

PRIVATE FINANCE INITIATIVE & PUBLIC PRIVATE PARTNERSHIPS

What is the Private Finance Initiative?

The Government is promoting the Private Finance Initiative (PFI) and Public Private Partnerships (PPPs), using private finance to improve Northern Ireland's infrastructure while maintaining current levels of public borrowing. The Government also claims to be providing levels of funding higher than would be available through increased public borrowing. PFI/PPP also claims to introduce private sector management, innovation and commercial skills for the provision of buildings and/or services to the public sector.

PFI and PPPs have operated in other parts of the public sector in Britain for some years, notably in transport and health. The delay in the up-grading of Translinks' trains is due to difficulties in PFI procurement. The Department of Education (DE) is introducing PFI and PPPs in education as a means of undertaking projects to improve or replace school buildings and/or ancillary services, as an alternative to conventional forms of funding.

PFI and PPPs provide services and/or buildings to schools purchased by the Employing Authority/Board of Governors through a long-term contract with the private provider. This could involve activities such as heating, catering, maintenance etc and new school buildings. The ICT Managed Service proposed for ICT provision in Northern Ireland is a Private Finance Initiative. This process may also introduce third-party use of school premises outside teaching hours and during holiday periods.

The terms PFI and PPP are commonly used interchangeably to refer to any aspect of private involvement in provision of public sector buildings or services. Strictly speaking, Public Private Partnerships are any projects where the public and private sectors are working together in a partnership. The term Private Finance Initiative is usually used to refer to a particular type of PPP, the Design, Build, Finance and Operation (DBFO), of new premises by the private contractor.

Types of PFI Project

There are currently three main types of PFI in operation:

- * Financially free-standing projects, where the private sector designs, builds, finances, operates and manages an asset, recovering costs through direct charges to end users. An example of a financially free-standing project is the Skye Bridge in Scotland which is financed by tolls received from users who cross it. There are no examples of financially free-standing projects in the Education sector to date.
- * Joint ventures, where the costs of the project are met through the end user but are subsidised by the public sector. The public sector and private sector organisations form a Joint Venture Company, but operational control rests with the private sector.

* Services sold to the public sector, the type of PFI most applicable to the education sector where the private sector is responsible for financing and provision of services usually via a long contract of 20-30 years. The most common example is the DBFO scheme. The private sector company or consortia builds accommodation and the Board of Governors/Employing Authority/Board pays for it in the form of annual fees. With DBFO, the private company is usually also responsible for maintenance and repairs to accommodation. Under DBFO, failure to meet standards specified in a contract will lead to the employing authority reducing the fees paid to a contractor. Other services sold to education and library boards/employing authorities include catering, sports facilities, ground maintenance and ICT.

Why Private Finance?

The broad objectives of PFI are, according to the Government, primarily the transfer of risk and increased value for money.

Transfer of Risk

According to the Government a PFI project should only be pursued where a considerable amount of risk is transferred from the public sector to the private sector.

For example, building a new school using PFI under the Department of Education's Pathfinder Process e.g. St Genevieve's High School, Belfast or Wellington College, Belfast will usually involve the employing authority purchasing accommodation as a service over a long period, rather than purchasing the accommodation as an asset outright. The risks involved in building and operating a school would include meeting design and construction deadlines; maintaining standards of energy; lighting; and heating, at a set cost over a period.

PFI is intended to transfer the risks of failing to meet these deadlines from the public to the private sector. Failure to meet the standards should be reflected in the fees paid to the contractor being reduced. Under present Treasury guidance, if such transfer of risk is not present in a scheme then PFI should not be pursued.

However, in the education sector the responsibility of estimation of accommodation required, determined by pupil numbers, remains with the employing authority. Consequently it is the employing authority or the education and library board, and not the contractor, who will bear the risk of failing to correctly estimate pupil numbers and therefore the accommodation required, if the school is built under the PFI.

Value for Money

Equally, according to the Treasury, PFI projects should only be pursued where they are likely to deliver better value for money than alternative methods of procurement. In the education sector this is measured by means of the project's Public Sector Comparator, which is the assessment of the cost of a project if it were to be completed by the public sector alone, without any private sector contribution. PFI should only be pursued if it represents better value for money with such a comparison.

The Government expects value for money to be achieved in the private sector by better innovation and more efficient management practice than is available in the public sector. The Government argues that the private sector is best placed and experienced to deliver specified quality at the minimum cost to the public purse. There has been no evaluation to

date of the Pathfinder projects in the education sector in Northern Ireland and there are considerable doubts whether experience of PFI in areas such as Health and Translink are, to any degree, satisfactory. Similarly, any savings which make a project deliver in terms of value for money could be because of cuts in jobs and/or service levels, or by a sale of property assets.

An additional argument suggesting PFI as a means of improving the country's infrastructure is an alternative to traditional public funding, to keep the country's Public Sector Borrowing Requirement (PSBR) low. Purchase of services/ accommodation from private sector over a long period effectively shifts the cost of the asset from the Government's balance sheet onto the Education and Library Board's revenue support account. The result is a lower PSBR but an increase in Education and Library Board grant support.

How PFI Works

Application is made to the Department of Education for permission to use private finance. The Department then assesses each project for value for money and transfer of risk. The Department of Finance agrees an annual level of funding with each government department.

Once a project has DE approval, detailed contract negotiation is entered into before a successful bid to run the project is accepted. Both sides (the private consortium and the employing authority) are thus aware of the standards expected during the contract. This presupposes the conclusion of the DE Pathfinder process.

A key part of such negotiation is the establishment of the minimum service standards in respect of initial building work and/or refurbishment, and the ancillary services to be provided throughout the lifetime of the scheme. Minimum standards are agreed upon and set out in the contract. At least 20% of the total contract value must be related to the standard of service provided. This allows fees paid under PFI to be variable, depending on the level of service received.

If these standards are not met then penalties will be triggered which could eventually warrant termination of a contract. The employing authority will continue to be legally responsible, as employer, for health and safety issues in schools. It will therefore have an ongoing responsibility to monitor health and safety arrangements under the PFI contract, ensuring that standards are maintained.

Role of Board of Governors

Boards of Governors must be committed to PFI projects because of the impact on their delegated budgets. Provision of services by the private sector via a PFI scheme will be reflected in a revised delegated budget for the length of the contract period.

Commitment of the amount to be taken from the delegated budget for services provided to the school will be required for the lifetime of the contract. Advice in Britain is that a formal agreement of the amount to be taken from the delegated budget should be concluded between the Education and Library Board/Employing Authority and the school Board of Governors before the contract begins. The Board of Governors may be required to sign a sub contract with the ELB to legally confirm its involvement and commitment. Once the Board of Governors has entered into a PFI agreement and signed a contract, all future members of the Board of Governors will be bound by it, for the duration of that agreement.

INTO Policy Towards PFI/PPP

The position of INTO remains the allocation of Government funds for the proper capital funding of school and education projects. INTO is opposed to any PFI/PPP project which would be based on cutting jobs/terms and conditions of employment. INTO has called for a thorough evaluation of the Pathfinder School Projects and campaigns to ensure that all PFI projects replicate and improve on best practice.

In addition, INTO is totally opposed to any PFI/PPP that could lead to the functions of teachers being transferred from the public to the private sector.

INTO Districts and School Representatives should scrutinise the issue of cost effectiveness of PFI. Guidance from DfEE in Britain requires the use of a Public Sector Comparator to establish that PFI is the most cost-effective means of delivering the objectives set by the LEA. Recent Treasury guidelines call for such comparators to be made available for public and trade union inspection. Once a contract has been awarded such comparators should be used for PFI/PPP projects that are in the planning stage.

Where PFI projects do proceed, INTO representatives should ensure that full consultation takes place from the earliest stage of PFI procurement. Consultation should take place with the representatives of teaching staff as well as support staff throughout the process and cover all areas of the proposed project given the possibility that it could include teaching accommodation, functions and resources.

INTO Representatives are entitled to full rights to consultation during all the stages of any PFI. Originally, the Treasury Task Force for PFI acknowledged that a PFI procurement is likely to attract the interest of many different groups affected by the project, including staff and trade unions, in addition to the bidders and advisors. It is desirable to be as open as possible with all interested parties throughout the procurement process.

Further to this, in October 1998, the Treasury Taskforce called for more openness in the PFI process and greater negotiations with trade unions. The Paymaster General stated that, the quality of services that PFI projects deliver depends on the skill and commitment of its staff. Openness between bidders, trade unions and staff is an essential part of any well-run procurement process.

INTO Checklist

- INTO must seek to ensure that terms and conditions of any PFI schools project are reasonable and that provision of education is protected.
- The project should not involve the transfer of functions currently performed by teaching staff to a private sector company or consortium.
- The scheme should not lead to a reduction in jobs or erosion of terms and conditions.
- Representatives of interested parties and recognised trade unions should contribute to the process by providing any information about the previous employment record of a potential private partner, especially regarding labour relations and conditions of service.
- Proposed contracts should specify appropriate minimum standards of service for the ancillary services and school buildings included.
- Contracts should also specify appropriate minimum standards for penalty or termination clauses.

- The contracts should state clearly how levels of service are to be monitored, and that an agreeable mechanism for resolving disputes is in place.
- Present school assets or facilities (such as playing fields or other land) should not be sold as part of a proposed PFI scheme, thereby making a project more attractive to the private sector.
- Initial contractual payments should be reasonable and the contract should not permit excessive increase in future years.
- The contract should provide clearly what will happen if the consortium could break up during the contract.
- The PFI project should not undermine the viability of existing ELB services (such as catering provided to other schools) by removing a major existing customer and thereby threatening the overall financial stability of the service as a whole.
- Contractual provisions for any dual use of school premises or services should not reduce the educational opportunities of pupils by restricting the school's rights to extend its use of these facilities.
- Internal changes in schools should be at the discretion of the school, without permission of the contractor.

INTO School Representatives should contact Northern Office regarding the details of any proposed or approved PFI/PPP projects in Northern Ireland.

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