

Assessment of Procurement Route

All major projects are required to test the potential for a PFI or PFI style procurement.

The key methodologies for assessment of whether PFI is or should be suitable for such a project is set out in "Value for Money Assessment Guidance" published in November 2006 by HM Treasury.

There were two key parts to this assessment – the quantitative analysis, which looks at the likely PFI costs of a major procurement, and the qualitative analysis which looks at a wide range of other factors.

The quantitative assessment has subsequently been withdrawn by HM Treasury but the qualitative assessment remains extant.

The Trust has used the generic economic model as a proxy for the qualitative assessment – the key difference being time timing of the public funding and PFI options and the resultant difference in starting to realise the benefits of the programme.

The two aspects, taken together, provide public sector organisations with a **framework** for decision making about the most suitable way of procuring major infrastructure projects.

Qualitative Analysis.

The outputs of the qualitative analysis are set out in the table below. This looks at a series of key factors which the Trust needs to consider in arriving at the most appropriate way forward:

- Viability – whether the investment objectives and desired outcomes need to be translatable into outputs that can form the basis of a contract and a sound payment mechanism; for example the quality and quantity of the outputs need to be ones that can be measured;
- Desirability - PFI can provide better risk management and produce incentives to develop innovative approaches to output delivery. Consistent high quality services can be incentivised through performance and payment mechanisms. However, risk transfer is priced into the contract. The purpose of these questions is to consider whether the benefits of PFI are likely to outweigh any additional costs and disadvantages;

- Achievability - while PFI may allow a more efficient and effective combination of public and private sector skills, determining the rules that will govern the relationship between the two sectors does involve significant transaction costs. In particular, the procurement process can be complex and involve significant resources, including senior management time which may be required for project development and the ongoing monitoring of service delivery. Authority capacity and capability, together with private sector deliverability will have direct consequences for procurement times and the level and quality of market interest. PFI needs a robust competitive process to deliver fully its benefits and so the choice of procurement route should be informed by an assessment of the likely market appetite.

On the basis of the qualitative test, there is little to choose between the PFI and Procure 21 (publicly funded) routes: both can deliver the required outcomes, there is a potential market to deliver and the Trust has the requisite skills and resources in place.

However, the Trust wishes to put the new facilities in place at the earliest possible opportunity and believes that this can be undertaken via the publicly funded procurement route with the same level of quality and value for money demonstrated.

This has essentially not changed since the OBC.

Viability

<u>Issue</u>	<u>Question</u>	<u>Answer with PFI at OBC</u>	<u>Answer with Public Funding at OBC</u>	<u>Has anything changed this view between OBC and FBC?</u>
Project Level Outputs	Is the project delivery team satisfied that a long term contract can be constructed for this project? Can the contractual outputs be framed so that they can be objectively measured?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of Contract are available to deliver this.	Yes – suitable contracts are available for the construction, hard FM, soft FM and lifecycle elements of the scheme. The Trust has significant experience of managing outsourced FM contracts , which is the current position on both Trust sites.	No – although the Trust team has noted that the preference in PF2 projects is to OMIT soft FM from the procurement.
	Is the requirement deliverable as a service and as a long term arrangement? Can the contract describe the requirements in clear, objective, output-based terms?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of Contract are available to deliver this.	Yes – suitable contracts are available for the construction, hard FM, soft FM and lifecycle elements of the scheme. The Trust has significant experience of managing outsourced FM contracts , which is the current position on both Trust sites.	No – although the Trust team has noted that the preference in PF2 projects is to OMIT soft FM from the procurement.

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	Can the quality of the service be objectively and independently assessed?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of Contract are available to deliver this.	Yes – the quality of the construction output can be assessed under public funding as well as under PFI by an Independent Tester or similar arrangement. The quality of the FM contracts can also be assessed objectively if they continue to be arranged as now.	No – although the Trust team has noted that the preference in PF2 projects is to OMIT soft FM from the procurement.
	Is there a good fit between needs and contractible outcomes?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of Contract are available to deliver this.	Yes – the P21 Standard Contract can deliver the need for the major asset requirements. Existing contracts are dealing well with soft FM services.	No change.
	Can the contract be drafted to avoid perverse incentives and to deliver quality services?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of Contract are available to deliver this.	Yes – the P21 Standard Contract can deliver the need for the major asset requirements. Existing contracts are dealing well with soft FM services.	No change.
	Does the project require significant levels of investment in new capital assets?	Yes	Yes	No change.

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	Are there fundamental issues relating to staff transfer? Would any transfer be free from causing any loss of core skills that have strategic and/or long term importance to the procuring authority?	No – there are no fundamental issues relating to staff transfer. Current soft services at the RSCH site are outsourced to ISS Mediclean. Previous PFI projects have seen outsourced soft FM contracts transferred to other providers as part of the PFI process.	No – the existing arrangements would continue subject to the usual market testing periods (which would also apply under PFI).	No – although the Trust team has noted that the preference in PF2 projects is to OMIT soft FM from the procurement.
	Is service certification likely to be straightforward in terms of agreeing measurable criteria and satisfying the interests of stakeholders?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of Contract are available to deliver this.	Yes – the suitability and functionality of the buildings could be certified under publicly funded procurement in similar ways to those arrangements applied under PFI.	No change.
	Does the project have clear boundaries (especially with respect to areas of procuring authority control)? If there are interfaces with other projects are they clear and manageable?	Yes, there are clear boundaries. The complication here with undertaking PFI is that the Trust already has an operational PFI project on the RSCH site which will be adjacent to the 3Ts development site so there	Yes, there are clear boundaries. There will be complications with public funding as to the interface with the RACH PFI project.	No change.

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		<p>would be bound to be interface issue between two special purpose companies which would need to be managed. This would be complex but not insurmountable.</p>		
	<p>Can the service be provided without the essential involvement of Authority personnel? To what extent does any involvement negate the risk transfer that is needed for VfM?</p>	<p>No – the key element of the service is clinical so would be delivered by Trust staff under PFI in any event.</p> <p>The key elements of risk transfer under PFI relate to the cost and time overruns during construction, the lifecycle and maintenance of the building during operation and performance standards which are to be achieved by FM services over the life of the contract. Soft FM services would be benchmarked, tendered or market tested during the concession.</p>	<p>No – the key element of the service is clinical so would be delivered by Trust staff.</p> <p>A suitable Procure 21 contract will also transfer risk of cost and time overruns as part of the agreement of a Guaranteed Maximum Price.</p> <p>Soft FM services are already outsourced so would be benchmarked, tendered or market tested regularly as per PFI.</p> <p>The key difference is that lifecycle and hard FM</p>	<p>No change.</p>

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			would be retained by the Trust. However, in principle, the same outcome as delivered under PFI could be delivered with suitable contracts if the facilities were publicly funded.	
	Is the contractor able or likely to have control/ownership of the intellectual property rights associated with the performance/design/development of the assets for the new service?	No.	No.	No change.
	Will existing or planned elements within the scope of the project - or interfacing vitally with it - be complete before the start of the new service?	Yes – the decanting elements must be complete before the construction of the new assets can commence. In line with many other projects, these can be undertaken by the Trust before a contract is signed.	Yes – the decanting elements must be complete before the construction of the new assets can commence. These works could be undertaken by the same, or a different, P21 PSCP.	No change.
Operational flexibility	Is there a practical balance between the degree of operational flexibility that is desired and long term	Yes - This project is no different in most respects from the many other PFI projects undertaken in	Yes – it could be argued that the PFI contractual arrangements over time mean that assets	No change. In fact, the view expressed that a PFI-type contract is less

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	contracting based on up-front capital investment?	health. Standard Forms of Contract are available to deliver this.	procured under PFI are inflexible – not in the method of construction but in the effort to agree major variations to deliver service change. It can be argued that long term operational flexibility and imperatives to change the asset to reflect changing clinical practice mean that a PFI-type contract is less flexible.	flexible to change has been underlined by the fact that it has taken over 2 years to negotiate a relatively minor change project in the PFI Children's Hospital on site.
	What is the likelihood of large contract variations being necessary during the life of the contract?	Almost certain under a 30 year PFI concession.	Given that the main contract would be for the provision of the assets, it is less likely that there will be major variations required during the build period. It is certain that there will be major changes required over the lifetime of the asset.	No change to view expressed.
	Can the service be implemented without constraining the delivery of future operational objectives?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of	Yes. In fact, implementing the project in two main stages will allow the second stage to be reviewed and	No change.

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		Contract are available to deliver this.	refreshed to ensure that it meets the needs of the time. This would be more difficult to provide if a single PFI contract is signed for both stages, although not impossible.	
	Is there confidence that operational flexibility is likely to be maintained over the lifetime of the contract, at an acceptable cost?	Difficult to judge. There is some schools of thought which indicate that operational flexibility over the lifetime of the contract is more difficult under PFI due to the cost of negotiating major variations to the building fabric or to service standards.	Yes. The asset would be directly controlled by the Trust and changes to it could be undertaken without having to negotiate with a special purpose vehicle. Changes to service standards in FM services would need to be negotiated with a service provider under existing arrangements or PFI.	Yes. It has taken over 2 years to negotiate a relatively minor change to the Children's Hospital PFI. This indicates that operational flexibility over the lifetime of the contract is more difficult under PFI due to the cost of negotiating major variations to the building fabric or to service standards.
Equity, efficiency and accountability	Are there public equity, efficiency or accountability reasons for providing the service directly, rather than through a PFI contract?	Yes. See comment to the right.	Yes. The key difference between PFI and public funding is the efficiency with which the service could be established.	No change, although the current policy is for PF2 schemes to progress from OJEU

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			<p>This mainly refers to the speed at which the asset could be procured. Under PFI, it is unlikely that the main assets would be available for use until at least two years after they would be available under a publicly funded procurement. The Trust already has a PSCP with whom it is developing the OBC. This can be rolled forward into a FBC and then into construction. Under PFI, the procurement period from OJEU to financial close would be at least two years. The rolling average across all PFI schemes of a significant size is closer to four years.</p>	<p>to Financial Close in 18 months. However this has not yet been tested in NHS schemes as the PF2 pilot is still in procurement.</p>
	<p>Does the scope of the service lend itself to providing the contractor with “end-to-end” control of</p>	<p>Yes - This project is no different in most respects from the many other PFI projects undertaken in</p>	<p>Yes – The PSCP will have control of the construction process, the existing soft FM provider control of</p>	<p>No change.</p>

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	the relevant functional processes? Does the service have clear boundaries?	health. Standard Forms of Contract are available to deliver this.	those processes and the Trust would have control of lifecycle and hard FM.	
	Are there regulatory or legal restrictions that require services to be provided directly?	No – not under PFI.	No – not under conventional procurement.	No change.
	Is the private sector able to exploit economies of scale through the provision, operation or maintenance of other similar services to other customers (not necessarily utilising the same assets)?	No. There are no other schemes of this nature being contemplated nearby which might benefit from this.	No. With regard to construction, there are no other current major projects in the pipeline in the Brighton area. There are two in planning stages but the trajectory for these selecting contractors is not yet clear.	No change.
	Does the private sector have greater experience/expertise than the procuring authority in the delivery of this service? Are the services non-core to the procuring authority?	Yes. The private sector has greater experience of delivering the construction phase – obviously. The provision of a fit for purpose asset to deliver clinical services from is absolutely core to the Trust.	Yes. The private sector has greater experience of delivering the construction phase – obviously. The provision of a fit for purpose asset to deliver clinical services from is absolutely core to the Trust.	No change.
	Is a PFI procurement for this project likely to deliver improved value for money to the department	Yes. There are still many major projects which are in the pipeline and a successful procurement on	Yes. However, the speed at which this project needs to move mitigates against use of PFI.	No change.

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	as a whole, considering its impact on other projects?	this scheme would be an important indicator to the market that DH is still committed to PFI.	However, use of P21 would reassure that part of the market that there is potential to use framework-type procurements for larger schemes.	
OVERALL VIABILITY	Overall, in considering PFI, is the department satisfied that suitable long term contracts can be constructed, and that strategic and regulatory issues can be overcome?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of Contract are available to deliver this.	Yes – suitable long term contracts can be structured for the provision of the asset (using P21) and FM services as per the existing arrangements at the Trust.	No change.

Desirability

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Risk management	Bearing in mind the relevant risks that need to be managed for the programme what is the ability of the private sector to price and manage these risks?	The main key risks lie in the delivery of the asset to time and to cost. In a PFI procurement, usually around 50% of the assessed value of risk to be transferred to the PFI provider is in the design and construction phase. PFI providers are well versed in being able to price and manage these risks.	As noted to the left, the majority of the risks in a major procurement lie in the design and contraction phase. These can be managed appropriately under a Procure 21 type arrangement as the current customer satisfaction with P21 shows.	No change.
	Can the payment mechanism and contract terms incentivise good risk management?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of Contract are available to deliver this.	Yes – there is a very good track record of delivery to time and cost under P21 with an appropriate pain:gain share mechanism for delivery.	No change.
Innovation	Is there scope for innovation in either the design of the solution or in the provision of the services?	There is little hard evidence to suggest that PFI has brought innovation to the design of the solution or provision of service. It could be argued that the	The Trust team believes that it bringing innovation to the design of the solution by working with a design team with whom it has worked before.	No change.

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		heavily contractual nature of PFI can mitigate against innovation.		
	Does some degree of flexibility remain in the nature of the technical solution/service and/or the scope of the project? Is the solution sufficiently free from the constraints imposed by the Authority, legal requirements and/or technical standards?	<p>Yes – there is some degree of flexibility for the technical build solution.</p> <p>The solution is constrained by the requirement of the Trust to deliver the solution as quickly as possible, but there are no legal requirements to do so.</p> <p>Technical standards imposed are no different between PFI and public procurement.</p>	<p>Yes – there is some degree of flexibility for the technical build solution which the Trust team believes it being exploited under the current arrangement.</p> <p>The solution is constrained by the requirement of the Trust to deliver the solution as quickly as possible, but there are no legal requirements to do so.</p> <p>Technical standards imposed are no different between PFI and public procurement.</p>	No change.
	Does a preliminary assessment indicate that there is likely to be scope for innovation in the programme?	See responses above.	See responses above.	No change.
	Could the private sector	Unlikely to be flexibility over	Unlikely to be flexibility over	No change.

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	improve the level of utilisation of the assets underpinning the project (e.g. through selling, licensing, commercially developing for third party usage etc)?	and above those retail opportunities identified in the OBC preferred option.	and above those retail opportunities identified in the OBC preferred option.	
Contract Duration and residual value	How far into the future can service demand be reasonably predicted? What is the expected life of the assets? What are the disadvantages of a long contract length?	5-10 years. The expected life of the asset is 60 years. The disadvantages of a long contract period with an SPV is the degree of flexibility in changing the asset over that time to match changes in clinical practice and service developments.	5-10 years. The expected life of the asset is 60 years. There would be no long contract periods under a conventional procurement.	No change.
	Are there constraints on the status of the assets after the contracts end?	Yes – the assets will still be part of an operational hospital site.	Yes – the assets will still be part of an operational hospital site. This is made easier under public procurement in that the contract period for the asset lasts only for the duration of the construction.	No change.
	Given the possibility of changes to the	Yes – to date PFI has shown it can deliver value	Yes – the vfm of the built asset can be demonstrated	No change.

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	requirement, the assets and the operating environment, is it possible to sustain value for money over the life of the contract utilising as appropriate, mechanisms such as benchmarking and technology re-fresh?	<p>for money over a period of time, including through benchmarking.</p> <p>There is less evidence to suggest that there would be vfm in technology re-fresh if medical and scientific equipment was included in the concession.</p>	<p>through the open book pricing process established in P21 contracts.</p> <p>Vfm in FM services can be provided through benchmarking and market testing as is currently undertaken.</p>	
Incentives and monitoring	Can the outcomes or outputs of the investment programme be described in contractual terms, which would be objective and measurable?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of Contract are available to deliver this.	Yes – through the standard P21 contract mechanism and through future market testing/tendering of FM contracts which the Trust would undertake anyway.	No change.
	Can the service be assessed independently against an agreed standard?	Yes - This project is no different in most respects from the many other PFI projects undertaken in health. Standard Forms of Contract are available to deliver this.	Yes – through the standard P21 contract mechanism and through future market testing/tendering of FM contracts which the Trust would undertake anyway.	No change.
	Would incentives for service delivery be enhanced through a PFI payment mechanism?	Yes – PFI contracts have delivered impressively on time/cost/quality for build and appear to be delivering	Yes – the construction can be incentivised through the P21 pain:gain share mechanism and through	No change.

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		well in service terms during the operational period.	appropriate provisions in FM contracts.	
Lifecycle costs	Is it possible to integrate the design, build and operation elements of the project?	Yes	Yes	No change.
	Are there significant ongoing operating costs and maintenance requirement? Are these likely to be sensitive to the type of construction?	Yes- the Trust is aiming for a BREEAM "Excellent" standard. This will provide the Trust with a facility which should be efficient in ongoing operating costs and maintenance and which are sensitive to the type of construction.	Yes- the Trust is aiming for a BREEAM "Excellent" standard. This will provide the Trust with a facility which should be efficient in ongoing operating costs and maintenance and which are sensitive to the type of construction.	No change.
OVERALL DESIRABILITY	Overall, is the accounting officer satisfied that PFI would bring sufficient benefits that would outweigh the expected higher cost of capital and any other disadvantages?	The accounting officer is satisfied that PFI could deliver the same outputs, but not in the same timescale as through conventional funding.		No change.

Achievability

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Market Interest	Is there evidence that the private sector is capable of delivering the required outcome?	Yes – there is a significant track record in the health PFI market, although the number of available and willing providers has decreased over the last five years.	Yes – there are significant providers in the P21+ market capable of undertaking such a scheme.	No change.
	Does a significant market with sufficient capacity for these services exist in the private sector?	Yes – significant market might be overstating the matter, but there should be at least 4-5 providers available.	Yes – there are a lower number of suitable providers for a project of this scale in the P21+ national framework: probably 2.	No change.
	Is there likely to be sufficient market appetite for the projects in the programme? Has this been tested robustly? Is there any evidence of market failure for similar projects?	Yes. The Programme Director has had informal discussions with 2-3 well-established providers who may be interested. There is no current evidence of market failure.	Yes – there were 3 potential providers who were shortlisted at pre-OBC stage. There is no actual evidence that P21 can deliver projects of this scale but Laing O'Rourke's track record on major projects is undoubted.	No change.
	Have any similar projects been tendered to market? Has the procuring authority's commitment to a PFI	Yes. The Royal Alexandra Childrens' Hospital on the RSCH site was delivered under PFI. However, the	Many projects of this size have been tendered conventionally, but not yet under P21.	No change.

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	solution for this type of project been demonstrated?	Trust has serious reservations about the time it would take to procure the scheme under PFI even in favourable market conditions.		
	Does the nature of the project suggest that it will be seen by the market as a profitable venture?	Yes.	Yes.	No change.
	Are the risks associated with design, development and implementation manageable bearing in mind the likely solutions to the project?	Yes – this is evidenced in the project management and benefits realisation section of this OBC.	Yes – this is evidenced in the project management and benefits realisation section of this OBC.	No change.
Other Issues	Is the procurement feasible within the required timescale? Is there sufficient time for: resolution of key Authority issues; production/approval of procurement documentation; staged down-selection and evaluation of bidders, negotiation, approvals and due diligence?	No – not for PFI. A PFI procurement would take at least two years longer than the P21 route. This is not acceptable to the Trust.	Yes – the programme plans in Appendix xx demonstrate that this is deliverable in a reasonable timescale.	No change.
	Is the overall value of the	Yes.	Yes.	No change.

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	project significant and proportionate to justify the transaction costs?			
	Does the nature of the deal and/or the strategic importance of the work and/or the prospect for further business suggest that it will be seen by the market as a potentially profitable venture?	Yes.	Yes.	No change.
	Does the Authority have the skills and resources to define, deliver and support the service throughout the procurement and the subsequent delivery period?	Yes – this is evidenced in the project management and benefits realisation section of this OBC.	Yes – this is evidenced in the project management and benefits realisation section of this OBC.	No change.
OVERALL ACHIEVABILITY	Overall, is the accounting officer satisfied that a PFI procurement programme is achievable, given an assessment of the market, Authority resources and the attractiveness of the proposal to the market?	The accounting officer is satisfied that the programme is deliverable in a reasonable timescale under P21 but not PFI.		No change.

