become more efficient, enhance standards and attract more customers.

Staff will lose out under a Public Private Partnership

5.23 Public Private Partnerships are covered by specific legislation to protect staff interests and conditions of employment. Many of the benefits of Public Private Partnerships, such as increased efficiency and higher quality of service, have been accomplished through former employees of government. Reasons for increased productivity include increased investment in employees through training, technology transfer and skill diversification.

The cost of service will increase to pay for private sector profit

5.24 There is a misconception that the cost of services provided under a Public Private Partnership arrangement will have to increase to enable the private sector to take its profit margin. Whilst the private sector will need to make a profit, the profit must be earned through increased productivity, generation of additional revenues or cost reduction measures.

5.25 A Public Sector Comparator is established at the start of the procurement process to ensure that government only enters into a Public Private Partnership arrangement if it represents better value for money. For example, the private sector might charge a lower cost for the same level of service, or might offer a higher quality of service for the same cost.

5.26 Some Public Private Partnerships may appear to have resulted in an increased cost to government. However, in many cases this is because the government has either not considered the true cost of providing services (e.g. overhead and administration costs may have been excluded), or the government is asking the private sector to deliver a higher quality of service than it has traditionally delivered itself. For example, the standard of maintenance required from the private sector maybe higher than the standard of maintenance normally achieved by government.

PPP cannot deliver value for money as the cost of private finance is higher

5.27 It may be true that private finance is more expensive than government finance, but the difference between the private sector's cost of borrowing and that of the public sector is now only 1% to3%. In addition, the cost of finance applies to only a relatively small proportion (on average 22%) of the total cost of a PFI contract. The private sector can compensate for its higher cost of finance in a number of ways, including improved investment planning, the introduction of innovation and synergies in design, construction and operation, and better management of project risks.

PUBLIC PRIVATE PARTNERSHIPS: KEY FINDINGS

KEY FINDINGS

- Northern Ireland is suffering from significant under-investment in public infrastructure and services
- The infrastructure deficit runs to billions of pounds and cannot be met from the public purse alone
- There is a need for a co-ordinated programme of investment that offers alternative ways of meeting the infrastructure deficit and achieving better value for money
- Public Private Partnerships have a key role to play in the delivery of such a programme
- Public Private Partnerships are suitable for the provision of assets and services in a wide range of sectors, not just infrastructure
- The most suitable forms of Public Private Partnership are likely to be DBO, DBFO and concession contracts, although other forms of PPP such as joint ventures and trusts may also be applicable in certain circumstances
- PPP is not the same as privatisation. Under a PPP, the public sector retains ownership of the assets and controls the specification of services and the monitoring of performance.
- The key benefits of Public Private Partnerships include:
  - Earlier delivery of projects
  - Better incentives to perform
  - Reduced costs over the whole life of the project
  - Improved quality of service over the whole life of the project
  - Increased investment, which supports economic growth
- Evidence from international experience suggest that these benefits are real
- There are risks associated with Public Private Partnerships. The management of risk requires careful consideration during the initial project appraisal stage.
- There are also many misconceptions associated with Public Private Partnerships. It is important that misconceptions are overcome so that Public Private Partnerships become an accepted / standard form of public sector procurement.

VI INTERNATIONAL EXPERIENCE OF PUBLIC PRIVATE PARTNERSHIPS

Use of Public Private Partnerships

6.1 Public Private Partnerships are increasingly being seen as an attractive approach to the provision of infrastructure projects and public services across Europe and the rest of the world. An ever increasing number of countries are embarking upon Public Private Partnership programmes that are leading to a radical redefinition of the roles of the public and private sectors in the financing and delivery of public services.

6.2 There is a growing acceptance around the world that Public Private Partnerships can be utilised to meet public sector investment needs in a wide range of sectors, in ways that offer good value for money for the taxpayer. An indication of the extent to which the Public Private Partnership approach has been adopted in other parts of the world is presented in the table that follows.

International Development of Public Private Partnerships

X Deals closed O Deals contemplated	**Roads**	**Rail**	**Water**	**Waste**	**Power**	**Health-care**	**Educati on**	**Prisons**	**Defence**	**Offices**
Australia	X	X	X			X	O	X	X	
Belgium	X	O	X	X		X	O			
Canada	X	X	X	X		O	O	X	O	X
Finland	X	O				X	O			X
France	X		X						O	
Germany	X	O	X	O					O	
Greece	X	X				O	O			
Holland	X	O	O							
Ireland	X	O	X	O	X		O	X		X
Italy	O	X	O	X						
Portugal	X	O	X			O			O	
South Africa	X		X			O	O	X		
Spain	X	X	X			X				
United Kingdom	X	X	X	X		X	X	X	X	X
United States	X		X					X	O	

6.3 The table set out above is not comprehensive and is predicated upon data published as at January 2001. As there are a number of different definitions of the term Public Private Partnership, the above table includes those projects where the private sector has been involved in the construction and operation of a facility. It does not include more simple forms of private sector financing such as straight borrowing, finance leases or sale and leaseback transactions.

6.4 The above analysis also focuses on those countries that are currently most actively considering Public Private Partnerships and excludes a number of other countries that have only one or two projects in development or procurement.

6.5 Overall, the table demonstrates that the Public Private Partnership approach is being examined and deployed in a large variety of sectors and countries throughout the world. The country that is most active in the use of Public Private Partnerships is the United Kingdom, which has undertaken a large number of PPP projects under the auspices of its Private Finance Initiative.

6.6 In 1999, the Treasury Taskforce commissioned Arthur Andersen and Enterprise LSE to examine the value for money aspects of a range of projects undertaken under the Private Finance Initiative. The study examined twenty nine projects from a variety of sectors and concluded that procurement under the Private Finance Initiative had delivered, on average, a saving of **17%** when compared with the estimated whole life cost of implementing the projects through traditional procurement.

6.7 In this study, the primary drivers of value for money were identified to be risk transfer, the output based specification, the long-term nature of contracts (including whole life cost savings), performance measurement and incentives, competition and private sector management skills.

PROGRAMME DEVELOPMENT

6.8 International experience would suggest that at a macro level Public Private Partnership programmes are characterised by the following four phases of activity:

- ***Preparation*** – during which initial organisational structures are established to provide momentum to the Public Private Partnerships programme. Commonly, these initial organisations have taken the form of independent advisory groups comprising representatives of both the public and private sectors. The preparatory phase is characterised by policy development, legislative and organisational change, skills development, knowledge sharing activities and promotion and awareness campaigns;
- ***Pilot projects*** – the commencement of the preparation phase is often closely followed by the launch of a programme of pilot projects to establish best practice models. Commonly, the commercial skills and experience required to deliver good quality Public Private Partnership transactions does not exist within Government Departments at the time of the pilot projects, and therefore a central support unit may be required to work alongside the Departmental project teams. The experience of the pilot projects is recycled within government and is used to prepare best practice guidelines and case studies;
- ***Expansion*** – if the programme of pilot projects is considered to be progressing well and delivering improved value for money, then the Public Private Partnership programme is likely to be extended to a larger number of projects across a wider range of sectors. During the expansion phase the commercial skills and experience of Government Departments continue to increase and the requirement for central support reduces; and
- ***Maturity*** – a Public Private Partnership programme reaches maturity when a large number of projects have been successfully implemented in a broad range of sectors. Public Private Partnership policy and procedures are fully developed, and permanent structures are in place with the necessary skills to deliver projects and achieve best value for money. The aim should be for Public Private Partnerships to be an accepted and established form of public procurement within Government Departments, so that there is no longer a requirement for a central support function.

6.9 The institutional structures required to support the development of Public Private Partnership programmes are likely to change in nature and in role as the programme develops through the four phases identified above. During the initial preparatory phase, independent consultative and advisory groups, comprising representatives of the public and private sectors, have played a useful role in both the UK and Canada in terms of helping to promote the Public Private Partnership approach within the public and private sectors.

6.10 During the pilot project and expansion phases, more specialist commercial expertise is required to provide hands-on transaction support to Government Departments. This transaction support comes from two sources; a centralised unit within government that works alongside Government Departments at Project Board level, and/or external financial, legal and technical advisors that work alongside project teams and report to project boards.

6.11 Very few countries, if any, have reached the mature stage of development. The United Kingdom is probably the closest, although it is currently too early to know whether the new structures that have been put in place (Partnerships UK and the Office of Government Commerce) will meet the requirements of the Public Private Partnership programme in the medium to long term.

6.12 Northern Ireland has reached the pilot project stage in a number of sectors, particularly education. However, in some respects the progress achieved in Northern Ireland to date has relied heavily on the preparation conducted and the organisational structures established elsewhere in the UK.

6.13 This raises the issue of whether Northern Ireland should be better prepared in its own right to deliver a programme of Public Private Partnerships across government. This issue is considered in detail in the next section of this submission.

SECTOR SPECIFIC EXPERIENCE

6.14 Public Private Partnerships are an established form of procurement for projects in a wide range of sectors. In particular, Public Private Partnerships are an increasingly common form of procurement for infrastructure projects in the water and wastewater, roads, public transport and accommodation sectors. It is in these sectors that there is, as has already been noted, the need- and the opportunity- for a targeted and effective PPP programme in Northern Ireland.

6.15 A short description of the extent of use of Public Private Partnerships in each of these sectors is set out in the paragraphs that follow. It should be noted that the accommodation sector includes projects in education, health and social housing.

Water and sewerage

6.16 The global water industry is currently in a period of unprecedented change, driven by a growing demand for water for domestic, agricultural and industrial uses, and a requirement for substantial investment in new technologies and improved water infrastructure. A key feature of this change is the increasing involvement of the private sector in the provision of water supply and wastewater services.

6.17 Globally, the water services sector is still predominated by public sector provision. Currently, only 6% of the world's municipal water and wastewater systems are under private sector management. Involvement of the private sector is, however, increasing in many parts of the world as governments look to the private sector to introduce new technologies, skills and finance. For example, in England 100% of water supply systems are privately managed, in France 85%, in Spain 45% and in the United States 15%.

6.18 In Europe, the water and wastewater quality requirements arising from the European Union (EU) Drinking Water Directive and the Urban Wastewater Directive are acting as a catalyst for the liberalisation of the water industry. In order to meet the requirements of the Directives, many countries have to invest substantial amounts of capital in the development of new water supply and wastewater treatment facilities. The scale of these investments, combined with the need to introduce new technologies and skills, provide a significant incentive for countries to make use of private sector skills and finance to satisfy the requirements of the European Union.

6.19 The most common forms of Public Private Partnership that have been used in the water sector to date are Operating and Maintenance (O&M), DBO, DBFO and concession contracts. In addition, some governments or local authorities have in certain circumstances sold shareholdings in water service companies to the private sector.

6.20 Operating and Maintenance contracts are commonly used where there is not a requirement for significant capital expenditure, but there is a desire to introduce private sector management skills into the operation and maintenance of specific plants or service areas (e.g. in United States). The government retains ownership of the system assets and retains responsibility for financing all capital investment.

6.21 Design, build and operate and design, build, finance and operate contracts are used where the public sector wishes to retain overall control and ownership of its water systems, but where private sector skills are required to increase the capacity and improve the operational efficiency of core assets (e.g. in Scotland, Eastern Europe, United States and Australia).

Almond Valley Waste Water Treatment Works

In March 1999, the East of Scotland Water Authority awarded a £100 million Public Private Partnership contract to Stirling Water for thirty years. The objective of the project is to improve water quality in the River Almond, the Firth of Forth and the Esk Valley areas. The project provides an alternative to sewage sludge disposal at sea and will enable the achievement of the standards set by the European Commission. The project incorporates six different treatment works and the payment mechanism is based on flow measurement with payment bands related to price and volume.

6.22 Concession contracts are used where customers are charged for water and wastewater services, and where there is a desire to introduce private sector management skills into the management and operation of entire networks (e.g. in France, Spain and Portugal).

6.23 Initial indications from around the world suggest that the Public Private Partnership approach can generate significant cost savings. In the United States and Canada, Public Private Partnerships in the water sector are estimated to have generated cost savings of between 10% and 40% whilst in Scotland the average saving achieved on the Private Finance Initiative schemes is estimated to be over 20%. In Ireland, the experience of early Public Private Partnership projects such as Dublin Bay suggests that savings of around 25% to 30% are achievable.

6.24 Examples of projects that have been taken forward in Canada and the United States using a Public Private Partnership approach, are summarised in the following table.

Example Projects in Canada and the United States

Project	Contract	Contract Term	Average Savings	Other Highlights
Haldimand-Norfolk Waste Water Treatment Works	O&M	5 years	$1m per year (34% saving)	Worker relationships excellent. All staff received improved wage and benefit packages. Cost savings have been re-invested in water and wastewater infrastructure.
Edmonton Waste Water Treatment Works	O&M	8 years	$0.4m per year (18% saving)	Capital improvements ($5.5m) undertaken under separate contract. Plant consistently exceeds effluent quality standards.
Dartmouth Water Treatment Works	DBOF	20 years	17% on capex 10% on opex	New 91 Ml/d Water Treatment Works. Construction period of 18 months, 40% faster than the 30 month schedule expected by the contracting authority.
Moncton Water Treatment Works	DBOF	20 years	$0.6m per year (15% saving)	New 25 MDG Water Treatment Works. Transfer of design, build, operation, maintenance and performance risks.
Milwaukee Wastewater System	O&M	10 years	$14m per year (30% saving)	Sewage rates reduced by average of 15.5%. Employee grievances declined 33%. Training hours more than doubled. New bonus scheme introduced for employees. No layoffs during 10 year contract.
Indianapolis Wastewater System	O&M	10 years	$25m per year (40% saving)	98% reduction in employee grievances. Salary increases 6% higher than City counterparts. New bonus scheme for employees. Sewerage rates at 1985 level.
Buffalo Water Supply System	O&M	5 years	$4.4m per year (20% saving)	Secondment of 180 Water Board staff to private operator. No change to staff benefits or civil service status. Project won *Outstanding Achievement Award*. Water rates reduced by 8% instead of planned increase of 12%.

Roads

6.25 The Public Private Partnership approach is well established in the international roads sector and with it the idea that the user pays for access to good quality road networks. Countries that have completed Public Private Partnership transactions within the roads sector include Australia, Belgium, Canada, Finland, France, Holland, Iceland, Ireland, Portugal and Spain.

6.26 Private sector finance became an important element in road projects during the 1980's and its use was often underwritten by government guarantees. However, as markets have developed and the scope for risk transfer increases, it is becoming more usual to combine private finance with fixed subsidy to meet the overall financing requirement.

6.27 This approach is now commonplace and has been used to finance a significant number of toll roads and bridges around the world. Early examples include the second Tagus Bridge in Lisbon, the Queen Elizabeth Bridge in London, the N1 toll road in South Africa and the M2, M4 and M5 Tollways in Australia.

Australian Build, Own, Operate and Transfer Schemes

During the last decade in Australia, a number of major urban arterial roads have been constructed using Build, Own, Operate and Transfer (BOOT) arrangements. In Sydney, the projects include the Sydney Harbour Tunnel and the M2, M4 and M5 Tollways. The largest BOOT project in Australia is the City Link in Melbourne and the total capital value of these projects is around $3.5 billion.

Under the arrangements, private sector contractors have been awarded concessions to construct and operate roads for a defined period of time. Included in the contracts is the right to charge the users of the road a toll in order to recoup the costs of construction, maintenance and operation. At the end of the concession period the infrastructure assets are transferred to the public sector, typically at zero cost.

6.28 Research conducted by both the National Audit Office and the Construction Industry Council suggests that total cost savings of between 10% and 20% have been achieved on the highways projects procured under the Private Finance Initiative in the UK.

Public transport

6.29 The organisation of local and regional public transport in Europe and across the world is in a process of transition. A common feature of change is the growing use of competition to deliver productive efficiencies and improved levels of service. The forms of competition used are varied, but can be broadly classified into concession based systems and open entry or deregulated systems.

6.30 Other than in Great Britain and Portugal, where open entry or deregulated systems have been introduced, European countries that have introduced competition have adopted concession systems. In concession systems, transport authorities retain the power to define minimum service levels. The transport authority uses competitive tendering to select the most cost effective and efficient operator to deliver the required services.

6.31 The introduction of competition and the award of exclusive contracts have resulted in increased regulatory costs. However, the introduction of competition has also resulted in significant operating cost savings and increased service levels. The operating cost savings and increased service levels experienced in various parts of the world as a result of competitive tendering are summarised in the table below (adjusted for inflation). The results relate primarily to bus transport.

Impact of Competition on Operating Costs and Service Levels

Location	Sample Period	% Tendered	% change in service levels	% change in total costs	% change in unit cost per Km	Annual % change in unit cost
Auckland	1990-96	100	16.5	-21.2	-33.5	-7.6
Denver	1988-95	25	25.6	3.0	-18.0	-2.8
Indianapolis	1994-96	70	38.4	8.5	-25.9	-13.9
Copenhagen	1989-96	56	5.0	-18.5	-22.3	-3.5
Las Vegas	1993-94	100	243.0	135.0	-33.3	-33.3
London	1985-96	57	28.7	-30.0	-45.7	-5.4
San Diego	1979-96	37	46.6	2.7	-30.0	-2.1
Stockholm	1992-95	59	2.8	-18.5	-20.3	-7.3

Source: 5th International Conference on Competition and Ownership in Public Transport

6.32 Research conducted for the European Commission suggests that the introduction of competition can generate cost savings of 10% to 20% when only minimal restructuring of the industry is required. Savings of 35% or more can be achieved if significant restructuring is required and staff numbers or salaries can be reduced. The research also concludes that concession based systems are most effective in improving services and reducing costs simultaneously.

6.33 In addition, informal discussions with DGVII of the European Commission in 1999 and 2000 have confirmed that the Commission is preparing legislative proposals on the role of competition in public transport (and particularly bus transport).

6.34 The Commission's proposals are likely to require that all publicly run bus operations that have an exclusive right or are supported by government subsidy should be subjected to competitive tendering, resulting in the award of operating contracts with a finite length. The legislative proposals are expected to come into force in 2002/03, and could have a significant impact on the way in which bus services are delivered in Northern Ireland in future years.

6.35 To date, competitive tendering of public transport services has primarily focused on the bus industry. Nevertheless, concession models have been used for the delivery of rail services in a number of countries including Great Britain, Germany, Italy and Sweden.

6.36 The franchising of rail services in Great Britain has delivered benefits in terms of increased passenger demand, improved service reliability and punctuality and lower fare prices.

6.37 However, the fragmented industry structure and complex contractual agreements have resulted in high transaction costs, a minimalist approach to investment by Railtrack and the Train Operating Companies, increased safety concerns, and inflexibility in responding to changing market requirements. Experience in Great Britain therefore provides a number of useful lessons- and warnings- for the potential application of Public Private Partnerships in the provision of public transport services in Northern Ireland.

Accommodation

6.38 Throughout the UK, Public Private Partnerships have become a preferred method of providing new accommodation and related services for schools, colleges, hospitals, housing and government offices. Example projects include:

- ***Schools and Colleges*** – Colfox school in Dorset, the bundled schools projects in Falkirk and Glasgow, Drumglass and Balmoral High Schools, Wellington College, Kings College London, University College London, Belfast Institute of Further and Higher Education and the North West Institute of Further and Higher Education.
- ***Healthcare*** – Queen Elizabeth Hospital, Halifax General Hospital, Norfolk and Norwich Hospital, Richmond Community Hospital, East Ayrshire Community Hospital and Antrim Renal Dialysis Unit.
- ***Housing*** – social housing in Surrey and North East Derbyshire and married quarters housing for the MOD in Yeovilton, Cosford and Shawbury.
- ***Offices*** – project PRIME (management of DSS estate), Nottingham Health Authority Headquarters, Stretford Fire Station and Divisional HQ and Belfast Court Complex.

6.39 Research conducted by the Construction Industry Council suggests that total cost savings on accommodation related projects are typically in the region of 0% to 5%, although in some instances a slight increase in cost has been reported. The typical cost savings achieved by type of accommodation are summarised in the following table.

Reported Cost Savings by Type of Accommodation

Type of accommodation	**Typical saving in total cost**
Education	0% to 5%
Health	0% to 5%
Office accommodation	5% to 10%

Source: Construction Industry Council

6.40 Experience in the UK suggests that one of the primary reasons for accommodation related PFI projects achieving only marginal value for money is a lack of opportunity for private sector innovation. However, more recent experience suggests that the opportunities for cost savings on accommodation projects can be improved if projects (e.g. schools) are bundled to create larger deals with greater scope for economies of scale and proportionately lower bid costs.

Falkirk Schools

Falkirk County Council signed the first bundled schools contract in Great Britain in 1998 and the project consists of the provision of new accommodation and related services for five new secondary schools. A significant feature of the project was the fifteen month procurement timetable, which was achieved by using a full time project team involving both in-house staff and external consultants, and with substantial input from the Treasury Taskforce. The main sources of value for money were identified as being the competitive tendering process that resulted from the size of the bundled project, the economies of scale generated through the bundling process, and the cost-effective transfer of risk to the private sector contractor.

KEY FINDINGS

6.41 Public Private Partnerships are increasingly being used for the provision of public services across Europe and the rest of the world. International experience suggests that they can offer a long term, sustainable approach to improving infrastructure, enhancing the value derived from government assets and making better use of public money, whilst at the same time enabling the public sector to retain control of core areas of responsibility.

6.42 Public Private Partnerships are an established form of procurement for projects in a wide range of sectors including water and sewerage, roads, public transport and accommodation sectors. It is in these sectors that there is a requirement for major investment in Northern Ireland.

6.43 The costs savings achieved through the use of Public Private Partnerships in these sectors are typically between 10% and 40% on water and sewerage projects, 10% and 20% on roads projects, 10% to 30% on public transport projects and 0% to 5% on accommodation projects.

6.44 International experience would suggest that the ability of a Public Private Partnership programme to deliver best value for money is dependent on two key areas:

- the environment for Public Private Partnerships within government; and
- the specific characteristics of projects.

6.45 In terms of the environment for PPP within government, international experience suggests that the key factors that support the successful delivery of a Public Private Partnership programme across government are as follows:

Key Success Factors for PPP Programmes

Fast and efficient delivery of a PPP programme requires:

- Strong political commitment
- A Minister to champion and promote the PPP process within government
- A strong sustainable flow of Public Private Partnership projects coming to the market
- The establishment of a centralised support unit (usually within the Department of Finance), which:
  - has a cross-government mandate
  - is positioned where it will have greatest authority
  - draws on the experience and expertise of the public and private sectors
  - combines policy formulation and project support functions
  - establishes a consistent and co-ordinated approach to PPPs
  - develops policy guidance and standardised tender documentation
  - assists Departments to select, prioritise, scope and procure projects
  - recycles knowledge and experience within and between Departments

Ultimately, the aim should be to develop the skills and experience of Government Departments so that Public Private Partnerships become a standard approach to project delivery.

The role of the central unit is greatest in the initial stages of the PPP programme, and declines over time as policy and procedures are established within Government, and the capabilities of Departments to undertake PPP procurements are developed.

6.46 In terms of the specific characteristics of projects, international experience suggests that the key factors that support the successful delivery of a Public Private Partnership project are as follows:

Favourable Preconditions for Successful PPP Projects

A PPP project is more likely to be successful and deliver better value for money if:

- The project has clear boundaries and measurable output performance, so that there is clear differentiation between private sector responsibilities and remaining public sector accountability;
- There is scope for innovation in design which enables the service provider to design away risks and bring new ideas to the way the service is provided;
- The project has a substantial operating content, which encourages the private sector to adopt a whole life cost approach to design and operation;
- There is scope for the service provider to find alternative uses for the asset provided;
- Any surplus assets intrinsic to the project are included in the package;
- The risks transferred to the service provider are commercial in nature and controllable;
- The project involves significant capital expenditure. PPP contracts are complex long-term arrangements and there may be significant costs associated with the transaction itself. This tends to make PPP more suitable for larger value projects;
- There is credible private sector interest; and
- Public sector management is committed to a PPP solution and sensitivities are manageable.

VII. NORTHERN IRELAND EXPERIENCE TO DATE OF PPP

Introduction

7.1 The *Northern Ireland Preface to the Green Book* emphasises the importance of considering Public Private Partnerships as an alternative to traditional procurement methods. It indicates that Public Private Partnership solutions should be explored unless it is patently absurd or unrealistic to do so.

7.2 On this basis, the final section of our submission considers the extent of use of Public Private Partnerships (and particularly Private Finance Initiative contracts) to deliver capital projects in Northern Ireland. It also highlights the key issues that will need to be addressed if Public Private Partnerships are to form a cornerstone of public investment in Northern Ireland in future years.

Projects

7.3 It is our understanding that as at 31 March 2001, a total of twenty-three projects had been procured under the Private Finance Initiative in Northern Ireland. The total capital value of these projects is in excess of £140 million and the average capital value is in the region of £6 million. Summary details of these projects are presented in the following table.

Sponsoring Department	Project Title	Capital Value (£m)	Date of Contract Award
DE	Accruals Accounting Systems	3.5	Dec 1998
DE	Drumglass High School	5.0	Jun 1999
DE	St Genevieve's High School	7.0	Sep 2000
DE	Wellington College and Balmoral High School	9.0	Oct 2000
DFP	Land Registers Information Systems	4.0	Jul 1999
DHFETE	Training and Employment Agency Systems	6.5	May 1998
DHFETE	North West Institute of Further and Higher Education	7.0	Aug 1999
DHFETE	Belfast Institute of Further and Higher Education	19.8	Jul 2000
DHSSPS	Holywell Hospital Contract Energy Services	0.2	May 1996
DHSSPS	Belfast City Hospital Renal Dialysis Unit	3.3	Nov 1997
DHSSPS	Equipment Lease	12.5	Jan 1998
DHSSPS	Royal Group of Hospitals Theatre Equipment	1.8	Jan 1998
DHSSPS	Craigavon Hospital Contract Energy Services	0.5	Feb 1998
DHSSPS	Daisy Hill Hospital Renal Dialysis Unit	0.3	May 1998
DHSSPS	Clinical Waste Facility	3.5	Aug 1998
DHSSPS	Antrim Hospital Renal Dialysis Unit	2.2	Apr 1999

Sponsoring Department	Project Title	Capital Value (£m)	Date of Contract Award
DHSSPS	Laboratory Information Systems	1.0	Apr 1999
DOE	Planning Service Information Systems	0.6	Dec 1997
DOE	Driver and Vehicle Testing Agency Equipment	11.0	Mar 2001
DRD	Kinnegar Waste Water Treatment Works	11.0	Apr 1999
DRD	Water Service Hydroelectric Scheme	0.9	Jun 1999
HO	Belfast Crown Court Complex	27.0	Feb 1999
HO	Court Service Information Systems	5.0	Sep 1999
	Total	**142.6**	

Source: DFP PFI Project Database/PricewaterhouseCoopers

7.4 In addition, a small number of projects are currently being procured through the Private Finance Initiative and a summary of these projects is undernoted.

Sponsoring Department	Project Title	Capital Value (£m)	Date of OJEC Notice
DCAL	Electronic Information Services	2.9	Oct 1999
DHSSPS	Patient and Client Identifier System	2.9	Nov 1998
DHSSPS	Belfast City Hospital Oncology Centre	39.0	Jul 1999
DHSSPS	Altnagelvin Hospital Pathology Centre	10.0	May 2000
DHSSPS	Sperrin Lakeland Trust Ultrasound Equipment	0.6	Aug 2000
DRD	Antrim Bus Station and Library	3.0	Dec 1997

Source: DFP PFI Project Database/PricewaterhouseCoopers

7.5 To date, use of the Private Finance Initiative within Northern Ireland has focused primarily on projects in the health, education and information technology sectors. Taken together, these three sectors account for 65% of projects awarded by capital value and 80% of projects awarded by project number.

7.6 So far there has been very little use of the Private Finance Initiative in the water and sewerage, roads and public transport sectors. However, there is a need for substantial capital investment in these sectors, and international experience suggests that projects in these sectors are suited to the Public Private Partnership approach.

7.7 The experience of Private Finance Initiative projects procured to date in Northern Ireland has been mixed with some projects achieving marginal value for money benefits and other projects delivering more significant benefits. Brief descriptions of some of the successful projects are set out in case study format below.

Land Registers of Northern Ireland

In July 1999, the Land Registers of Northern Ireland (LRNI) signed a £51 million contract with BT Syntegra to transform the entire operation of the Agency by re-designing the registration process, initiating single-case handling, automating mundane functions and delivering electronic application and search facilities into solicitor offices over the internet. The programme includes digitising paper maps into a Geographical Information System, providing image retrieval and workflow processes, building computerised archive services and integrating the management of customer telephone calls, faxes and emails.

Because of its innovative approach, "LandWeb" is expected to increase LRNI's effectiveness by 300%, which will create the capacity for LRNI to complete the compulsory registration of all property in Northern Ireland within a 15 year period, twice as fast as the Government originally estimated.

The LandWeb project is financially free-standing as it is fully financed through fee income. Value for money is delivered in the form of a reduction in customer fees, maximised through a combination of a threefold increase in revenues and a significant reduction in operational transaction costs.

The success of the LandWeb project highlights the importance of allowing scope within the procurement for suppliers to bring forward innovative proposals that may not have been originally envisaged by government. The technical and commercial innovation of the project is highlighted by the project being named the IT Winner at the PFI 2000 Awards.

7.8 In addition, it is important to note that there have been two procurements in Northern Ireland under the Private Finance Initiative that have not reached contract award. The two projects concerned are Down Hospital and Classroom 2000. It is our understanding that in both of these projects the private sector bids received did not represent value for money or achieve the degree of risk transfer expected.

VII. BENCHMARKING OF NORTHERN IRELAND EXPERIENCE

8.1 The experience of the Private Finance Initiative in Northern Ireland between 1995 and 2001 can usefully be compared with experience in Scotland during the same period and with the proposed use of the Public Private Partnership approach in the Republic of Ireland in the period to 2006. In this way the experience in Northern Ireland can be benchmarked against comparable international precedent.

8.6 It is important to note that the pilot projects set out above are only the first chapter in the development of Public Private Partnerships in Ireland. A significant number of other projects have already been identified in the water and waste management sectors and it is expected that more projects will also emerge in the education and roads sectors in the next five years. This is likely to lead to the creation of a strong and sustainable deal flow, especially in the roads, water and education sectors.

8.7 It is currently estimated that an additional one hundred and twenty projects may be procured over the next five years as Public Private Partnerships in Ireland. The total capital value of these projects is likely to be in excess of £2.6 billion and an analysis of the projects by sector is set out in the following table. The most common forms of Public Private Partnership contract to emerge in Ireland are expected to be design, build and operate contracts, design, build, operate and finance contracts and concession contracts.

Sector	**Estimated Project Numbers**	**Capital Values Om**
Education	15	410
National Roads	10	1,260
Public Transport	-	-
Water Services	85	650
Waste Management	10	350
Total	120	2,670

Source: PricewaterhouseCoopers

8.8 By comparison with the experience of Public Private Partnerships in Scotland and the Republic of Ireland, the following observations can be made in relation to the use of the Public Private Partnership approach in Northern Ireland to date:

- ***Number of projects*** **-** the number of Public Private Partnership projects that have been procured to date in Northern Ireland is small in comparison to Scotland during the same period and in comparison to the level of activity proposed in the Republic of Ireland;
- ***Size of projects*** **-** the average capital value of Public Private Partnership projects procured to date in Northern Ireland is very small by comparison with Scotland and the Republic of Ireland (£6m compared with £34m and £60m respectively). In addition, over half of the projects procured within Northern Ireland have a capital value of less than £5 million whereas only a quarter of the projects procured in Scotland have a capital value of less than £5 million. Moreover, in the Republic of Ireland none of the Public Private Partnership projects have a capital value of less than £5 million;
- ***Deal flow*** **-** Scotland has maintained a consistent flow of projects under the Private Finance Initiative, with fifty-three projects awarded to date and a further seventeen in procurement. In Northern Ireland a consistent flow of projects has not been maintained, and with the exception of the education, health and information systems sectors the initial momentum or impetus for Public Private Partnerships has been lost. Most of the projects awarded in Northern Ireland entered procurement in 1996 or 1997 and since then only a limited number of new projects have emerged;
- ***Range of sectors*** **-** in Northern Ireland, use of the Private Finance Initiative has focused upon the education, health and information systems sectors. In Scotland and the Republic of Ireland, however, Public Private Partnerships are being progressed in a much wider range of sectors including water and sewerage, roads, public transport and waste management. In terms of the international development of Public Private Partnerships, it is more usual for the first projects undertaken to be in either the roads, water or transport sectors;
- ***Value for money*** **-** the cost savings achieved by Public Private Partnership projects procured to date in Northern Ireland have varied generally between 1% and 15%. This compares with the average saving of 17% reported by Arthur Andersen in their review of Public Private Partnership transactions for the Treasury Taskforce and an average saving of around 20% reported by the National Audit Office. The cost savings achieved in Northern Ireland to date are therefore lower on average than the savings reported in Great Britain, although the level of cost savings achieved in relation to accommodation type projects is more consistent with experience in Great Britain. The precise reasons for the lower cost savings achieved in Northern Ireland are difficult to determine but probably reflect a combination of factors including the

limited scale and scope of the Public Private Partnership projects undertaken to date and the more cautious approach taken by the public sector to the quantification and valuation of risk; and

- ***Procurement timescale*** **-** the length of time taken to procure Public Private Partnership projects within Northern Ireland has varied in general between fifteen and forty months. This is broadly consistent with the experience of Public Private Partnership procurements in Scotland over the same period. However, it is important to note that the *average* duration of Public Private Partnership procurements has been reducing in recent years, particularly as a result of the standardisation of contractual terms and the development of relevant expertise within the public and private sectors. As a result, it is now possible for most Public Private Partnership projects to be procured in a period of less than twenty months. In this context it is important to note that the pilot education projects being developed in the Republic of Ireland are expected to be procured in less than fifteen months.

IX. NORTHERN IRELAND: CURRENT POSITION STATEMENT

9.1 The previous section of this submission sets out a number of key success factors, which relate both to the environment for Public Private Partnerships in government and the specific characteristics of individual projects. A review of whether or not these success factors are present within Northern Ireland at this time gives rise to the following observations.

Political Leadership

9.2 Public Private Partnerships are a national policy initiative introduced and promoted through the Treasury. Support for the Public Private Partnership approach comes from most sections of the current political spectrum in Great Britain and it is interesting to note that both the Scottish Parliament and the National Assembly in Wales are committed to the further development of Public Private Partnerships.

9.3 However, it is apparent that there is a lack of ownership of the initiative within government in Northern Ireland and this has given rise to a lack of clear political commitment and direction in relation to the development of the Public Private Partnership approach locally.

9.4 As a result, there is a significant degree of misunderstanding and apprehension within government departments and agencies in relation to the use of the Public Private Partnership approach. This has manifested itself in the limited scale and scope of the projects undertaken in Northern Ireland to date.

9.5 If Public Private Partnerships are to form a cornerstone of public investment in Northern Ireland in future years, then there is a need for much stronger political commitment to the Public Private Partnership approach. This consultation process by the Committee for Finance and Personnel reinforces the need for a greater understanding and acceptance of the potential benefits and risks associated with Public Private Partnership within the Northern Ireland Assembly, government departments and agencies.

9.6 In addition, it is desirable to actively promote the use of Public Private Partnerships and thereby achieve a culture shift in relation to investment planning and decision-making at all levels of government.

9.7 International experience suggests that this change in approach must be driven from the top and may best be achieved by nominating a specific Minister to champion and promote the development of Public Private Partnerships within government.

9.8 The appropriate Minister should in turn be supported by a central Public Private Partnership Unit with a clear mandate to develop Public Private Partnership policy across central and local government. In addition, the central Unit should have a key role to play in assisting individual departments to select, prioritise, scope and procure specific projects, in implementing a consistent and co-ordinated approach to Public Private Partnerships across the public sector, and in delivering best value for the public purse.

Sponsor Commitment

9.9 There are significant differences of view between departments, agencies and public officials in relation to the relative merits of Public Private Partnerships when compared to more traditional procurement approaches. There are also significant differences in relation to the acceptance of Public Private Partnerships as a legitimate method of public procurement and the desire or willingness to consider Public Private Partnerships for the procurement of major infrastructure projects.

9.10 A key area of concern appears to be the ability of the private sector to operate and maintain an asset or facility and provide related services in a more cost effective and efficient way than the public sector. There is also a common misconception that the private sector will only be able to deliver cost savings by reducing staff and/or service levels, and that cost savings and performance improvements cannot be achieved through improved risk management, investment planning and service provision, whole life costing and performance incentivisation.

9.11 To date the commitment of project sponsors to consider and implement the Public Private Partnership approach has been undermined in many cases by:

- the extended project appraisal and procurement process that is required;
- the tendency to leave consideration of Public Private Partnership options until the very end of the project appraisal process, by which time the need for the project is so great that the additional time required to procure the project using a Public Private Partnership approach can be prejudicial to the achievement of best value for money;

- the absence of quick and effective decision making on the suitability of the Public Private Partnership approach to particular projects, resulting in a continuous and lengthy process of consultation and reappraisal, significant expenditure on consultancy fees and a decline in service standards (due to the absence of investment in the meantime);
- a desire to prove conclusively that the Public Private Partnership approach will deliver improved value for money before entering into a procurement process. This is an unrealistic expectation. The *Outline Business Case* can identify the potential for the Public Private Partnership approach to deliver improved value for money but this potential can only be proven through an actual procurement;
- a misconception of the current costs and standards of service provision. The mechanisms used by departments and agencies to identify and allocate costs do not always give a true reflection of the actual cost to the public purse of providing services. In addition, there is sometimes a tendency to require the private sector to deliver a higher quality of service than has traditionally been provided. These two issues can lead to comparators that are unrealistically low and difficult for the private sector to beat;
- a tendency to appraise capital investments on a single project basis or, for very large projects involving a number of different elements, to appraise project elements separately. This issue is exacerbated by the segmentation of government which encourages investment planning to be undertaken in departmental silos and limits the ability of central and local government to achieve economies of scale through the bundling of projects within or across sectors. This has resulted in the procurement of a large number of small projects which in turn undermines the suitability of the Public Private Partnership approach (due to the small size of the projects) and places a disproportionate resource burden on government; and
- the regular rotation or movement of key personnel within the Civil Service, which undermines the ability of departments and agencies to establish a consistent policy on the use of Public Private Partnerships and dissipates the hard earned expertise gained during project procurements.

9.12 Accordingly, there is a real need for government to establish mechanisms within departments and agencies to manage the issues set out above and to strengthen the commitment within the public sector to the Public Private Partnership approach.

9.13 International experience seems to suggest that this may be best achieved through the appointment of a *PPP Co-ordinator* within each department and this individual is typically responsible for promoting, advising and monitoring the development of the Public Private Partnership approach within the relevant department.

9.14 Ideally, each PPP Co-ordinator should report to the Minister responsible for Public Private Partnerships and the Minster responsible for the relevant department, and should carry sufficient authority to influence project appraisal and procurement decisions within the relevant department or agency. PPP Co-ordinators currently exist in a number of departments and agencies, but the strength of their role and the scope of their influence varies from one organisation to another.

9.15 In addition, the PPP Co-ordinator should be responsible for identifying specific Public Private Partnership opportunities within the relevant department and for bringing these projects through to a successful conclusion.

Project Selection and Prioritisation

9.16 There is a continuing need to improve the efficiency and effectiveness of public expenditure in Northern Ireland to ensure that best value for money is achieved in terms of the prioritisation of projects and the method of their delivery.

9.17 In terms of Public Private Partnerships, there has been considerable focus to date on the use of the Private Finance Initiative to deliver specific capital investment requirements. As a result, there has been a more limited focus on the potential for other forms of Public Private Partnership such as concession contracts and joint ventures to deliver cost savings and service benefits. There is therefore a need to convert the narrow Private Finance Initiative focus that exists within departments and agencies into a wider Public Private Partnership perspective.

9.18 The realisation of this objective is likely to require input from the Department of Finance and Personnel in terms of the development of new guidance on the selection, appraisal and procurement of projects for which other forms of Public Private Partnership may be suitable. It is also important for government to consider the potential to apply the Public Private Partnership approach to a number of other sectors such as social housing and waste management.

9.19 In addition, consideration should be given to the project appraisal process that is used to inform procurement decisions. In particular, whilst it is important for project appraisals to take cognisance of department policy and strategy, it is also essential that the scope of the appraisal and the recommendations made are based on a robust and independent analysis of all the available options.

9.20 More fundamentally, however, the ultimate success of Public Private Partnerships within Northern Ireland will depend on the creation of a sustainable deal flow of larger projects. The creation of such a deal flow will help to improve the value for money being delivered by Public Private Partnerships and will give government the opportunity to assess the benefits and risks associated with the approach on the basis of actual project experience. In the context of competing projects in Great Britain and the Republic of Ireland, it will also help to enhance and maintain the level of private sector interest in projects within Northern Ireland.

9.21 In order to help to ensure that an adequate deal flow is established and maintained, government should identify and commit to the delivery of a specific programme of Public Private Partnership projects each year. Targets should be set in relation to the delivery of this programme and progress monitored by the Minister responsible for Public Private Partnerships. In order to inject some momentum into the Public Private Partnership process government should also consider setting minimum size criteria for Public Private Partnership projects. In addition, government should ensure that the momentum developed to date in Northern Ireland is not lost during the period of the current review.

Skills and Guidance

9.22 To date, the use of Public Private Partnerships in Northern Ireland has focused on design, build, finance and operate projects in the health, education and information systems sectors. As a result, there is an inconsistent distribution of expertise and experience in relation to Public Private Partnership procurements across the public sector in Northern Ireland.

9.23 Ultimately, the aim of government should be to develop the commercial skills and experience of departments and agencies to enable them to procure projects using the optimum mix of in-house and external resource. In the short term, however, it is likely that there will be a need for significant support from the central PPP unit and from external advisors to expedite the procurement of projects and ensure best value for money is achieved. The level of support required by departments and agencies is likely to decline over time, as Public Private Partnerships become a more standard feature of project procurement and delivery.

9.24 In order to ensure that projects are developed and procured in an efficient manner, mechanisms must be established to ensure that the skills and experience gained by key personnel are retained and recycled within departments and not lost when staff move to other positions within the Civil Service. Equally, government may find it useful to undertake an analysis of the competencies needed to develop and procure Public Private Partnership projects and to compare the results of this analysis with existing skills profiles within the Civil Service.

Stakeholder Sensitivities

9.25 As described previously, even though Public Private Partnerships are covered by specific legislation to protect employee interests, there is often an understandable and adverse reaction from public sector staff and unions in relation to the transfer of their employment to a private sector company.

9.26 Stakeholder issues in general and employee issues in particular need to be carefully managed throughout the process of developing, procuring and implementing a Public Private Partnership. The process of stakeholder consultation should begin in the early phases of the lifecycle of a Public Private Partnership project and must in any case begin prior to the commencement of a procurement.

9.27 In particular, it is recommended that a stakeholder consultation strategy is developed as part of the *Outline Business Case* for each project and that this strategy addresses a range of matters including the identification of all stakeholder interests and the formulation of an agreed approach to stakeholder consultation. The preparation of such a strategy should help to maximise stakeholder support for the project and is in line with emerging best practice.

Procurement Management

9.28 As a result of the projects that have been procured to date in Northern Ireland, Great Britain and across the world, there is now a wealth of material and experience available to the public sector that can be used to improve the efficiency and effectiveness of Public Private Partnership procurements. This includes best practice examples of project scope and risk allocation, standardised tender documentation and well established tendering processes.

9.29 In addition, the market for Public Private Partnerships has developed significantly in recent years so that private sector bidders have a better understanding of the ways to achieve best value for money, including the structuring of consortia, innovation in design, whole life costing and improved risk management.

9.30 Consequently, the time taken to procure projects using a Public Private Partnership approach has declined significantly over recent years and it is now possible for most Public Private Partnership projects to be procured in a period of less than 20 months. Indeed, recent experience suggests that many projects for which standard documentation exists are now being procured within a period of 12 to 15 months from advertisement. The achievement of an efficient and effective procurement is nevertheless dependent on the quality and extent of preparatory work undertaken prior to taking the project to market.

X. RECOMMENDATIONS FOR ACTION BY GOVERNMENT

10.1 Based on international benchmarking, the direct experience of other regions in PPP procurement and the recent performance of PPP in Northern Ireland, we recommend that the Committee consider a number of options to encourage and promote the greater use of PPP in Northern Ireland.

Recommendations for Action by Government

Government should provide much stronger political commitment to the use of Public Private Partnerships in Northern Ireland by:

- Nominating a Minister to champion and promote the use of PPPs in Northern Ireland
- Identifying and committing to the delivery of a specific programme of Public Private Partnership projects each year in order to establish and maintain a flow of deals.
- Establishing a centralised PPP unit with cross-government mandate to:
  - Develop Public Private Partnership policy in Northern Ireland
  - Assist Departments to select, prioritise, scope and procure projects
  - Establish a consistent and co-ordinated approach to Public Private Partnerships
  - Recycle knowledge and experience within and between Departments

Government should develop greater understanding, acceptance and commitment within Departments and Agencies to the use of Public Private Partnerships by:

- Appointing a PPP Co-ordinator within every Department and Agency, who has the authority to influence project appraisal and procurement decisions
- Conducting an independent review of PPP opportunities within each organisation
- Establishing robust policy statements and guidelines on the use of PPPs within each Department and Agency

Government Departments and Agencies should consider a wider range of Public Private Partnerships instead of focusing on the Private Finance Initiative.

The Department of Finance and Personnel should provide guidance on the wider forms of Public Private Partnership and their potential use in Northern Ireland.

Government should develop the commercial skills and experience of Departments and Agencies to enable them to procure projects with minimum assistance.

Mechanisms should be established to ensure that the skills and experience gained by key personnel are retained and recycled within the NI Civil Service.

Government should consult and communicate with public sector staff and unions in relation to its future plans for the use of Public Private Partnerships.

Project teams should undertake all necessary preparatory work before commencing Public Private Partnership procurements. Procurement teams should make use of standardised documentation / processes, draw on the experience of other projects and appoint suitably experienced financial, legal and technical advisers to ensure that projects are procured in the most efficient and effective way possible

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
THE COMMITTEE FOR HIGHER AND FURTHER EDUCATION, TRAINING AND EMPLOYMENT

24 May 2001

1. INTRODUCTION

Following consideration of the Committee for Finance and Personnel's Terms of Reference for the Inquiry into Public/Private Partnerships, members are aware that this is to be focussed at a higher, strategic level. The Committee's submission is therefore framed around those areas which it suggests could be addressed in your Inquiry. Some members of the Committee noted that there are shortcomings associated with the initiative but that, given the shortage of funds, there may be little alternative to ensure that urgent capital build is carried out.

2. MINIMUM ECONOMIC SIZE

The Committee for Higher and Further Education, Training and Employment is aware that the private sector estimates that any contract drawn up under PPP needs to be to the value of at least £7 to £8 million to viable. The HFETE Committee questioned whether this then, discriminates against the many smaller businesses in Northern Ireland, in preventing them from bidding, and also whether the initiative is therefore less likely to be effective in Northern Ireland, given the smaller scale of projects here.

It would be beneficial if the Committee for Finance and Personnel could validate the minimum economic size for contracts as part of their Inquiry and whether this is likely to vary between projects and especially between different areas of the public sector.

Factors to remove/reduce the potential barriers to private sector involvement in small projects should be explored eg

- Is there potential to bundle projects across departments or for small businesses to make joint applications?
- Can the process be streamlined to reduce paperwork etc for smaller firms?
- Can assistance be given to local businesses (within the limits of the European Public Procurement Regulations) to ensure that the Northern Ireland economy benefits from local projects?

3. SPECIALIST UNIT

The Committee is aware that individual projects need to be managed from the outset, given criticisms of the time taken for economic appraisals and the tendering process at the set up stage. The PFI Unit within DFP implements and co-ordinates PFI policy in Northern Ireland advises departments and provides links to Treasury Taskforce publications.

- Is there a need for more information specifically focussed on PFI in Northern Ireland?
- Is the composition of the PFI Unit multi-disciplinary?
- Is there a mechanism to facilitate information exchange between departments, especially on best practice?
- Does the Unit evaluate existing projects and disseminate innovations?

4. KEY PRIORITIES

Has a cross cutting exercise between Northern Ireland departments been planned to centrally determine key priorities and earmark certain areas which are best suited for Public/Private Partnerships, as opposed to the current seemingly scattergun approach. Has any research been carried out on those projects already in existence in other countries, which have proven most effective?

5. PREVIOUS REPORTS

Have the findings of other initiatives or examinations into PPP/PFI projects been compiled, summarised and communicated in user friendly language to users and potential users?

6. OWNERSHIP OF ASSETS

Are there any problems regarding ownership of assets at the end of individual projects? What lessons have been learnt elsewhere that can be of benefit here?

7. VALUE FOR MONEY

What measures are in place to examine the cost effectiveness obtained from individual projects and to ensure that the public sector is not ultimately paying out more in the long term. The Training and Employment Agency may be able to provide some input to this area, having signed a PFI contract for IS/IT in May 1998. The focus of such measures should be on value for money, genuinely combining capital and service requirements. The Committee for Finance & Personnel may also wish to establish a view on the hidden costs involved eg internal staff and consultancy costs, and how this is factored into the overall cost effectiveness.

8. BENCHMARKS

Have any inter-country comparisons been carried out, and subsequent conclusions drawn, of investment per capita under this initiative. The latest National Development Plan for the Republic of Ireland (November 1999) contains a total PPP investment of IR £1.85 billion, and the total value of the PFI projects listed in the Scottish Executive's Project List now exceeds £2.5 billion. How does Northern Ireland sit alongside these benchmarks?

9. TARGETING SOCIAL NEED

How can PPP/PFI best target disadvantaged areas across a range of initiatives eg education, housing, health. There may also be a risk of an inequality of provision, especially in the Further Education sector, where some Colleges may not be able to afford the capital investment needed at the start of such initiatives, or the projects are not big enough for PPP/PFI.

The Committee for Higher and Further Education, Training and Employment looks forward to the outcome of the Committee for Finance and Personnel's Inquiry.

MR MERVYN CARRICK, MLA
Deputy Chairman,
Committee for Higher and Further Education,
Training and Employment

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
IRISH NATIONAL TEACHERS' ORGANISATION (INTO)

8 May 2001

Introduction

1. The Irish National Teachers' Organisations was established in 1868 to protect and enhance the rights of teachers and to ensure the best education system throughout the island of Ireland. With approximately 33,000 teacher members, INTO is the only all Ireland teachers union. In Northern Ireland there are 6,500 members in Nursery, Primary, Secondary and Grammar Schools in the Catholic Maintained, controlled, Voluntary, Integrated and Irish Medium sectors.

2. This response reflects the experiences of INTO as an organisation, which represents professional teachers on a broad and demanding range of matters reflecting professional and employment rights issues. We have also chosen to refer in our evidence to the broader experiences of the use of Private Finance Initiative or Private Public Partnerships in other areas of the public sector.

3. INTO in putting forward our views in relation to this consultation exercise do so as an organisation whose primary responsibilities are to the protection of the terms and conditions and professional development of teaching professional in the education sector in Northern Ireland.

What do you see as the benefits of PFI/PPP. Are there identifiable benefits to the public and stakeholders?

4. INTO have continuously campaigned and highlighted the significant under investment in the capital infrastructure of schools over the past 30 years. This Organisation recognises that reinvestment in the estate will of necessity involve the public sector. The benefits that will emanate from any major capital works relate to improved employment, a positive effect on local business and economy, increased revenues in relation to direct and indirect taxation and potential benefits from reduction in benefit to previous unemployed individuals. These benefits are unfortunately attributable to any capital scheme.

5. PFI/PPP projects will realise the completion of a capital scheme in a shorter time because of the ability to fund the works from sources other than public funds. INTO remain concerned that in developing PFI/PPP projects other benefits are mainly visible to those parties which whom the contract is held. We also remain concerned that because of the timescale of PFI/PPP projects the benefits visible at the outset do not meet expectation or need at the termination of the contract.

6. INTO would strongly argue that the issue of stakeholders must be clarified to include the rights of recognised teaching unions. This organisation is of the opinion that because the process is primarily financial in nature the need to involve trade unions is lessened or ignored. INTO believe that the development, implementation and monitoring of PFI/PPP projects must involve recognised stakeholders.

What do you see as the key factors for the successful application of PFI/PPP?

7. INTO feel that in taking forward any PFI/PPP scheme it is essential that:

8. The rights of trade unions to collectively and individually represent members are recognised and established in guidelines for the development, management and monitoring of any PFI/PPP projects.

9. The scheme does not alter or detrimentally affect the terms and conditions of employment of professional teachers.

10. That INTO is recognised as a partner/stakeholder in the entire process and is afforded meaningful consultation on an equal basis with that afforded to other parties involved in the process.

11. That the issue of Value for Money and determination of the Public Sector Compartator are transparent.

12. That issues relating to transfer of Risk are not detrimental to present or future employees.

13. That the right so of Trade Unions to recruit organise, bargain and represent members are not effected by any PFI/PPP project.

Are there any wider issues, limitations and constraints associated with the environment of PPP/PFI that have to be addressed? Are there gaps in the supplier market base? Are the skills and guidance available?

14. INTO are not aware of any risk or environmental impact assessments being a prerequisite in any PFI/PPP project. We remain concerned that in respect of the sell off of surplus land, the reliance for impact assessments is determined by the relevant planning authorities and legislation, and that the responsibility for including such assessments does not rest with those responsible for the PFI/PPP project.

15. INTO are also not aware of the development of any guidance in relation to PFI/PPP projects to ensure that they are compliant with the Statutory Duty for Public Sector employers set out in Schedule 9, Section 75 of the Northern Ireland Act (1998).

16. INTO are not aware of the gaps in the supplier market. However, we would call for the development of a Register of Interests for all those parties who are involved in the development, management operation and management of any PFI/PPP scheme.

How should the strategic importance and prioritisation of PFI/PPP projects and the interrelationship with other schemes be assessed and managed?

17. INTO view it essential that teacher unions are recognised and fully involved in the development, implementation and operation of the strategic capital development for education. It is therefore the opinion of this Organisation that we must be fully involved in all strategic processes that related to PFI/PPP projects.

Are there any particular social factors that should be assessed and managed and how have PPP/PFI schemes impacted on them?

18. INTO have previously referred to the requirements to fulfil the statutory duty requirements of the NI Act (1998). We also note that the process from beginning to end does not involve all the stakeholders. We have also referred to the fact that inputs from residents etc into environmental impacts can only be taken under planning legislation. The link between this and the project management team must therefore be addressed.

19. INTO would also wish to raise the issue of New TSN and would wish to ensure that in assessing the overall cost implications of any project, the necessity for TSNH is actively demonstrated and transparent to all concerned.

20. What alternative procurement options do you believe should be considered?

21. At present PFI/PPP procurement are based on sectoral projects. We are not aware of the impact of developing procurements involving two or more sectors of the NI Assembly departments.

22. INTO are concerned that the current evidence shows that PFI projects cost more in the long term. We are aware of the impact of public sector funding and the impact increased government funding and subsidy will have on the PSBR.

23. However we do call for a radical assessment of the funding arrangements for capital development in education and other sectors. We believe that if the public ownership of capital is to be maintained then it is essential that the processes for capital developments in the public sector (excluding PFI/PPP) projects are more efficient than those used for PFI/PPP projects.

How do you suggest that PPP/PFI should be taken forward in Northern Ireland?

24. INTO believe that PFI projects in Northern Ireland should be taken forward on the basis of fairness and equality. We also believe that it is essential that recognised trade unions are fully involved in the process, which will have an impact on their working lives.

What are the feasible alternative forms and structures of financing?

25. INTO would believe that the development of low cost loans or government bonds could assist in raising capital revenue for projects. We feel that efficiencies realised in the public sector should benefit the public sector by being focused into capital development and workforce programmes.

26. We do believe that in the costing of any project that savings in relations to salaries of staff should be excluded.

27. INTO would reserve our position in respect of other models of financing at this time. However we wish to comment on the feasibility of such models should they become available.

What do you see as the economic basis of PPP/PFI?

28. We have already indicated in this response that PFI/PPP procurements do generate benefits both for the local economy and for the Treasury in the shape of direct and indirect taxation. We are aware that the drive for PFI/PPP is based on the need to sustain the PSBR at a level compliant with the criteria for monetary union.

29. However we do view that the impact on potential legal costs from "Ultra Vires" and Transfer of Risk issues many significantly impact on the potential economic benefits.

30. INTO would believe that all the financial processes must be open and transparent. The issues surrounding "Commercial in Confidence" must be revisited to reflect this openness. We also believe that guidelines in relation to the costings of all consultants should be developed to ensure efficiency and effectiveness in the process.

31. Finally, we would reiterate that the human factor must be included and weighted equally before the decision to implement any PFI/PPP project is taken.

How can value in relation to capital investment and service improvement best be assessed?

32. INTO would wish to ensure that guidelines relating to the development of the Public Sector Comparator are reassessed to ensure that this process is open and transparent and reflects issues including interest charges and changes in government borrowing rates.

33. We would also wish to see government proposals in relation to the maximum percentage of the overall public sector budget that will be potentially placed for PPP/PFI projects.

34. Value must take account of the human dimension in respect of employees affected by the potential procurement. Value must not be assessed solely in monetary terms. INTO believe that efficiency saving to demonstrate cost neutral procurements should not include reference to the pay or terms and conditions of our members to realise such savings.

35. INTO would wish to see the development of guidelines to ensure that the transferred value of any capital asset to public ownership at the end of a PFI/PPP procurement should be in keeping with current property or other valuations. We also believe that such valuations should be based on at least two estimates by independent values not associated with the scheme.

36. Conclusion

37. In submitting this document, the Irish National Teachers Organisation does so as one of the major teachers unions in Northern Ireland. We have attached to this document a previous response in respect of PFI/PPP procurements. We would hope that favourable consideration would be given to the points raised in both documents.

38. INTO believe that at present the PFI/PPP process does not:

39. Actively include recognised teachers' unions at all stages in relation to PFI/PPP projects.

40. Adequately assess the issues of:
    - Transfer of Risk.
    - The development of the Public Sector Comparator.
    - Value for Money.

41. Detail how the Statutory Duty imposed on Public Sector Authorities will be taken implemented in respect of PFI/PPP projects.

42. Does not have a guideline for project managers on the consultation with recognised trade unions.

43. Does not demonstrate openness and transparency at all stages.

44. INTO would conclude that we hope this document and its attachments will assist this inquiry in producing guidelines for present any future major capital works that will reflect the needs of teaching professionals in Northern Ireland.

FRANK BUNTING
Northern Secretary

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
NATFHE

1. NATFHE represents some 2000 lecturers in further and higher education institutions in Northern Ireland. Two major PPP projects are under way in further education, at the Belfast Institute and the North West Institute. Two more are planned; at Omagh and East Tyrone colleges. Several other FE colleges are likely to look to PPP given the state of current accommodation and resources.

2. NATFHE has mixed views regarding PPP. On the one hand we are concerned that private consortia will be paid a substantial amount of state resources for private gain with no certainty that services will continue to be provided at a level of quality that the public deserves and that the price charged for the construction and maintenance of PPP projects will be more than if government had itself built a facility. The private sector is not embracing this concept unless there is profit in it for individual developers and their shareholders. On the other hand we recognise that government has difficulty in accumulating the vast sums of capital necessary to address the chronic decline in the fabric of educational provision particularly in the further education sector. Therefore to address those problems in an immediate way PPP seems to offer a strategy for progress.

3. PPP is government policy and is likely to remain a central plank in public sector funding for the foreseeable future. To rail against it in a negative way is in our view simply to avoid the issue. Our approach would be to seek to ensure that safeguards are included in PPP contracts so that the public and public services will not suffer a detriment during the life of the contract and that at the end of the partnership the buildings and assets revert to public control.

4. Of the PPP projects in further education we understand the principles to be as follows. The private consortia agrees to build the facility to standards specified by the partners at the outset. They will own the facility and be responsible for its maintenance. The services provided are agreed also as part of the contracting process. When built the Department of Higher and Further Education Training and Employment will pay towards the capital costs over the life of the contract whilst the college will pay the costs of utilities such as electricity, rates etc in the form of a rent. At the end of the PPP period (usually 25 years) the building is to be purchased for a nominal sum (in one case £1).

5. A concern in this approach would be the extent to which public sector funding has become committed over a considerable period of time. Secondly there are concerns that the owner of the facility may put the facility to use outside the times used by the college to purposes not in keeping with an educational ethos. A further concern relates to the vagaries of forecasting several years hence and attempting to construct contracts which realistically allow for increases in costs. Decisions are taken in appears to us as something of a leap of faith.

6. Crucial from the outset is the details of the contract between the partners. Outside the above substantial skill is required with regard to detail and negotiation. There is a danger in that approach for the engagement of "consultancies" to offer advice and guidance at considerable expense, all of which adds to the price the public ultimately has to pay for the project. There is an ethical issue surrounding the ability of today's decision makers binding the next generations of tax payers to decisions over which they have had no input or responsibility.

7. A further issue arises relating to the contract. These are commercially sensitive and are therefore not in the public domain. The public is not aware of the demands placed by the developer at the outset and the extent to which public sector owned land becomes the property of private developers. We understand in the case of Belfast that the Ormeau Campus occupying a considerable amount of prime city centre land will be handed over to private hands as part of the deal however it is not known if such is to happen also in respect of the Brunswick St. site which is situated right in the heart of Belfast. It is our view that those contracts should be available for public scrutiny from the outset so that the public may know precisely what is proposed.

8. Notwithstanding those concerns there are a number of projects already completed. This has resulted in new and enormously upgraded provision for students and the teachers who service them. It is hard not to welcome such improvements on the basis of concerns which may well prove to be unfounded. One can but hope that government has got it right however until PPP has been proven to be in the long term public it would be our preference for state funding where possible with PPP being applied in circumstances where there is no other short term alternative.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
NORTHERN IRELAND PUBLIC SERVICE ALLIANCE (NIPSA)

1. NIPSA is the trade union for 38,000 public servants in Northern Ireland. In the main our membership is in non-manual grades with virtually all administrative, professional, technical and scientific occupations catered for by NIPSA. The union covers the full range of public bodies including the NI Civil Service, the Education and Library Boards, the NI Housing Executive, District Councils and the Health and Personal Social Services and many other public bodies.

2. NIPSA welcomes the decision of the Committee for Finance and Personnel of the Northern Ireland Assembly to undertake a major inquiry into Public Private Partnerships (PPP), including the Private Finance Initiative (PFI). In preparing the NIPSA submission we have drawn not only on our experience of PPP but also the experience of our counterparts in Great Britain, where there is longer and more comprehensive experience than there has been in either Northern Ireland or the Republic of Ireland.

THE STATE OF PUBLIC FINANCES

3. In the Committee's letter of 16 March 2001 inviting views on PPP there is a reference to a pressing need for a very substantial further investment over the next 10 years in public services. This leads into one of the main arguments for PPP, namely that the state of public finances is such that they cannot bear the burden of the scale of investment that is necessary. NIPSA is not convinced that this is the case.

4. The fact is that net debt is well within the Government's objective of 40% of Gross Domestic Product (GDP). Indeed the Trade Union Congress (TUC) in London has estimated that the United Kingdom (UK) Government could spend an extra £31 billion on public services over the years 2001 to 2004 and still keep within the Government's financial framework. Another sign of the healthy state of the public finances is that the UK now meets the criteria for entry into the European Monetary Union.

5. Confirmation of the healthy state of public finances also comes from the fact that for the financial year 2000/01 the UK Government had allocated £7.4 billion for spending on public infrastructure, but it is estimated that only £3 billion has been spent. Furthermore the estimated surplus in the public finances for 2000/01 is £21 billion.

6. The facts set out in paragraphs 4 and 5 above show that even if the public finances some years ago gave some justification for the introduction of PFI, this is no longer a tenable argument. Obviously it raises the question of whether the regions of the UK, including Northern Ireland, are being given a fair opportunity to bid for the funds available for spending on public infrastructure. This is probably straying beyond the terms of reference of the Committee's inquiry.

7. The current state of public finance also reinforces the point that PPP cannot be a substitute for the publicly-funded programme for public infrastructure needed in Northern Ireland. The concern of trade unions is that PFI is seen as a substitute for public investment.

8. Relying on PFI to fund public investment could lead to distortion in the programme. There would be a danger that only projects attractive to the private sector would proceed. Priorities based on need could be overridden.

9. In the past one of the main arguments used to support PFI is that it avoids inflating the Public Sector Borrowing Requirement (PSBR), but it is increasingly accepted that the definition of the PSBR is outmoded and inhibiting development. The Government should adopt the European standard for measuring public sector borrowing, known as the General Government Financial Deficit (GGFD). Adoption of this standard would have a twofold benefit. First it would enhance the freedom to borrow for projects which would fall outside the GGFD. Secondly by reducing the amount identified as public sector borrowing it would give more headroom for projects that fall within the GGFD.

10. The Treasury's golden rule of public sector borrowing is that it should be used only for projects which have a clearly recognised investment potential. In the Committee's letter of 16 March 2001 the infrastructure areas

mentioned were water and sewerage, transport, education, health, public administration and telecommunications. It is NIPSA's view that projects in all of these areas met the Treasury golden rule.

11. Innovative ways of raising public funds are opened up by changes to the government accounting system. Public borrowing for investment is now calculated on an accruals basis. This gives the opportunity of spreading the cost over the lifetime of a project and thereby obviates the need for PFI. Another idea which deserves serious consideration is setting up companies limited by guarantee and without share capital. Such not-for-profit companies could issue bonds to raise funds or borrow from the European Investment Bank at advantageous interest rates. In other words borrowing to finance public sector projects should not be an obstacle to retaining work in the public sector.

VALUE FOR MONEY

12. One of the other principal reasons advanced for PPP is that it is better value for money. Because of the excessive secrecy which has surrounded PFI projects it is difficult to come to a definitive conclusion on this argument. For example NIPSA has been denied information on the detailed financing of the Electronic Libraries Project on grounds of it being *"commercial-in-confidence"*. There is therefore a need for much more openness in the whole process. In particular the *"commercial-in-confidence"* classification should be used only where there is genuine risk of harm.

13. While secrecy inhibits evaluation of the value for money argument, there are several pointers which do not appear to substantiate the case. Prime among these is the fact that public authorities can borrow more cheaply than the private sector. As interest charges can be a sizeable element in the costs of infrastructure projects, the costs of the private sector for this item will usually be higher.

14. PFI has the effect of transferring liabilities to future generations for the short term gain of the present generation. It stores up public spending pressures for the future as an increasing proportion of public funds is committed to paying off PFI debt. In addition to generating inflexibility in the future control of public finances, it may intensify the pressures on future generations to opt for PPP, because by then it may have brought about a deterioration in the public finances. Through lack of choice there could be no alternative to PPP.

15. Delays cost money. Because the Treasury insists that PPP must first be considered, projects are delayed even if they ultimately do not proceed under PPP. There are many examples in Britain, but there are also examples in Northern Ireland. These are as diverse as the *"Classroom 2000"* project for the Education and Library Boards, the Electronic Libraries Project and a sewerage treatment works in North Down. On the other hand a rapid and greatly expanded public house building programme was achieved in the 1970s using the in-house expertise of the NI Housing Executive rather than attempting to rely on the private sector.

16. PFI projects have a long lifetime of possibly 20 to 25 years. Consequently many PFI projects in the UK have not been completed. It is not therefore possible to make a final assessment of whether PFI in the UK provides better value for money. However it is instructive to look at France, where there is a longer tradition of what would now be termed PPP. In France the assumption that PPP is necessarily cheaper has become increasingly questioned as prices have increased over the period of contracts. Under some forms of contract there can be a lack of incentive to control costs. Among other things this means that more public resources and expertise has to be diverted into negotiations, the price mechanisms for contract, the penalty clauses and the enforcement clauses.

17. Another reason for questioning the value for money argument is there can be a lack of competition for public service contracts. Examples are the history of attempts to privatise the social security system, the Classroom 2000 and the Electronic Libraries Project referred to above. Once again it is interesting to note the French experience where just 2 private companies control 62% of the water distribution network. In this situation it seems almost inevitable that cartels will develop and prices will be inflated to the detriment of public funds.

18. The long length of PFI contracts also weakens the bargaining position of the public authorities. PFI can result in a loss of expertise from the public sector. So that even if it can be established that it is not providing value for money it can be difficult to bring the work back into the public sector. The loss of the expertise can also undermine the negotiating power of the public sector in seeking an alternative private sector provider. In the final analysis the contractor can walk away from the contract and while penalties may be imposed, there will still be an obligation on the public authority to make arrangements for continuity of service to the public.

19. Guidance from the National Audit Office suggests that in order to establish if PPP project is value for money there should be a public sector comparator. However in a number of cases, governments in the past have

engineered a situation so that there is no public sector provider or the latter has been unable to compete effectively because it has been under resourced and staff have not been properly trained.

20. The robustness of some value for money comparisons is questionable. In the case of the Dartford and Gravesend Hospital the original estimate of savings using PFI was 9%, but after errors were discovered the savings were reduced to 3%. Savings of this order may be within the margins of error of estimating. Thus any savings should be substantial before entering into a PFI commitment.

LEVEL PLAYING FIELD

21. The question of a public sector comparator also raises the question of a level playing field between the public and private sectors. NIPSA therefore welcomes the inclusion in the Committee's terms of reference for this inquiry of the requirement that any recommendations should conform to existing public rights and equality legal standards and policies. The public sector is subject to a number of equality laws and policies, covering pay and other terms of employment, in a way that the private sector is not. For example there is the statutory duty relating to equality of opportunity placed on all public authorities by section 75 of the Northern Ireland Act 1998. It would be unfair if such a duty were not placed on a PPP project simply because its provider was in the private sector rather than in the public sector. Such an evasion of this duty would be inconsistent with the aims of the Northern Ireland Act.

22. It is claimed that an essential element for a PFI project is that the risk must be transferred to the private sector. Trade unions have had difficulty sometimes in identifying the risk that has been transferred. In some cases the private sector has secured a long term contract at a price which is set at current day costs and takes no account of technological or other developments which may lead to a substantial reduction in costs. Deficiencies in drawing up specifications can also lead to exploitation by the PFI contractor. Indeed in 1995 the Finance Director of John Laing said:-

"There is no way the Treasury can achieve a full risk transfer to the private sector without increasing the price to a level that it would find unacceptable."

23. In some cases the transfer of assets, especially land, to the private sector has meant that the private sector far from shouldering the risk has made a killing. Claw back provisions on realising the development value have been included in PFI projects, but their effectiveness has been questionable. The difficulty over Balmoral High School in Belfast illustrates these problems.

24. The concept of a level playing field also raises the artificial restriction placed on public authorities engaging in commercial trading in services where they have expertise. Such restrictions have 2 disadvantages. First they limit the extent to which public sector organisations can contract to do work for other public authorities, below the price charged by the private sector. Secondly the public sector organisation does not have the capacity to benefit from economies of scale. There are welcome exceptions to the general rule, such as the Ministry of Defence establishments which are allowed to use spare capacity to undertake commercial or civil work and the Royal Mint which has been allowed to compete in international markets. These restrictions should be eased much more widely.

STAFF INTERESTS

25. One of the areas where the playing field has been levelled up is in relation to pensions. Government guidelines require PPI contracts to be conditional on staff being offered broadly comparable pension packages.

26. Coming from the perspective of a public sector trade union, NIPSA is obviously concerned about the compulsory transfer of staff to PFI contractors. More use should therefore be made of the alternative, offered by the Treasury, of limiting projects to design, build and finance only. This would limit the need to transfer staff and avoid the divisiveness created between front-line staff, such as teachers, and support staff, such as cleaners and secretaries. Quality public services are more likely to be delivered by staff who feel valued by their employer and are treated fairly.

27. A special difficulty that can arise for Northern Ireland is that the work can be transferred not only out of the public sector but out of Northern Ireland. Most at risk would be so-called ***"****back office****"*** functions which can be located anywhere in the world.

28. There is a view that the Transfer of Undertaking (Protection of Employment) (TUPE) Regulations facilitate the transfer of staff to PPP projects because their terms and conditions are protected. However this protection is only operative on the day of transfer and TUPE offers no protection if an employer wishes to worsen terms and conditions after transfer. The absence of the type of protection, which is available for some transfers within the public services, is a major reason why public servants are most apprehensive about PPP.

DEMOCRATIC CONTROL

29. It is the view of NIPSA that PFI provision lessens democratic control. Vital tools in the exercise of this control are lost, such as the in-house expertise of the public servants, who are organised to facilitate accountability. The lack of competition reduces the capacity of elected representatives to bring the contractor to book. This deficiency is recognised by the general public. In 1995 a Glasgow University survey found that the public strongly supports the principle of local services under democratic control. Similarly the British Attitude Survey 2000 showed that only 7% of council house tenants would prefer to be with a private landlord.

CONCLUSION

30. PPP cannot be the exclusive or principal method for financing the infrastructure of the public services. The improved state of public finances means that much public investment could be financed from current resources. Where this may not prove possible it would be better to ease the restrictions on public sector borrowing than enter contracts with the private sector of questionable economic benefit to the taxpayer and the ratepayer. While the principle of a level playing field is generally accepted, it is difficult to apply to PFI projects, particularly where the interests of staff are affected.

THE STATE OF PUBLIC FINANCES

(i) The improved state of UK public finances does not justify replying mainly on PPP for investment in public infrastructure.

(ii) The General Government Financial Deficit should be adopted in order to give a better opprotunity for borrowing by the public sector.

VALUE FOR MONEY

(iii) More openness of the whole process of PPP is needed to determine if it is value for money.

(iv) Public authorities can borrow more cheaply than the private sector.

(v) Insisting on consideration of PPP for all projects delays much needed projects.

(vi) Scarce public resources are diverted into consideration of PPP, preparing specifications, negotiating contracts and monitoring their performance.

(vii) There can be a lack of competition for public contracts.

(viii) A public sector comparator, properly resourced, is essential in order to measure value for money.

LEVEL PLAYING FIELD

(ix) The statutory duty relating to equality of opportunity (section 75 of the Northern Ireland Act 1998) must be placed on PPPs.

(x) The risks transferred to the private sector should be clearly identified.

(xi) Given the length of PFI projects it is essential that they contain robust claw-back and re-negotiation clauses to take account of unexpected developments over the contract period.

(xii) The restrictions on public authorities engaging in commercial trading should be eased.

(xiii) More use should be made of design, finance and build only.

(xiv) PPP can lead to the export of jobs from Northern Ireland.

(xv) TUPE does not provide sufficient protection for staff.

DEMOCRATIC CONTROL

(xvi) PPP can lead to a loss of democratic control.

COMMITTEE FOR FINANCE AND PERSONNEL
INQUIRY INTO THE USE OF PUBLIC PRIVATE PARTNERSHIPS

WRITTEN SUBMISSION BY:
UNISON NORTHERN IRELAND

27 March 2001

1. INTRODUCTION

UNISON is the largest public sector union in the UK. Our membership in Northern Ireland includes the health, education, Council, housing and community/voluntary sectors.

2. UNISON POLICY ON PPI/PPP

Our policy on PPP/PFI is as follows:

(a) Government expenditure

UNISON opposes PFI because it is an expensive and wasteful method of financing public investment that will damage public services now and for generations to come. UNISON believes the government should properly fund public investment and adopt the GGFD as a measure of public borrowing and thereby allow public authorities to borrow or invest.

(b) Affordability and costs

There is a growing body of evidence that PFI projects escalate both in scale and cost. This in turn leads to an affordability gap that is being met from other parts of the public sector and by reductions in services and capacity.

(c) Public sector comparators

The public sector comparator may not compare like with like. In order to test value for money, the costs of both the PSC and the PFI scheme will need to be broken down into their component parts.

(d) Exclusion of services

If PFI does continue then services should be excluded. This will at least reduce the resources devoted to PFI and allow employees to remain within the public sector.

(e) The impact on staff

Whilst there have been improvements to staff protection there are still major areas not covered by agreements: new staff; pensions; injury benefit in the NHS. UNISON remains concerned that the trend in PFI contracts has been to reduce pay and conditions and to cut jobs.

It should be noted that this policy has been developed through democratic processes with the full involvement of our region.

3. TERMS OF REFERENCE

We consider that your terms of reference have three fundamental omissions.

(a) As a matter of good practice, policy making in such a critical area should have a 'succeeding generations' perspective. This would enable you to address fully two critical issues;

- The extent to which PPP/PFI solutions create long-term rigidity in service delivery, and may fail to meet future needs that are only glimpsed darkly now.
- The effect of long-term debt financing linked to ongoing revenue payments in 'crowding out' future capital investment.

(b) You make no reference to the equality impacts linked to PFI/PPP policy, its effect on those using public services, public and contracted-out employees, and the process of procurement itself. Given the central role of the Section 75 Equality duty now plays in public policy-making, your findings must include an assessment of the extent to which PFI/PPP promotes or fails to promote equality across all the recognised dimensions.

(c) You recognise the existence of "customers". We would prefer "service users". Public services are not yet the equivalent of Tesco/Sainsbury.

You fail to give specific identity within the TOR to employees. It remains the case that the cost of capital to private sector providers is higher, and that 'transfer of risk' is often justified by so-called efficiencies in service delivery to compensate for this. This usually means that our members pay the price.

Your TOR therefore needs specifically to address impact on employees and measures for their protection.

4. REQUEST FOR INFORMATION - GENERAL

Your 'Request for Information' should

- Ask for disbenefits as well as benefits
- Seek definitions and criteria for genuine value for money
- Specifically seek a comparable assessment of the benefits/disbenefits of traditional Public Sector financing.
- Encourage views and discussion on the limitations of the UK PSBR model compared with European GGFD definitions of public spending, and the merits of alternative approaches such as bond financing, and the "investment trust" models developed by the SNP in Scotland.
- Encourage responses on employment, social and equality dimensions, currently absent from your framework.

5. REQUEST FOR INFORMATION ON SPECIFIC PROJECTS

Your "request for information on specific projects" should apply the questionnaire model to the following specific NI PFI/PPP projects:

- The Education Accruals Accounting project
- The Renal Unit at Belfast City Hospital
- The projects at Drumglass, Wellington, Balmoral and St Genevieves schools
- The NWIFHE project

Our experience of these would indicate major methodological flaws that put in question value for money, project management, and social outcomes.

Your should also be encouraging economic, social and equality assessment, not just on the above projects, but in all project specific responses.

6. KEY ISSUES

Our aspiration is that your work will have the following outcomes;

- a succeeding generations perspective
- an equality and social perspective
- an employee perspective
- Consideration of the need for pensions admissibility; this is not available in any part of the NI Public Sector, but has now been established for the English and Welsh local government sectors.
- recommendations son the removal of discriminatory legislation, eg the "non commercial considerations" section of the 1993 Education Order (which would frustrate any meaningful Section 75 assessment on PFI transactions in the Education sector).
- clear recommendations that all PFI transactions, if entered into, be subject to Section 75 assessment at each stage of the process.
- strong recommendations for the protection of existing and future employees involved in any PFI/PPP schemes.

- reinforcement of the Treasury position that risk transfer does not require the transfer of employees; that employee transfer or retention can be considered on a case by case basis; and endorsement of the principle that employees of in-house providers can provide services through exclusion, service level agreements or subcontracting models.
- that value for money be considered against meaningful Public Sector comparators that reflect whole life costs, reasonable interest rate assumptions, and do not put exaggerated value on speculative risk transfers.
- that responses to past underinvestment include demands on the UK Treasury for "reparations" through normal public sector financing models.
- that a model of the public sector in the circumstances of devolution include genuine enpowerment of service users and employees and that this not be frustrated by arbitrary PFI/PPP contracts which disempower these constituencies.

We look forward to meeting you.

UNISON

UNISON EVIDENCE TO THE IPPR COMMISSION
ON
PUBLIC PRIVATE PARTNERSHIPS

Section III: Public finances, value for money and contract design

Section VII: Cross-cutting issues

AUGUST 2000

1. INTRODUCTION

1.1 UNISON is the largest union in the UK and is also the largest union in education, local government and health and as such UNISON members are directly involved in the many PFI schemes and PPPs across these sectors. At the same time, UNISON's 1/3 million members are also consumers of public services. As a public service union UNISON has obligations, not just to the immediate, workplace interests of our members, which is our primary role, but also the wider, community interests in public services. UNISON takes a long-term view of public services and our interest in Public Private Partnerships is therefore based on both the need to represent our members' interests and from our deep concern for the provision of public services.

1.2 Whilst the Commission is interested in PPPs, much of UNISON's evidence focuses on the Private Finance Initiative (PFI) because in practice, PFI is the most prevalent form of PPP. The more the government streamlines and standardises PFI to facilitate its implementation, the more it becomes the only form of PPP that will be funded or is practicable for public authorities to pursue.

1.3 UNISON recognises the long tradition of partnership between the public and private sectors, however, partnership implies an equality relationship, and the current arrangements for PPPs are largely based on the fact that the public sector has to take on private partners in order to secure funding for investment.

1.4 UNISON has had serious concerns about PFI from its inception under the last government. These centre on the impact on our members in their places of work, but also the wider impact on public services and the public finances. UNISON has collected evidence and commissioned expert research on PFI, in order to support our case with evidence and clear argument.

1.5 UNISON would like to draw the commission's attention to the difficulties that we have in getting information on PPPs and PFI projects. The Bates review in 1997 recommended that

"A small dedicated library should be established in the Treasury in which all relevant PFI documentation should be housed"

but this has still to be developed. The government issued clear guidelines on access to information in 1998 but UNISON members and other stakeholders are often refused information, even after deals have been signed. In other cases information is released too late to influence the projects. Furthermore, guidance for local government is not as clear as for health and central government and we are concerned about the danger of greater secrecy and lack of public scrutiny arising from the Local Government Bill and the Freedom of Information Bill. It is essential to lift secrecy from this process, to open it to scrutiny and to involve the workforce.

1.6 UNISON's evidence is focused on the issues that reflect our priorities. We have organised our response under the main headings, to fit into your structure. The evidence addresses the following issues: Public finances and value for money and workforce issues. They are presented under the Commissions headings:

Section III: The Public Finances, value for money, and contract design

Section VII: Cross cutting issues

We trust that the information we provide and the experience of our members that it reflects will inform the findings of the commission.

2. THE PUBLIC FINANCES AND VALUE FOR MONEY

The public finances and PPPs (Questions 6-10)

2.1 UNISON has long argued that the public sector balance sheet was the main driver behind PFI, a scheme that was conceived by a government that had lost control of public borrowing. There is now a general acceptance that the arguments about PFI being a way of levering in private finance are no longer valid and that the government could comfortably pay for the entire PFI programme without breaching the fiscal rules it has set itself. This strengthens the grounds for using alternative forms of financing for public investment rather than PFI. The Commons Public Accounts Committee Report on a PFI hospital says,

"We look to the NHS Executive to continue to give proper consideration to the option of using public finance in all hospital projects."

2.2 It follows from this premise that public investment decisions should include the freedom to select the procurement route that will deliver the best value for money for that project. The Government is currently promoting a monoculture of PFI, a "one size fits all" approach to public investment. This risks a fossilisation of processes and approaches that will inhibit innovation and will inevitably produce sub-optimal decisions. If PFI or any other PPP is really the best way forward, let it be judged on its merits alongside direct public borrowing. UNISON believes that proper consideration should be given to using public finance in all investment decisions.

2.3 One way to encourage alternative approaches would be to adopt the General Government Financial Deficit and to allow public authorities more freedom to borrow directly for investment. By sticking to a narrow framework the government places the public sector at a great disadvantage. First, public enterprises are prevented from borrowing to invest and from developing the enterprise culture that the government values. Second, public authorities are prevented from taking advantage of the full range of cheap loans for investment available in Europe, such as from the European Investment Bank. The government has relaxed the rules in some cases, such as local authority owned airports and for the Channel Tunnel Rail Link and needs to extend this to a wider range of public bodies. The limitations placed on public enterprises and public authorities are restricting them from borrowing to invest in essential infrastructure, and to modernise services in the most effective way.

Value for money (VFM) (Questions 11-15, 17)

Public sector comparator

2.4 If PFI and PPPs are only to be used where they deliver Value for Money then it is crucial to look closer at what constitutes best VFM. Every scheme must show that it can provide better value for money by measuring it against a public sector comparator (PSC). The PSC is

"a reference point against which to compare PFI bids"

and it must include a measure of the risks that will be transferred to the private sector under the PFI but will remain in the public sector if the PFI does not go ahead.

2.5 The public sector comparator (PSC) should show the cost of a scheme if a public authority provided the service itself – a public sector alternative. However, the role of the PSC in PFI projects is different. Under PFI, the PSC is a hypothetical benchmark. It is a device for demonstrating the savings or value for money of the PFI option and it is constructed according to strict rules.

"The purpose of the PSC is to provide a benchmark against which to form a judgement on the value for money of PFI bids." [iv]

2.6 The construction of the PSC is a very subjective exercise and there is evidence [vi,ix] to suggest that the margin for error casts doubt on the value for money claimed. Peter Robinson [ii] says that because PFI is *"really the only game in town"* then *"the PSC is a more formality"*. UNISON would like to see a genuine public sector alternative, using public sector finance and public sector innovation considered alongside every proposal to use private sector finance.

Efficiency

2.7 The government states that PFI will provide value for money because the private sector is more efficient than the public sector. The case for private sector efficiency is not supported by any evidence but is merely asserted. UNISON does not accept the figures of efficiency given in the Andersen report and Appendix A includes a critique of that study undertaken by Professor Allyson Pollock, which UNISON endorses.

2.8 One element of performance is that projects should be built on time and to cost. As with other forms of procurement, PFI has examples of good practice and others that have seriously overrun. The fiasco at the Passport Agency and the National Insurance (NIRS2) are just two examples of time overruns. However, there is no reason that incentives couldn't be built into conventional procurement to ensure schedules are met. After all, the same companies that built schools and hospitals in the past, build schools and hospitals under PFI.

Innovation

2.8 It is often implied that only the private sector is capable of innovation and yet the public sector has always innovated and developed services. For example, the impact of day case surgery on the management of NHS hospitals demonstrates the ability of the public sector to adapt to and exploit changes in technology, so as to increase productivity and improve patient services. NHS Direct is another example and there are many more, some almost too commonplace to notice.

2.9 Under PFI, only the private sector is allowed to innovate. The public sector must specify what it wants and leave the private sector to suggest the best way to achieve this. The PSC *"is based on the recent and actual method of providing that defined output (including any reasonable and foreseeable efficiencies the public sector could make*". No leaps of imagination then, no ability to re-engineer services to take advantage of the investments of the PFI itself. Given these constraints, it is perhaps surprising that the PFI bid does not register more dramatic differences in VFM when compared with the disadvantaged PSC.

2.10 Treasury advice limits the extent to which services can be modernised for the PSC. However, the Pubic Accounts Committee criticised Dartford and Gravesham NHS Trust because the *"public sector comparator did not take into account the improvements in traditional procurement which are now being achieved as a result of lessons learned on previous projects. NHS trusts should not assume, when preparing comparators that their past performance will continue unchanged in the future, especially where the past performance has been particularly poor. We recommend that, instead, they should make reasonable assumptions about their ability to improve their future procurement performance."*

2.11 Public services abound with innovative and creative approaches to changing technologies, changing priorities and changing budgets, if only the trouble is taken to look for them. Public authorities are effective at managing change. Furthermore, the PFI process can itself inhibit innovation especially because the long contracts freeze services and facilities according to prevailing views and technologies at the time of commissioning.

Quality and Vest Value

2.12 According to the government's statement on PPPs is a "*fundamental role for government*"[v] when PPPs are introduced into public services is *"setting and monitoring safety, quality and performance standards for those services; and enforcing those standards, taking action if they are not delivered."* Quality is very difficult to assess and UNISON would like some assurance that the measures the government is introducing into public services will be applied rigorously to all service providers.

2.13 In the case of Best Value for local government, UNISON believes that there is clearly a potential for conflict with PFI contracts, which run for up to 35 years. In the future, local authorities are likely to find themselves subject to performance indicators which are more rigorous than those in force when PFI contracts were signed, or completely new types of indicators. It is far from clear how PFI contractors can be obliged to meet targets, which have not yet been set. There is therefore a risk that local authorities could find themselves in breach of a statutory duty as a result of a PFI contract. The issue is how PFI monopolies can be given incentives to continuously improve services over extended contract periods without the need to renegotiate the contract. If the private sector takes on the risk of having to meet tougher performance indicators, it will charge the local authorities for this. Due to these factors, UNISON believes that PFI and the duty of Best Value are incompatible.

2.14 There is no evidence to support the assertion that the private sector performs better, and experience from market testing and contracting out is that the contract culture introduces many complexities that hinder rather than promote quality. In addition, as long as there is an expectation that each round of contracting will achieve savings, then quality is bound to suffer. The very fact that the government is considering introducing a performance indicator for hospital cleanliness implies that this service not at the level it should be, despite having been subject to competition in the form of market testing since 1986. A recent parliamentary answer revealed that for the private contracts entered into by the NHS for the provision of goods or services since May 1997 there were 57 for which penalty clauses had been triggered for failure to perform to time or standard. Of these 57, 14 had been terminated, and penalties from a few hundred pounds to over £400,000 had been invoked, totalling £1.9 million. It should also be noted that for every contract where a penalty is invoked, there are others that are not monitored effectively.

Risk

2.15 The major VFM component of all PFI schemes is derived from the allocation of risk. The underlying assumption of PFI and PPPs is that risks will be allocated to the parties able to manage them at least costs. UNISON has reservations about the treatment of risk and it is our view that it not unusual, for example, for retained risks to be undervalued whilst transferred risks are overvalued. The Treasury Taskforce itself says *"estimating probabilities is not an exact science and inevitably assumptions – sometimes quite bold ones – have to be made."* The steady fall in the cost of capital charged by the financial markets for PFI schemes could be said to reflect the perception of the market that the private sector is, in fact, not taking on significant risks in PFI projects.

2.16 For many PFI projects, it is only the transferred risks that make the project value for money. AT the Cumberland Infirmary in Carlisle there was *"a tendency to attribute risks to the consortia which they have not in fact taken on under the contract"* and *"some £5m was added to the Net Present Cost of the PSC to pay for the risk of clinical savings targets not being met and a further £2.5 million was added for the risk of medical litigation. Neither risk was actually transferred under the PFI contract. By suggesting that they are transferred,. the Net Present Cost of the public sector option is inflated by £7.2 million."* Another danger is that the cost of a transferred risk may be exaggerated. So, referring to Carlisle again, the UNISON report showed that the hospital Trust greatly overestimated the costs of the construction risk. Taking this together with the risks that were not transferred, total risk adjustment was reduced by £11.5 million, leaving the Public Sector Comparator better Value for Money than the PFI option.

2.17 The calculation of risk can be sensitive to small variations in assumptions and, for example a 0.5% alteration in the discount rate for the Cumberland Infirmary reverses the outcome of the economic appraisal. This also indicates the desirability of considering a different discount rate to the 6% that the Treasury currently applies. The Audit Commission commented that *"the choice of discount rate for the net present value (NPV) is important …. because a relatively small difference in the discount rate used can mean the difference between a PSC being either above or below that of a PFI bid. The decision about the discount rate chosen should be justified by officers and scrutinised by members."* The Commons Public Accounts Committee, in reviewing the first DBFO roads schemes in 1997 recommended that a range of discount rates be used in future appraisals. In one schools PFI where UNISON has been involved, the officers felt that the outcome was so sensitive to altered assumptions, that they saw no point in pursuing a sensitivity analysis at all.

2.18 There are also issues about the assumptions underlying risk calculations, such as those for time and cost overruns and whether these are representative of the present or based on special circumstances in the past. For example, research published in the British Medical Journal showed that NHS PFI schemes *"have in most cases assumed that public sector projects overrun by 12.5% or more"* whereas "*the average increase in cost over approved tender sums for NHS capital projects has been between 6.3% and 8.4% in the 1990s."* At the IPPR seminar on workforce issues in July 2000 a senior representative of a private sector provider cast doubt on the PSC saying it could be "massaged either way".

2.19 Public services exist to support the social, economic and environmental well being of communities and are not like other commodities. They exist where a community decides that the market alone cannot provide a particular activity. The state then assumes some degree of responsibility for the service. This could be by funding the service or by regulating for its quality and delivery. In undertaking this, the state also assumes the ultimate responsibility for the risk of the service failing – a risk for which there can be no adequate financial compensation and a risk that cannot be transferred from government.

2.20 We have seen this already in service failures such as the Paddington train crash and the Passport Agency where regardless of who was delivering the service and on what terms, the private company involved has not taken the final responsibility for what went wrong. What is more, the penalties imposed are so small that it is hard to argue that risk has actually been transferred. In the Passport Agency the private company, Siemens Business Services (SBS), failed to provide a computer system that worked, leading to huge delays in processing passports, huge queues at passport offices and ultimately more expensive passports. The cost of this failure was £12.6m but SBS has paid just £2.45m of the costs. The cost of the risk has actually been passed to the public who will now have to pay an additional £7 for a passport. At Parc Prison near Bridgend in Wales, many of the operational risks have remained with the public sector. Penalties that can be levied from the company for non-compliance are limited to 5% of the annual contract price. The Commons Public Accounts Committee has severely criticised this arrangement.

2.21 Risk is a key element of PFI and UNISON would like to see more information on and evaluation of the risks in each project.

Risk and refinancing of PFI projects

2.22 The principal risks transferred to the private sector in PFI projects are those met during the construction phase, risks that disappear at an early stage of the project. Despite this, the risks are treated as if they were spread over the whole length of the contract and it is therefore very profitable for contractors to refinance projects. At Colfox School in Dorset, the contract, Jarvis, refinanced the remainder of the deal, making substantial savings, said to more than 44% of the cost of borrowing.

2.23 The National Audit Office report on Fazakerley prison revealed that Group 4 and Carillion had increased their expected profit from the Fazakerely prison contract by 75%. Refinancing produced £10.7 million for the companies, of which £1 million has been paid back to the prison service, to cover the fact that the structure of refinancing means the prisons service faces bigger liabilities were it to cancel the contract early - higher risk. The net result is that the rate of return for the initial shareholders has tripled – from 12.8% at the start to 39%. The Public Accounts Committee said this about Dartford and Gravesham hospital PFI: *"the refinancing of a deal is an important potential source of additional profit for the private sector …. We therefore expect NHS Trusts to reach a clearly agreed position on refinancing with their private sector partners when closing the deal."*

2.24 UNISON consider that these returns to the private sector are out of all proportion to the risk taken. UNISON is also extremely concerned by the advice on refinancing given by the Treasury Taskforce in their bible of PFI – Standardisation of PFI Contracts. The advice in this document clearly discourages authorities from expecting to share in any refinancing gains arguing that "the refinancing gain is already price into the bid to the benefit of the Authority". It goes on to warn authorities that "restricting the ability of Contractors to refinance will severely limit their ability to innovate at the bid stage". Given this advice, it is hardly surprising that parliamentary answers indicate that for 82 PFI projects with capital values of £9.7 billion, just 15 had a claw-back entitlement to share savings arising from refinancing. Furthermore, 12 of these were in just two departments, the Ministry of Defence and the Lord Chancellor's Department. UNISON hopes that the commission will offer critical comment on Treasury guidance on PFI since they set the terms on which PPPs are founded.

2.25 The value placed on the PFI proposal in comparison to a PSC rests largely on the value of transferred risk. But this estimation is not only subjective but is also sensitive to small changes in the underlying assumptions. Scrutiny of PFI projects reveals some rather crude exercises in risk allocation and also reveals that when projects fail, risks are ultimately underwritten by the public sector. These risks are one factor that uniquely define public services and that are not adequately taken account of in PFI deals, where it is often assumed that risks of failure can be transferred to a private service provider.

Squaring the circle

2.26 PFI projects cost more than conventionally procured assets. The main elements of the higher costs are the transaction costs of the procurement process itself, with the complex negotiations involving armies of advisers on both sides. Ad to this the costs of finance, the returns made by the consortia, and the escalation of the costs and scale of the schemes. The higher costs inevitably lead to an affordability gap for the procuring authority that is often met by reductions in services and capacity, subsidies from other parts of public authority budgets and pressures on labour costs.

2.27 Putting together a major PPP or a PFI project is costly and time consuming. PPPs are by definition complex and public authorities have committed enormous resources to projects and have spent large sums on advisers. The first fifteen hospital PFI schemes spent £45 million on advisers, varying from 2.8% to 8.7% of the capital cost of the project.

2.28 Whilst the cost of raising capital for PFI has reduced, it still costs several percentage points more for the private sector to borrow than for the public sector. Added to this are the returns that PFI consortia make for their shareholders. At one extreme is the 39% return for shareholders in Fazakerley prison. The Home Secretary has said that for the 14 PFI projects in his department *"the rate of rate of return varies between 12 per cent and 20 per cent*" even before Fazakerley's refinancing was known.

2.29 A common feature of PFI schemes is the way in which they escalate in both scale and cost. The North Durham Report shows that for 14 hospitals, the original costs escalated by an average 72%, from a total of

£766m to £1,314 million. The Birmingham Schools PFI started at £20 million for 8 schools in 1996 and by 1998 was £65m. The latest estimate is £70 million for 10 schools. These are not simple cases of costs going up for a project but reflect the very nature of PFI itself. Take Pimlico School, which needed £7 million of repairs or possibly a £12 million refurbishment. The distorting effect of PFI has been end up with a £25 million scheme that demolishes the existing school and redevelops 25% of the site for luxury flats. It would appear that PFI schemes escalate because the private sector does not want the riskier work of refurbishment, but would rather undertake a larger scale job of redevelopment. In the NHS, Trusts are currently spending around 8% of income on capital, however, where PFI schemes are in place, the proportion of income spent on capital rises to between 12 and 16%. Increasing proportions of scarce public finances are being spent on PFI.

Financing and extra costs

2.30 The increased costs of PFI are generally met from reductions in services and capacity, subsidies from the Treasury and other parts of public authority budgets. In a study for UNISON [xi], higher PFI costs were shown to lead to service contraction, and increased pressures on revenue budgets. On average, bed numbers in PFI hospitals will be reduced by 31% over the next 3 to 5 years, a fact that is difficult to reconcile with the recent bed crisis in the NHS. The new offices built for the Department of Social Security (DSS) in Newcastle cost £51 million more than remaining in their existing accommodation, while the DSS gave up a larger freehold estate that accommodated 11,946 people and the new offices were designed for just 10,700. The evidence suggests that decisions on capacity in PFI schemes reflect financial expediency rather than operational judgement.

2.31 The increased pressure on revenue budgets in turn puts pressure on staffing budgets. Hospital trusts, for example, have also cut back on staff in order to meet the cost of annual PFI payments. The Cumberland Infirmary scheme involves reduction in clinical staff costs of £2.6m, while at Durham budgets are being cut by £3m. The funding released by these cuts will be going directly to meet PFI financing costs.

Exclusion of services

2.32 The pressure on costs is also leading to public authorities including more services in PFI deals than Government rules require. Since June 1999 there has bee no requirement to include "soft" support services in PFI schemes. Services can, however, be included where it is 'value for money' to do so. The view of Newcastle City Council is not unusual*: "the more services are included, the more scope there is for the private sector to offer proposals that may offer better value for money than alternatives"*. And Newcastle City Council is at least honest enough to admit that they expect savings of 5% from the private sector from "purchasing, labour utilisation and labour rate savings". In other words, apart from savings in purchasing, the remaining savings will be made from jobs, pay and conditions. A House of Commons Public Accounts Committee investigation showed that the savings of 10% claimed for the first prisons PFI were due to the worse employment conditions and lower wages paid to prison officers in the private sector.

2.33 UNISON has undertaken research on the impact of PFI and other contracting on the workforce and this is discussed in more detail in the next section.

3. THE TRANSFER OF EMPLOYEES

Cross cutting issues – (Question 62-64)

Evidence of a Two-tier workforce

3.1 UNISON's primary concern is for the impact of PFI and PPP projects on staff. Pressure from higher PFI costs is leading to cuts in staffing in PFI hospitals but there is also a tendency to cut jobs and to reduce the salaries of staff taken over form the public sector. UNISON welcomes the statement of the Treasury Select Committee that they *"wish to guard against the development of two-tier employment status as between TUPE and newly-recruited non-TUPE employees"*. However, there is growing evidence that following many years of contracting out, a two-tier workforce is already well established.

3.2 The prison Service claimed that the costs of the first two prisons built under PFI, at Bridgend and Fazakerly, were 10% lower. A House of Commons Public Accounts Committee investigation showed that the savings were due to the lower wages paid to prison officers in the private sector. A security officer in a Securicor prison is paid £14,000 for a 44 hour week whilst an HMP prison officer is paid £20,000 for a 39 hour week. In this case, all the staff were new and none had transferred.

3.2 In the summer of 2000 UNISON conducted a survey of over 100 UNISON branches in local government in order to establish the extent of a two-tier workforce. If the research is concluded in time, UNISON intends to submit it as evidence to the Commission. The study concentrated on contracts let from 1999 onwards – relatively recently and the preliminary findings are:

- the two-tier workforce has led to multiple sets of terms and conditions amongst staff working alongside each other
- different rates of pay for the same work in over 80% of cases;
- a significant proportion (20%) of new employees worked a longer standard week
- multiple contracts inhibited career progression and mobility
- harmonisation was an option for transferred staff in all cases, but was rejected because it would result in a worsening of terms and conditions
- Pensions were a high value item for employees and a high cost item for contracts and public authorities:
- whilst 70% of those surveyed had a GAD approved pension scheme for transferred staff, there was no evidence that it applied to new employees
- where GAD approved schemes existed, some employers were placing obstacles in the way of staff joining eg lack of information, stringent time limited
- those employers who offered schemes to new employees only offered money purchase schemes, often with no employer contribution
- A UNISON survey of contractors in the NHS indicates that only one provided a defined benefit/final salary scheme for new employees – the company was Initial and the scheme was open only to employees earning £15,000 or more
- there is also an emerging trend of companies that operate in the high skills IT sector, where the labour market is tight, offering a significantly better benefits package, including pensions

3.3 Where PFI goes ahead, UNISON is working to secure proper transfer arrangements working in partnership with contractors, but in general, staff still suffer some detriment from transfer and our experience is that, given a choice most would prefer to stay in the public sector. Even where agreements have been reached UNISON has examples of attempts to get transferred staff to accept new, inferior contracts. Where TUPE protections exist, they may be limited to a period of time after which they employer may try to lower pay and conditions. Good quality public services require good quality employment practices.

Equality

3.4 Research undertaken by the Equal Opportunities Commission in 1995 established that women and part-timers suffered a disproportionate worsening of their pay and working conditions as a result of contracting out. Little has changed since then and women similarly predominate in the jobs being transferred to the private sector under PFI. UNISON is concerned that women will be the main casualties of the two-tier workforce. And as the first tier gradually disappears and only those on the private sector terms and conditions remain, there will e a whole class of women workers without access to occupational pensions and working on inferior rates and terms to their counterparts in the public sector.

Fair employment

3.5 UNISON would like to see some form of regulation to ensure fair employment for public service workers and to end the two-tier workforce. It is important to ensure that the "value for money" claimed for PPPs is not derived from cutting the jobs, pay and conditions of the staff providing public services.

APPENDIX A

PRIVATE PIE IN THE SKY, BY ALLYSON POLLOCK AND NEIL VICKERS

Growing doubts about the financial soundness of PFI are invariably met with one report's findings of cost-savings. But these don't stand up to close scrutiny, argue Allyson Pollock and Neil Vickers

Much of the controversy over the Private Finance Initiative (PFI), particularly in the NHS, has arisen because of the high costs, which then translate into major service reductions and distortions in planning and accountability. The government's standard response to these public concerns is that the increased costs of the PFI are offset by two things: private sector efficiencies which generate better value for money that the public sector alternative; and the transfer of risk from the public to the private sector. But does this really bear out in practice?

To date, these claims have rested on assertion rather than evidence. With the recent PFI project failures in new IT systems for the Passport Office and Benefits Agency and growing concerns about affordability and value for money in PFI projects for health and education, the Treasury case looks increasingly tenuous.

In making the case for PFI, the government has been relying heavily recently on a report commissioned from Arthur Andersen and Enterprise LSE, Value for Money Drivers in the Private Finance Initiative. Described as 'the first broadly based survey of operational PFI projects', it has been widely cited by ministers and others.

Most of the attention that the report has received relate to two key 'findings': first, that PFI is 17% cheaper than conventionally financed public projects; and, second, that 60% of these 'savings' derive from risk transfer. These findings have been presented as drawing a line under the debate on PFI and value for money. Given the political use that is being made of the report in the context of the public-private partnership proposals for the London Underground and the mayoral election for London, the analysis deserves closer scrutiny.

Both claims were made on the basis of an analysis of 29 PFI Full Business Cases (FBCs). Unfortunately, it is impossible to evaluate this analysis satisfactorily since no information is given on the relevant spending departments (eg the Department of the Environment, Transport and the Regions), the sectors involved (eg local authority or NHS), or even on the project types involved (eg building, IT). We made two formal requests to the Treasury Taskforce for information about the sampling methods used, the sectors from which the projects came and the identity of the FBCs. These were refused on the grounds that 'the report is intended to stand on its own'. We will now examine whether it does.

Turning first to the claim that PFI is 17% cheaper than conventionally financed public projects. It is important to note that Arthur Andersen is not saying that PFI reduced the cost of services by 17%: it is recording the fact that on average PFI was judged to be 17% cheaper than a notional public sector equivalent scheme, the Public Sector Comparator (PSC).

The economic appraisal methodology use din these comparisons contains at least two disputable components: discounting and the costing of risk transfer. For appraisal purposes, the net present cost of the PFI and the PSC are discounted at a fixed rate (usually 6% real) over a period of up to 60 years. The NPC of publicly financed projects tends to be high because, by accounting convention, capital expenditure is scored in the years in which it takes place, which tend to be the early years.

PFI payments, on the other hand, spread capital costs over a longer period, so that the application of a discount rate lowers its NPC by a greater amount. The higher the discount rate – and even the Treasury says that the 6% rate is 'the tope of the range' – the greater the potential advantage to PFI schemes. So PFI projects with considerably higher cash costs can still have lower NPCs than their Public Sector Comparators.

Furthermore, the 17% figure is questionable as it is an average calculated from all the business cases – the percentage differences between the net present cost of the PFI and the PSC were added up and the average worked out. When the individual projects are analysed, we find that more than half the total savings come from just one project – Project N (the Prime Project to transfer the estate of the Department of Social Security to the private sector). It and two other projects (S and Y) together account for 80% of the putative cost 'savings'.

When these projects are taken out, the average difference between PFI and PSC reduces to the considerably less impressive figure eof 6%. This margin is small enough to suggest that, for most projects in the report, value for money simply results from the frontloading of the PSC and the level of the discount rate.

The Public Accounts Committee, in reviewing the first Design-Build-Finance-Operate road schemes in 1997, recommended that a range of discount rates be used in future economic appraisals. It would be helpful if the government were to publish a comparison of NPCs using such a range. This would help establish the extent to which the value-for-money conclusions drawn in this study are dependent on the discount rate used.

The second main finding of the report – that risk transfer valuations accounted for 60% of forecast cost savings – is equally tendentious. As the report's authors point out, only 17 of the 29 projects examined included data on risk transfer: the 60% figure refers only to these cases. In the remaining cases, which collectively accounted for more than two-thirds of the NPC of all the projects examined, it was impossible to say what part, if any, of the savings were attributable for risk. As with the 17% 'savings', the amount of risk transferred was highly sensitive to a small number of projects. One project, project Y, on its own accounted for 80% of the savings ascribed to risk transfer. It is striking that this was the NIRS2 system for handling National Insurance accounts, supplied by Andersen Consulting.

The project is currently running three years late, and the extra cost to the taxpayer has been put at £53m, according to the National Audit Office, including £37m in compensation for wrong payments. Risk transfer is estimated in the report at £8.7m. Andersen Consulting has paid £4.1m in compensation – for late delivery – but no further payment will be sought. This project has been the subject of criticism in two reports by the Public Accounts Committee. The moral of this tale is that value-for-money analysis is ex ante: savings identified may not be realised in practice.

It is impossible to say whether the Passport Agency's IT system, procured under PFI from Siemens Business Services (SBS), was also included in the study (all projects are anonymous but many can be identified from government reports). The cost of that debacle was £12.6m. But SBS has agreed to pay just £2.45m of the costs. The real bearers of the risk in this case have been the public: the cost of overhauling the Passport Agency following last summer's chaos has resulted in the price of an adult passport being increased by £7. (The Immigration and Nationality Directorate IT Scheme, provided by the same company, is currently running two years behind schedule.)

The reported 'savings' for all 19 projects was £1062.5m – but only £214.5m (20%) of this could safely be attributed to risk transfer, and even that amount was heavily dependent on a small number of projects. The only individual risk identified was construction cost overrun: it accounted for less than 1% of the total savings. In other words, the source for 80% of cost savings could not be identified. These figures are useful indications of how little is actually known about the putative cost savings in the projects under review. They certainly do not support the opinion of project managers surveyed for the report that the main savings were in the risk transferred.

If we step back from the report's spin, a number of basic facts stand out. First, the study does not substantiate the central claim that PFI shows 17% savings on conventionally financed projects. Secondly, FBCs seem to be a poor source of information about value-for-money drivers. Finally, in view of the absence of key data about the sample, the findings are not generalisable to other PFI projects.

It is remarkable that, after eight years of PFI procurement, the Arthur Andersen report appears to be the most the government can offer in response to widespread concerns about the initiative. In the real world beyond business cases, it is far from clear that PFI has passed the value-for-money test. It is time the evidence base for the policy was subjected to thorough independent evaluation.

Allyson M Pollock is professor and Neil Vickers is research fellow at the health policy and health services research unit, School of Public Policy, University College London
Source = Public Finance, Date = 14th April 2000

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