

## Health & Social Services Committee HSS-08-01(p.3)

**Date:** 16 May 2001

**Venue:** Committee Room 3, National Assembly for Wales

**Title:** Consultation paper on Public Private Partnerships and the Private Finance Initiative (PPP/PFI) in Wales

### **Purpose**

1. On 5 December 2000, the Minister for Finance Local Government and Communities made a statement to the Assembly on the responses received to the PPP/PFI consultation ('the Consultation').
2. The Minister has requested the assistance of the Health and Social Services committee and the Local Government and Housing committee before considering how to develop those initial responses with the Assembly's partners.
3. A copy of the initial Consultation is attached as **Annex A**. A copy of the plenary narrative is attached as **Annex B**.
4. The main business for the Committee, is to offer views on the:
  - i) issuing of comprehensive guidance to the Health sector in Wales in respect of PPP/PFI procurement
  - ii.) formalisation of specific guidance in respect of the transfer of 'soft' facilities management staff to the private sector
  - iii.) potential opportunities for extending 'PFI Credit' arrangements to the Health sector (especially those projects of strategic importance)
  - iv) establishment of principles for the promotion of cross-sector and cross-boundary co-operation

**Jane Hutt**

**Assembly Minister**

## **Contact Points**

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Annex A

# **CONSULTATION PAPER ON PUBLIC PRIVATE PARTNERSHIPS AND THE PRIVATE FINANCE INITIATIVE (PPP/PFI) IN WALES**

The purpose of this paper is to seek the views of interested parties on how the Assembly can best use PPP/PFI to help meet its priorities. Listed below are the areas where we would particularly welcome your views.

## **1. How can the Assembly ensure that PPP/PFI projects across the public sector in Wales are undertaken within a strategic framework that supports the Assembly's priorities?**

The Assembly has inherited a situation whereby most PPP/PFI projects originate in local authorities or NHS Trusts which then, in the majority of cases, seek support for them from the Assembly. The problem with this is that need should be measured against a wider backdrop than that of an individual administrative unit, so that the overall needs and priorities of Wales as a whole are considered. The Assembly therefore wishes to move towards a focused strategic approach over expenditure on all significant PPP/PFI projects.

## **2. Within the context of a strategic framework approach, how can the Assembly best encourage "cross-boundary" co-operation?**

There are some early signs that some public sector bodies (for example, local authorities working

together on PFI schools and waste management projects) are looking beyond their administrative boundaries to co-operate on PPP/PFI projects. This is an approach that the Assembly wishes to encourage.

**3. Should the Assembly continue bidding rounds for PFI credit support for local government projects? Should the idea of bidding rounds be extended to the health sector?**

In the local government sector there have, to date, been two bidding rounds for PFI credit support. This control of support provides the Assembly with the flexibility to direct resources towards projects which best address its priorities, such as those in the education sector. Were there to be future bidding rounds the Assembly could promote its priorities via this mechanism.

Indeed, should such a mechanism be extended to the health sector?

**4. How could PPP/PFI be used to target disadvantaged areas across a range of initiatives e.g. education, housing and health?**

The Assembly has a range of strategic objectives set out in its draft Plan "Better Wales". The Assembly would welcome ideas on how PPP/PFI might be used to assist disadvantaged areas across the public sector in Wales.

**5. What options could be made available to local authorities for the use of PPP/PFI in social housing?**

The current policy for PPP/PFI in the housing sector leans toward stock transfer. How can we encourage alternative but realistic PPP/PFI options for private sector investment in, and the management of, social housing where local authorities wish to retain ownership?

**6. What could be done (to the extent allowable under the European Public Procurement Regulations) to ensure that jobs and profits generated by PFI contracts stay in local communities?**

The driver for PPP/PFI schemes is and will remain, value for money. Nevertheless, to the extent allowable under European Public Procurement Regulations the Assembly would like to consider ways in which we ensure that jobs and profits resulting from PPP/PFI schemes stay in local communities.

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**7. What could the Assembly do to streamline the administrative processes associated with the PFI?**

The Assembly would like where appropriate, to consider how it might reduce the bureaucracy associated with PPP/PFI. The Assembly has already taken steps to simplify the capital finance regulations that apply to PFI in local government by repealing the "contract structure test" in Regulation 40, and has also approved the payment of PFI Credit support to correspond with actual contract length. A further example of streamlining the administration of the PFI may be to increase the delegated limits over which NHS Trusts must obtain the approval of the Assembly to proceed with a PFI project. Such an increase in the limits would, however, reduce the Assembly's ability to influence PFI projects.

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**8. What should the Assembly's policy be on the issue of staff transfers associated with the PFI?**

PFI/PPP transactions regularly involve the transfer of staff from the public to the private sector and whilst this is an important element of the contract -ensuring optimum risk allocation and best value for money for the public purse - staff transfers remain a sensitive issue. Steps have been taken by Central Government to improve the protection of benefits afforded to transferring staff and the Assembly is considering whether certain 'Soft FM' services, such as porters and caretakers, could reasonably be excluded from PFI transactions whilst still ensuring value for money.

**9. What can the Assembly do to help support PPP/PFI schemes?**

To maximise the potential of PPP/PFI schemes it is important that public sector bodies are able to share ideas and experiences and receive good advice and guidance. Support is currently available from: the Assembly's Private Finance Unit; the "4 Ps" (for local government) and the Treasury Taskforce (for "significant projects"). The Assembly would welcome ideas on how the support offered for PPP/PFI schemes could be developed.

## **10. What can the public sector in Wales do to help themselves?**

Self-help is an acknowledged way of developing skills. Some of authorities involved in the early PFI Pathfinder projects are providing help and advice to colleagues working on more recent schemes, for example Ceredigion CC has a web site which includes certain key documents relating to their Penweddig secondary school PFI project. What more might be done?

## **11. What could be done to reduce the cost of advice on PPP/PFI to public sector bodies?**

One of the most significant disincentives to public sector bodies contemplating a PFI scheme is the high cost of professional advice. The Assembly would welcome ideas on how this cost could be reduced. One option would be for the Assembly to increase the level of support it provides via its Private Finance Unit. Another option would be to wait to see if the new body ("Partnerships United Kingdom") being created to develop the project support work of the Treasury Taskforce will be able to provide cost-effective assistance.

## **12. What other ideas are there that would help progress PPP/PFI in Wales and assist the Assembly to meet its priorities?**

The above list is not exhaustive and the Assembly would welcome any other thoughts and comments related to the PPP/PFI in Wales.

**Annex B**

## **Minister for Finance and Communities**

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## **Public Private Partnerships and the Private Finance Initiative in Wales**

The Assembly went out to consultation in July on how PPP/PFI should be developed in Wales. Constructive responses were received from the unions and both the public and private sectors and an analysis of the responses is contained in the attached paper. Key points are:

- The need to develop a distinctive policy on soft facilities management, i.e. proposals should not always include non-direct staff transfers;
- The need for assurance on future PFI bidding rounds for local government;
- The need to consider bidding rounds within the NHS;
- The need to streamline the PFI processes and remove bureaucracy wherever possible;
- The need for the Assembly to develop its resources devoted to PPP/PFI to become a source of expert advice to the public sector.

On matters relating to local government and health, I intend to invite the relevant committees to become involved in the detailed development of the proposals, together with the relevant interests in the WLGA and Health Service.

The issues raised require more consideration and I will be looking to the Local Government and Health and Social Services Committees to form part of this on-going process, involving other interested parties where appropriate.

## **Public Private Partnerships and the Private Finance Initiative in Wales**

### **Introduction**

Public bodies in Wales have been involved in Public Private Partnerships and Private Finance Initiative schemes for a number of years and almost routinely now consider PPP/PFI as a method of procurement for significant projects. As such, the time was right to review progress and identify lessons to be learnt.

### **The Review**

**2.1** During June and July 2000, the National Assembly for Wales undertook a consultation on the development of PPP/PFI in Wales - seeking to identify what was working well, what needed to be improved and our vision for the future.

**2.2** Public and private sector parties were invited to contribute to the Consultation and of the 82 organizations approached, responses were received from 37 (45%), sub-divided into the following categories:

- Public sector - 25 (68%)

(Local authorities, health trusts and housing groups)

- Unions - 3 (8%)

- Private sector - 9 (24%)

**2.3** The views of consultees varied given their different perspectives on social, economic and political issues, however all respondents made positive and helpful comments on how they thought the Assembly should develop and support PPP/PFI in Wales.

**2.4** These views merge to form a number of common themes, which offer significant challenges through the implementation of successive short, medium and long-term measures. They provide the basis upon which to develop policy initiatives to improve the operation of PPP/PFI in Wales

**2.5** The key themes arising from the review are set out below and expanded upon in more detail in the following paper, grouped by timescale for achievement.

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### **3. Key Findings from PPP/PFI Review Exercise**

The key findings of the review indicated a need;

- for increased communication between the Assembly and other parties involved

in PPP/PFI to ensure a freer exchange of information and sharing of knowledge

- for greater Assembly involvement and guidance with projects - for the Assembly to become more pro-active in its dealings with PPP/PFI.

- for assurances from the Assembly in respect of the long-term future of PFI - including a more structured and regular stream of deal-flow.
- for the increased use of IT by the Assembly to publish information, guidance, case studies and policy
- to develop level playing fields for procurement projects throughout the public sector, including issues such as PFI Credits and procurement regulations.
- for more transparent and re-structured bidding rounds to mitigate the impact of up-front costs
- to re-assess weightings attributed to projects in priority locations – such as in Assisted Areas.
- to develop social housing procurement options in Wales, drawing on experiences gained from the 8 English pathfinders.
- to promote flexibility in respect of 'Soft FM' services.
- for the adoption of greater standardisation
- to strengthen the existing Private Finance Unit, possibly into a single body to oversee all Wales based PPP/PFI projects
- for a reduction in the bureaucracy surrounding PPP/PFI and clarity about the potential sourcing of funds for projects
- to develop a strategic framework for PPP/PFI schemes in Wales
- for increased co-operation between authorities for Inter authority secondments and term appointments to ensure that PPP/PFI skills and experiences are transferred and developed rather than lost



- to undertake cross-boundary and cross-sector projects - if existing problems of practicality can be overcome

#### **4. Proposals for Development**

**4.1** The following proposals have been identified as having the greatest potential to address the concerns and aspirations of consultees. The topics have been categorised by the timescale of potential achievability;

**Short** (within a year),

**Medium** (1 year- 2 yrs) and

**Longer term** (2 yrs - 5 yrs):

#### **5. Short Term (within a year)**

**5.1 Resources available within the Assembly to support projects and share information need to be improved.**

The Assembly will aim to develop its Private Finance Unit as a 'clearing house' for good practice, improving communication with both public and private sector and developing opportunities for secondments both to and from the Assembly.

Procuring authorities currently rely heavily on external advisors and there is a genuine opportunity to mitigate the cost of future projects through greater support and sharing of good practice.

**5.2. A dedicated PPP/PFI web page must be made available as part of the National Assembly web-site.**

This is a matter for urgent attention to address concerns from authorities that the Assembly may not be giving sufficient weight to PPP/PFI issues. Advice and guidance is of little assistance if it cannot be easily identified.

Officials within the Assembly will work together to implement this valuable application of e-commerce.

#### **6. Medium Term (1 year to 2 years)**

## **6.1 A clear statement will be made in respect of future PFI Credit bidding rounds and whether the current system for local authorities should be extended to the Health sector.**

There is desire from local authorities for the continuation of the bidding round programme. However, there is a need to improve on the procedures for the bidding rounds based on experiences gained to date, and ensure that clearer guidance is issued.

By providing PFI Credit support to local authorities the Assembly is facilitating the improvement of public infrastructure in Wales for schemes which in many cases, could not have been afforded by individual authorities. In these instances, it is clear that the innovative development and grouping of projects has added value.

The Local Government and Housing Committee will consider this proposal in addition to others contained in this paper and undertake a review of the best way in which to progress these initiatives. Consultation will involve the Welsh Local Government Association (WLGA) and other partners.

The Health sector is particularly active in the PPP/PFI arena although it does not currently benefit from bidding rounds. The Delivery of Chepstow Community Hospital, Baglan Hospital and services at the University Hospital of Wales have all been successfully achieved as PPP's. Initial responses from Health Trusts suggest that a mechanism such as PFI Credit support would be welcomed as a means for delivering schemes of strategic importance.

The Health and Social Services Committee will consider the potential benefits of taking this forward within the developing Capital Planning framework, as a review involving other issues identified in this paper.

## **6.2 Opportunities for the implementation of PPP/PFI in the improvement of social housing should be further investigated.**

At present 'stock transfer' has been the primary means of improving local authority housing. The Assembly is keen to see the development of alternative methods in which to improve the state of social housing and would like to see some trials of PPP/PFI in this area, drawing upon the draft National Housing Strategy and experiences learnt from the Pathfinder projects in England.

## **6.3 Clear guidance must be provided in respect of 'Soft Facilities Management' staff transferring as part of PFI Contracts in Wales.**

There is a long-standing, unresolved issue relating to the transfer of staff to the private sector. This is a significant inhibitor to the development of PPP/PFI in Wales.

Within PPP/PFI contracts it is often important that relevant staff transfer from the public to the private sector operator in order to secure value for money. The issue directly affects the staff concerned in the transfer and in some instances is of concern to the 'customer'.

'Soft FM' staff, such as canteen personnel, receptionists and porters do not contribute directly to the up-keep of an asset and may therefore not be crucial to the operations of the private sector partner. These employees are often included within the PFI contract to improve further the potential cost savings achievable by the private sector. The Assembly will work with its partners to clarify those staff to be included in the definition of 'Soft FM' for PPP/PFI projects in Wales.

For the future, the Assembly will be prepared to encourage the invitation of PFI bids with or without the transfer of 'Soft FM' staff. Full consideration can be given to the implications of both options and providing both provide value for money, the decision as to which basis to pursue will be a matter for the procuring authority.

This is an important issue for consideration by the Health and Social Services Committee during their proposed review.

#### **6.4 There is a need to streamline the bureaucracy associated with PPP/PFI projects.**

The Assembly will continue to work with other bodies who have, and are developing standard frameworks and contract documentation for effectively managing PFI procurement. For example, most road construction contracts follow models produced by DETR and standards are being developed in the Department of Health for categories of NHS PFI contracts. Authorities in Wales are already providing information via web-sites and, primarily talks, dealing with their own experiences in cutting through the bureaucracy.

The Assembly will work with partners in England and Wales to continue the development and sharing of best practice.

### **7. Longer Term (2 years to 5 years)**

**7.1 The Assembly should be taking steps to form a strategic framework for the development of PPP/PFI projects in Wales. Moreover, steps must be taken to streamline**

## **those operations associated with the implementation of cross boundary / cross sector co-operation.**

The development of cross-boundary and cross-sector projects is a concept promoted by the Assembly, but the absence of real guidance in this area currently frustrates many schemes at an early stage.

At present, the majority of capital projects are undertaken at a local level and aimed at meeting the priorities of individual Authorities and Trusts. This does not always sit well with the priorities viewed from an all Wales perspective. The Assembly is in a position to help improve on this by expanding the opportunities for linking across sectorial boundaries and encourage cross-authority co-operation.

One of the targets in 'Better Wales' is the development of Asset Management Plans throughout the public sector by March 2002. The information that this will provide will give a picture across all sectors on the state, utilization and future investment needs for the public sector capital asset stock in Wales. A national strategic framework for PPP/PFI projects would be welcomed by the public sector in Wales.

The development of an agreed framework by involving strategic partners and identifying areas where PPP/PFI can be most effectively used, is essential to implement the objectives set out in 'Better Wales'.

There is a desire amongst the public sector in Wales to develop the principle of joint working although there are legal, stakeholder and political issues which complicate and can on occasion frustrate such schemes.

These areas of bureaucracy will be reviewed to enable the smoother implementation of shared working arrangements and improved value for money.

### **Working Party**

These longer-term aspirations will need a working party of the Assembly's partners to identify those areas of the strategic framework where PPP/PFI can be most effectively used, identifying those constraints which currently inhibit the development of cross-sector schemes.

Within this, there will be some short term 'quick wins' that can be achieved to demonstrate the Assembly's commitment to PPP/PFI although it is acknowledged that other areas will require a longer timescale in which to reach fruition.