FI/01/27/A

The Scottish Parliament

FINANCE COMMITTEE

AGENDA

27th Meeting, 2001 (Session 1)

Tuesday 11 December 2001

The Committee will meet at 10.00 am in Committee Room 1 to consider the following agenda items:

1. **PFI/PPP Inquiry (in private):** The Committee will consider its lines of questioning for agenda item 3.

2. **Items in Private:** The Committee will consider whether to take agenda items 4 and 5 in private.

3. **PFI/PPP Inquiry:** The Committee will take evidence from—

   Professor Phillip Beaumont, Professor of Employment Relations, University of Glasgow;

   Michael Fuller, Regional Officer, Manufacturing, Science and Finance Union;

   Martin Gaughan, Regional Officer, Transport and General Workers Union;

   Alex McLuckie, Senior Organiser, GMB Scotland;

   Dave Watson, Scottish Organiser, Unison Scotland.

4. **External Research:** The Committee will receive an interim report from Norman Flynn.

5. **Witness Expenses:** The Committee will consider a claim for witness expenses.

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The papers for this meeting are:

Agenda item 1

Paper by Professor Peter Jackson, Adviser to the Committee on PFI/PPP inquiry	PRIVATE PAPER

Agenda item 3

Paper by Professor Phil Beaumont, University of Glasgow	FI/01/27/1
Paper by Unison	FI/01/27/2
Additional Paper by CBI	FI/01/27/3 *(to follow)*

Agenda item 4

Interim report by Norman Flynn	PRIVATE PAPER

P B Beaumont, Professor of Employment Relations, Department of Business and Management, University of Glasgow

Private Finance Initiative/Public Private Partnerships: The Employment Relationship Dimension

Written Evidence to the Finance Committee: The Scottish Parliament

Terms of Reference

Your letter of 15 August 2001 stated that 'your views on public sector industrial relations and the effects of PFI/PPP thereon would be particularly welcome'. This is the perspective adopted below.

Major Point Made Below

1 There is, as yet, little in the way of systematic research-based evidence concerning the impact of PFI/PPP on the state of public sector industrial relations.

2 In principle, however, the processes and mechanisms involved in such arrangements could adversely impact on both existing procedural relationships between management – employee (trade unions) and the substantive terms and conditions of employment of some categories of employees.

3 These possible adverse impacts need to be seen in the context of a sector of employment where on-going working relationships are perceived to be under some strain.

4 Industrial relations or employment issues centre around 3 steps in the process: negotiating internal project details; selecting a private sector partner; and the substantive terms and conditions of employees, both initial transferees and subsequent hires. Some recommendations involving all 3 are put forward.

Some Relevant Background Considerations

(i) The Traditional Public Sector Industrial Relations Model

The structural features of the traditional (pre-1979) public sector industrial relations model are well known: high levels of union organisation; extensive collective bargaining coverage; national level or industry wide bargaining arrangements; widespread joint consultation arrangements; and considerable usage of the comparability criterion in wage determination. These and other features 'combined to foster a rather distinctive set of motivational assumptions and organisational values in many areas of public employment, with employee commitment resting on notions of fair treatment, relative job security and satisfaction, steady career progression and a sense of public service.' (Duncan, 2001, p27)

This traditional system was subject to pressure for change in the 1960s and 1970s through the operation of incomes policies, but with such pressure for change mounting considerably as a result of Government policies in the years 1979-96. The substantive content of these policies are well known, and will, as a result, not be discussed in any detail here. The exception is the case of Compulsory Competitive Tendering (CCT), which is of some considerable relevance to the PFI/PPP approach in the sense of:

(i) shaping the terminology and terms of reference of the on-going public debate and

(ii) helping account for the particular stance of UNISON

(ii) The CCT Experience

Most industrial relations research on CCT has focussed on the local Government sub-sector (and to a lesser extent the NHS) and concentrated on:

i the relatively high win rate of the in-house bids

and

ii the changing nature (and effectiveness) of union opposition to CCT.

Such opposition included industrial action, non-involvement, judicial challenge, monitoring of poor performance and consequent adverse publicity, and alliances with other groups of stakeholders.

For present purpose three particular points can be usefully drawn out of this experience:

1 The relatively high in-house win rate only come about as a result of decentralised negotiations (in which the unions were inexperienced and faced increasing resource constraints) which resulted in membership loss and reduced terms and conditions of employment (particularly as regard bonus payments and hours of work) for some staff.

2 The extent of the full effectiveness of TUPE remains somewhat uncertain. As one recent study put it (Foster and Scott, 1997, p143):

*'Despite judicial success, 'Local Governance' fieldwork with local authorities and private contractors indicated that TUPE provisions, although probably applicable to most cases of public sector contracting out, retain ambiguities and possibilities for circumvention. Contractors have always been able to vary conditions and employment numbers for transferred staff under TUPE if they can show valid 'economic, technical or organisational' reasons to justify this. TUPE does not ensure comparable treatment for staff hired **after** the transfer, who can legitimately be employed on inferior terms and conditions.'*

3 The particular circumstances of UNISON, which has been one of the most explicit critics of the PFI/PPP approach. This criticism in no small measure derives from the organisation, negotiations and internal governance difficulties that came about as a result of CCT. Again to quote a recent study (Carter and Poynter, 1999, p510):

'Certainly, with regards to Unison, there is every indication that progress towards union renewal is limited and that, particularly in the NHS, the union is in places struggling to retain its activists. In addition, in a union which prides itself on inclusion, lack of progress on issues at the workplace in contributing to discontent amongst a number of constituencies, including manual workers, about the distribution of resources within the union. Moreover, where innovation in response to changes has taken place at local level, there is little indication that the union has thought of strategies for generalising it. Local initiative is therefore threatened by national inertia.'

(iii) The Overall State of Relationships in the Public Sector

- Currently, there is considerable anecdotal evidence that the so-called 'psychological contract' in the public sector is not in good shape. Stories abound about employees feeling uncertain, over-stretched and under-valued.

The state of the psychological contract in the public sector has been examined in a recent CIPD study. This report documented the relatively poor state of the psychological contract in central government, although such a state of affairs was not apparent in other parts of the public sector. (Guest and Conway, 2000). According to this same report between 1998 and 2000 public sector employees perceptions of:

(i) trusting the organisation to keep its promises and commitments

and

(ii) assessment of the relations between employees and management showed some tendency to decline.

Current Research on PFI/PPP

Given the relative infancy of PFI/PPP arrangements it is hardly surprising that the volume of systematic research on it is limited . An examination of what is available yields the following observations:

1 Much of the 'research' is essentially descriptive in nature examining the rationale for the approach and describing the content and institutional details.

2 Most of the empirical research has centred on the health service where the focus has been on issues such as value for money and risk transfer. Such work has largely been conducted by economists and financial specialists.

3 In relation to 2 above it is important to emphasise that the same research findings can result in very different conclusions and recommendations (see Box A below).

Box A : Contrasting Conclusions and Recommendations
1 'The PFI in the health care sector has attracted much criticism for delivering poor value for money. This has arisen from drawing artificial boundaries around clinical services, with the result that the scope for innovation and efficiency has been stifled. It is now time to be more radical in the health care sector.' (Nicholson, 2000, p142) 2 'Whether PFI is a good deal for the public purse depends essentially on individual projects being certain of achieving value for money over the life of what can be very long term contracts. With the current arrangements, a PFI project only has to provide value for money against the public sector alternative at the point of contract signature. However, changes will take place over the life of the contract (in some case at a very early stage) which have an impact on the charge to the public sector. In these instances, the public sector cannot even rely on competition to achieve value for money because of the monopoly power of the PFI operator. (Ball, Heafey and King, 2000, p106-107)

(i) Potential Mechanisms Impacting on Public Sector Industrial Relations

The second reference in Box A can be unpicked further with a view to identifying the precise route through which PFI/PPP can potentially impact on public sector industrial relations. In essence they argue that the higher cost of finance and of the bidding process under PFI will need to be offset by benefits deriving from innovation that lead to savings in terms of both construction costs and

operational costs. However, in the absence of design innovation 'there is the further possibility that operational costs will be reduced through other means – for example, lower staff costs achieved through reductions in staff numbers or employment conditions.' (Ball, Heafey and King, 2000, p102).
They go on to suggest that any impact on employment conditions may not occur immediately, but rather in the short to medium term. This is an issue that they highlight as important for future research. I would strongly concur with such a view, although more than ad hoc, academic research should be involved. In other words, as with the case of union-management partnerships, some dedicated government funding needs to be explicitly involved.

(ii) Some Relevant Research

There is one study which is worthy of note as directly addressing the issue of the employment relationship under PFI (Ruane, 1999). This study involved interviews with managers and union (UNISON) officers in the NHS and made the following points:

- management saw PFI as being inevitable.
- the extent and nature of union involvement varied sizeably between the individual Trusts involved in the study.

Such highly variable involvement needs to be reduced, if not eliminated. The costs of such limited involvement can be considerable. For instance, a recent MBA thesis I have read demonstrated the very limited (essentially non-existent) involvement of UNISON in the early stage negotiations of a PFI arrangement. The limited early involvement of this (and other key stakeholders) seemed to derive from the project teams key priority being to secure the necessary funding. As a consequence 'people issues', such as communications concerning workforce planning, were accorded relatively little priority. The predictable result of this was the 'grapevine' producing rumours of alleged staffing redundancies (See Box B below).

Box B : Some Adverse Consequences of the Failure to Address People Management Issues Early in the Process

A follow-up telephone discussion with the author of the MBA thesis revealed:-

1 The members of the project team simply assumed that employees, like the customers, would welcome and enjoy working in a new, state of the art facility.

2 The specification of the service contract in **output** terms only has resulted in:

- a loss of **informal** flexibility with many people keeping to the strict letter of their job description
- a rise in sickness absence among transferees from the old facility who have had little introduction to/preparation for working in a different cultural environment
- some key roles not always being performed by the same individuals has limited the speed with which learning and experience has been accumulated
- some coverage for absent individuals by experienced people in other occupational groupings has occurred, but it is recognised that there are limits to the 'good will' that can be drawn upon here.

This study (albeit in a negative fashion) is consistent with a good deal of research in industrial relations, namely that a smooth implementation process of any change initiative is unlikely to result if key stakeholders are not fully involved in the early design phases of the change initiative. Furthermore, such non-involvement in such a strategic initiative could have important adverse spill-over effects to other negotiating forums in the organisations concerned. Indeed in a sector, such as the NHS Scotland, where formal union-management partnership arrangements have been put in place, the unions are quite likely to raise questions about the **inconsistency** of arrangements.

On-going Developments

There are certain UK-wide initiatives on-going at the present moment. For example, a review and proposed changes to TUPE, such as in relation to the issue of pensions. However, in the Scottish context I would recommend that the following be given consideration:

(i) the systematic gathering and monitoring of information on measures of industrial relations performance, possibly using the expertise and experience of ACAS in the first instance, in organisations involved in partnership type arrangements.

(ii) the production of a set of good practice guidelines to ensure that 'people related issues' (of both a procedural and substantive nature) are treated as a key priority item in the design, and not simply the implementation, stage of the process. For this to occur it may be necessary to recommend that HR management and a union(s) presence is essential on the project planning team. The presence of the latter, however, would need to respect the confidentiality of sensitive commercial information. Both training and facilitation to help ensure a positive negotiation orientation may be necessary here (See Box C below).

Box C : The Case for Early Stage Union Involvement

- The Treasury Task Force document (step by step guide to the PFI procurement process, HM Treasury, April 1998) lists 14 stages of the PFI process. For present purposes stage 4 (appointment of the project team) and stage 8 (selection of the short list) are potentially most important for trade union involvement.
- Unison documents indicate their strong desire for involvement at stage 8, while any request for a stage 4 involvement they leave up to their local branches to decide on a case by case basis.
- This type of proposal is likely to encounter the criticism that it will add to an already protracted negotiating process. The counter view is to argue that involvement at the design stage will both improve the quality of the implementation process (see Box B) and reduce implementation time.
- Rather than seek to encourage such early stage involvement on a project by project basis, there is a strong case for establishing a public sector wide policy level forum for Scotland to facilitate 'social partner dialogue'. The Offshore Industry Working Time Directive Work Group, chaired by the Director of ACAS Scotland, could be a useful model in this regard.

and

(iii) a systematic review of the track record of TUPE, combined with some cross-referencing to recent guidance documents produced by the Cabinet Office, the Treasury Task Force and DETR, should help produce a more informed contracting process. This should involve seeking, firstly, systematic information on the industrial relations performance of the contracting firms, with the aim of identifying and using only 'good practice' contractors in employment terms. In the UK chemical industry companies, via the 'Responsible Care Programme', have considerable experience and expertise in this regard in relation to health and safety performance. Such accumulated experience could usefully be drawn upon. This concentration on using good practice employers only needs to be sensitive to building up 'monopoly contractors', and giving the appearance of not helping SMES. Hence the need to work with the contractor industry as a whole.

Secondly, any obvious 'loopholes' which can result in a two-tier workforce, with all the problems that they would create for internal co-ordination and co-operation, need to be closed to the fullest extent possible. The concentration here needs to be, particularly in the context of long contracts, on employees hired after the transfer. A possible mechanism here might be something along the lines of a Parliamentary Fair Wages (broadly defined) Resolution, a step which would need to be UK-wide to ensure no adverse competitive implications for Scotland (See Box D below).

Box D : Issues Surrounding the Two Tier Workforce Notion

1 A Fair Wages Resolution type approach is most likely to be effective when there is a single set of negotiated terms and conditions of employment for an individual industry or sector. This position is much less true of the public sector now than was the case previously. Hence such a regulation may be only able to cover certain key terms, such as basic wages or pensions.

2 Theoretically one can distinguish an initiative designed to raise productivity from one designed to lower wages and costs. However, in practice this is a far from straightforward exercise. However, it is arguably desirable for a Government body to state explicitly that it expects and defines private sector 'innovation' to involve the former, rather than the latter.

3 Such a statement, together with the selection of 'good practice' employers as contractors, allied with a commitment to monitor developments, may help reduce, if not eliminate, the development of a two-tier workforce.

4 The real issue for the relatively long contracts under PFI is whether a commitment for comparable terms and conditions of employment could be given for all new hires over the life of the contract. Both legal challenges and dis-incentives for contractors are obvious areas of concern.

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UNISON Scotland UNISON Scotland

PPP/PFI in Scotland

Private Finance Initiative/Public Private Partnerships
The Scottish Parliament's Finance Committee Inquiry
The UNISON Scotland Evidence

June 2001

Executive Summary

- This paper sets out the evidence of UNISON Scotland to the Scottish Parliament's Finance Committee inquiry into PPP/PFI. UNISON welcomes the committee's decision to investigate this issue.
- Scotland is the biggest user of PFI with almost half the UK total estimated capital spend.
- UNISON has identified seven main reasons for rejecting PFI
  - The Public service ethos
  - Public finance drives the use of PPPs
  - PPPs cost more
  - PPPs profit from people
  - PPPs go wrong
  - PPPs are not value for money
  - Private companies make unacceptable profits
- UNISON's analysis of many PFI schemes demonstrates that the 'value for money' criteria is not met. Techniques including discounting, refining the Public Sector Comparator (PSC), and risk transfer are used to distort the criteria.
- Public authorities distort the figures to meet real or perceived criteria for approval of PFI schemes. Councillors and Board members are rarely given the information in a format they can understand or which shows the true cost of the scheme.
- Many schemes are not affordable and result in substantial cuts in services.
- There is little transparency or user involvement when developing PPP/PFI schemes.
- Misguided pressure to pursue off-balance sheet schemes has encouraged the unnecessary transfer of staff.
- Government policy on staff transfer and the potential for excluding services is not always followed in Scotland. TUPE is inadequate to protect staff who do transfer and a staffing framework is required.
- UNISON Scotland believes that there are unacceptably high financial, employment and democratic costs to using this method of financing Scotland's public services.

Introduction

UNISON Scotland welcomes the decision of the Scottish Parliament Finance Committee to undertake an inquiry into PPP/PFI schemes. After describing the background to PP/PFI in Scotland this paper sets out UNISON Scotland's position on the issues to be considered by the committee.

What is PPP/PFI?

Public Private Partnerships (PPP) is the umbrella name given to a range of initiatives which involve the private sector in the operation of public services. The Private Finance Initiative (PFI) is the most frequently used initiative and has specific Treasury rules which have to be followed. The key difference between PFI and conventional capital procurement is that the public does not own the asset. The authority makes an annual payment to the private company who provides the building and associated services.

A typical PFI project will be owned by a company set up specially to run the scheme. These companies are usually a consortia including a building firm, a bank and a facilities management company. Whilst PFI projects can be structured in different ways, there are usually four key elements: Design, Finance, Build and Operate.

PFI in Scotland

The Labour Government inherited a substantial commitment to PFI in Scotland. Since the launch of PFI in 1992, Scotland has been a lucrative home to PF1 with schemes exceeding £2.5bn in capital value and much more in the pipeline. This is reflected in almost all of Scotland's public services.

Local Government is the largest growth area for PFI most recently in schools thanks to substantial Scottish Executive encouragement including financial subsidy. Water is the second largest user of PFI. After a successful campaign against Tory privatisation, it is a Labour Government who will privatise Scotland's water through the back door.

The NHS until recently has been the major focus of PFI in Scotland through flagship projects, including Edinburgh's Royal Infirmary and in Lanarkshire the replacement for Law and Hairmyres Hospitals. The emphasis has recently shifted to a range of smaller schemes.

There is some evidence that that with the exception of schools the enthusiasm for large scale PFI projects has waned in favour of broader Public Private Partnerships (PPP). These have the perceived advantage of even less public scrutiny.

The Case against PFI

UNISON Scotland believes there are seven main reasons for rejecting PFI:

Reason 1. The public service ethos

Public services are not like other commodities. They exist to support the social, economic and environmental well being of communities and where a community decides that the market alone cannot provide a particular activity. The state then assumes some degree of responsibility for the service: by funding the service or by regulating for its quality and delivery. In a post election Mori poll for UNISON 91% of Scots rejected the use of private companies to run public services. The equivalent figure for England was 78%.

Reason 2: PPPs are driven by Public Finances not Public Services

The most common PPP is the PFI, that was conceived by a government that had lost control of public borrowing. The government's desire to keep borrowing off the public sector balance sheet remains the main driver for PPPs. Public authorities know that PPPs are the only way to get finance, which partly explains the unspent millions in the public coffers.

Reason 3: PPPs cost more

PFI schemes cost much more than conventionally funded projects. The private sector borrows at higher rates than the public sector since governments can borrow at much lower rates. They have high set up costs, due to lengthy negotiations involving expensive city lawyers and consultants employed by both sides. The first 15 NHS trust hospitals spent £45 million on advisers – an average of 4% of the capital value. The private sector demands high returns and despite very low risks, profits from PFI are extremely high, 18% for the Skye Bridge. The City firm Chantry Vellacott have calculated that PFI schemes cost the public purse £50m per year for every £1bn of capital value.

There is a growing body of evidence that PFI projects escalate both in scale and cost. These are not simple cases of costs going up for a project but reflect the very nature of PFI itself. 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.

Reason 4: PPPs "profit from people"

UNISON has conducted research into the impact of contracting out in local government on the terms and conditions of the workforce. UNISON's survey found evidence of a two-tier workforce – something commented on by both the Treasury and Health committees of the House of commons.

Over 90% of those contacted said pay levels for new employees were worse that for transferred staff. 1 in 5 of contracts showed a difference in the standard working week Pensions are a high value item for employees and a high cost item for contractors and public authorities.

Guidance from government means that successful contractors are obliged to offer a comparable pension scheme to transferred employees. Our research could not find a single comparable scheme open to new employees. There was either no scheme or else it was inferior and often the contractor made no contribution whatever.

There is inevitably a gender impact with women increasingly bearing the brunt of these new privatisations, just as they did under CCT and market testing. PFI contracts are at least 25 years long. As the first tier gradually disappears and only those staff on private sector terms and conditions are left, there will be a whole class of women workers providing public services who will have no occupational pensions and who will be working on inferior terms and conditions.

Reason 5: PPPS go wrong

There have been many claims that the private sector is more efficient than the public sector but there is no evidence offered to support this. Now that PFI schemes are coming on stream there is growing evidence that they are not producing the anticipated improvements in delivery to time or cost nor are they meeting the quality standards expected. After all, many of the same companies that were involved in pre-PFI cost and time overruns are also building PFI schemes. In Appendix 1 we have set out examples of problems on PFI projects.

Reason 6: PPPs do not give 'value for money '

For many PFI projects, it is only the transferred risks that make the project value for money. Research for UNISON by Professor Allyson Pollock, looking at schools and hospitals, shows that the calculations of risk are arbitrary and unreliable. At an IPPR seminar in July 2000 a senior representative of a private sector provider cast doubt on the Public Sector Comparator saying it could be *"massaged either way"*.

Reason 7: Private companies make unacceptable profits

As well as the huge returns made by private companies (Reason 3: PPPS cost more) they are refinancing their deals and yielding huge profits at the expense of the public sector. 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 Fazakerley prison the NAO reported that the net result is that the rate of return for the initial shareholders has tripled – from 12.8% at the start to 39%.

Value for Money

The current rationale for PFI emphasises value for money to the exclusion of other issues. This is assessed by using a notional Public Sector Comparator (PSC). As all schemes have to demonstrate that they are better value than the PSC it is claimed that PFI represents value for money. However, the methodology for assessing value for money is complex and does not always constitute a fair comparison. We cover some of the main reasons below:

Discounting

The discounting of future cash flows places a higher value on expenditure in earlier years and a lower value on expenditure in later years. This has a disproportionate effect on the PSC as PFI options are spread over the entire period of the contract, meaning that the total Net Present Cost (NPC) is shown as lower than the PSC. In cash terms, without discounting, PFI options are almost always more expensive.

Refining the PSC

There is evidence from a number of schemes analysed by UNISON that the PSC is refined after bids are received from the private sector. A variety of methods are used most of which are highly subjective but all have the effect of either increasing the PSC or reducing the PFI estimate. Often as in the case of the Royal Infirmary these are not 'like for like' comparators.

Risk Transfer

This is the most common method of justifying PFI schemes. In the Glasgow schools scheme the PSC was £35m cheaper than the PFI option. However, with virtually no justification £70m was added for the notional value of risk transfer. Despite the council underwriting the loan and other risk factors.

Lenders test projected PFI payments to see how much cash is available for debt service each year and how this compares with the debt service payments to be made. A study undertaken by a credit rating agency for UNISON on the South Tees NHS Trust PFI scheme estimated that it would require a 20% reduction in the availability payment throughout the life of the contract before the PFI company would be unable to meet its senior debt service obligation. In practice this is unheard of and therefore there is little risk to the lender. This is not surprising. Lenders are not in the business of taking risks. If they did there would be a premium.

Termination Costs

One of the most bizarre provisions of PFI schemes are that if a contractor defaults it is the public authority which has to compensate the lenders. This is justified by the Treasury on the basis that the authority could make windfall gains through contract termination. However, it impacts on the value for money comparison as lenders can provide funding to the PFI company knowing that their money is safe. Authorities on the other hand would have to make high compensation payments and therefore are very unlikely to terminate a PFI contract, even if the contractor blatantly fails to meet its obligations.

Affordability

In local authority schemes it is often claimed that schemes are revenue neutral. This means that the cost is made up of PFI credits from the government for the capital element with existing revenue budgets funding the services. Similar claims are made under other public sector funding arrangements. The absence of transparency in most schemes and the presentation of the figures means that it is difficult to assess the validity of the revenue neutral claim.

We do know that in a number of schemes the health trust or local authority have had to either fund the difference out of other resources or reduce the services to be provided. In hospital schemes this is usually done by reducing beds (on average by 31%) and in schools by cutting back facilities. In the Glasgow City Council schools project the charges for accommodation in year one grew from £24m in the feasibility study to £36.7m in the Full Business Case(FBC). Seven swimming pools are to be lost along with classrooms and staff common-rooms. The original requirement for refurbishment of 26 schools and the construction of two new schools changed to the construction of 12 new schools as this would be more profitable for the construction company.

Further details on these points with worked examples are set out in the UNISON publication *Public Services: Private Finance* a copy of which has been lodged with the Clerk to the Committee. A detailed analysis of health PFI schemes and other PPP/PFI materials are available on our web site.

MSP's may well ask why do public authorities and their officers approve PFI schemes given the above? The main reason is that the choice is between PFI and no investment in services which are urgently needed. However, that is not a reason for using PFI and approval would not be forthcoming on the grounds that public sector capital was not available. Therefore authorities desperately contort the figures as we have shown above in order to demonstrate that PFI is the best way to deliver a service. These figures are then used by the UK government to show that PFI delivers value for money. This bizarre feedback loop was the basis for the claimed 17% savings in the Treasury sponsored report from Arthur Anderson.

PPP/PFI would not be necessary if a different approach was taken to borrowing, which recognised the long term nature of investment. In the last financial year General Government Net borrowing was -£11,400m as against PFI investment of £2,971m. This excess means that all PFI investment could be financed through the Exchequer. A study by the IPPR and the Commons Treasury Committee concluded the case for PFI as the main means of getting extra investment was much weaker as a result of the Chancellor's financial framework.

As part of this approach UNISON would support the abolition of Section 94 consents. We do however, have serious reservations over the implementation of Resource Accounting and Budgeting. The paper presented to the committee by Jean Shaoul as part of the RAB inquiry highlights many of our concerns.

It is also important to stress that local authority members and quango board members are rarely presented with the financial information in a form which makes clear the true underlying costs of PFI schemes. Authority members cannot make informed decisions on the basis of NPCs or NPVs. They need to be shown the projected annual cashflows, which are the only basis upon which affordability can be judged. As one council Scrutiny Committee put it *"What we need to know is what it is going to cost in hard cash and can we afford it".*

Transparency and Consultation

In June 1999 the Minister for Finance announced that Full Business Cases (FBC) for schemes signed after that date would be made publicly available. This followed arrangements for greater openness in NHSiS schemes. UNISON welcomed this announcement although there are two main gaps. It does not cover schemes signed before June 1999 and even new schemes are only publishing sanitised versions on the spurious grounds of 'commercial confidentiality'. In addition publishing an FBC after the decision has been taken is a totally inadequate form of user involvement.

Even Pathfinder schemes such as Falkirk Schools have not been published and therefore have not been subjected to public scrutiny. Requests, even from the local MSP have been refused with no adequate reason given. No water industry scheme has been published. If these schemes represent genuine value for money then why the secrecy? The answer is that the officials concerned have seen published schemes analysed by UNISON and others and they do not want to face similar scrutiny.

UNISON Scotland believes there should be disclosure and full consultation on PFI proposals with key stakeholders - trade unions, employees, users and local community representatives - before any decision is made to opt for PFI. This consultation should continue throughout the PFI process. All documents should be publicly available and if any information is withheld the public authority should be required to give a full explanation for non-disclosure rather than hiding behind ‘commercially confidential’. In practice there is very little pricing information in PFI schemes which falls into this category as PFI bids do not require the detailed cost sensitive data that private companies use to calculate their bids.

The Centre for Public Services has recently published guidance on user/employee involvement in PFI schemes. Whilst some mechanisms are based on the English best value regime it does offer a framework to a user and community approach through representative community organisations. The Committee may wish to consider this guidance.

Staffing Issues

After the taxpayer (who finances the extra cost of PFI) it is usually low paid women workers who suffer the main consequences of PFI when they are transferred or are subsequently employed by PFI companies.

Following recent government policy changes staff transfer should only take place where it represents value for money. This contrasts with the previous position where there was an assumption that all workers classified as ‘non-core’ would automatically be transferred. This is known as ‘PFI without People’.

In the NHSiS and to a lesser extent in the water industry this policy change has been communicated and is understood, if not always applied. However, in local authorities this policy has not been followed.
In the Glasgow Schools scheme government policy was ignored and councillors were told that staff had to transfer to achieve the necessary risk transfer.

It would appear that this is partly to achieve ‘off -balance sheet’ treatment of PFI schemes which authorities wrongly believe is necessary to gain approval for schemes. Treasury ministers have made it clear that PFI is not to be used to hide borrowing and this follows the revised Accounting Standards Board (ASB) guidance on PFI in 1999. It is therefore essential that the Scottish Executive makes it clear that accounting tests of whether a PPP/PFI project is on or off balance sheet are not relevant to the assessment of whether or not a project should go ahead.

Whilst much has been made of the provisions of TUPE and the current review of the regulations it is clear that this is insufficient to protect staff in PFI transfers. Many issues including adequate consultation, pensions and new starters are not covered by TUPE. It is therefore imperative that the Scottish Executive adopts a comprehensive staffing framework for PPP/PFI schemes. A draft framework has been prepared through the auspices of the NHSiS Partnership Forum which could form the basis for such a framework across the public services in Scotland. The key provisions should include:

- Consultation arrangements before a decision is made on the method of financing
- The methodology for assessing the value for money criteria justifying staff transfer
- Model staff transfer agreement including pension provision and security of employment
- Post transfer negotiating structures including contract changes by agreement
- New starters employed on equivalent terms
- The arrangements for maintaining team work and the avoidance of a two tier workforce.

The pressure to pursue 'off-balance sheet' schemes has encouraged the unnecessary transfer of staff. There are a growing number of examples where following proper evaluation it is possible to show that retaining services in-house represents better value for money.

Conclusion

UNISON Scotland opposes PPP/PFI because of the threat to public services and to our members. We believe there are unacceptably high financial, employment and democratic costs to using this method of financing Scotland's public services.

In this paper we have attempted to show that the full consequences of PPP/PFI schemes are rarely considered by the relevant decision makers and value for money comparisons are contorted to meet real or perceived approval criteria. Even when PPP/PFI is used it is possible to mitigate some of the effects on staff and users through greater transparency and involvement together with adequate safeguards for staff transfer.

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Appendix 1

Examples of problems on PFI projects:

- Hairmyres Hospital: East Kilbride's new PFI hospital has run into a series of problems in only its first few weeks of operation:
  - Patient records lost
  - Patients prepared for operations and then sent home
  - Lack of beds
  - Outpatient clinics held in corridors
  - Unsuitable doors

- Dartford & Gravesham: a brand new, £177 million, state of the art hospital PFI hospital that opened June 2000 and immediately had to cancel all routine surgery because of a catalogue of failures. Doctors couldn't scrub up because theatre taps only ran at a trickle, sterilised equipment was not available and porters couldn't transfer patients without getting permission from their new, private sector managers

- First NHS project in red (Public Accounts Committee report April 2000): Dartford & Gravesham (PFI) costing an extra £4m per year to run, half of which would otherwise have been spent on other health services in the area.

- Dartford & Gravesham Hospital over estimates savings
  The first NHS Trust to sign a PFI contract, Dartford & Gravesham, was heralded as a flagship PFI project. In April 2000 the Commons Public Accounts committee reported that the scheme had failed to make the expected savings:
- instead of 9% savings of £17 million over the PSC, the project had only realised 3% or £5 million
- The NHS failed to estimate correctly the costs of this long- term contract and extra funding of over £4 million a year is now required to enable the Trust to meet its commitments. *"Over half of this extra funding would otherwise have been spent on other health services in West Kent"*
- The Trust failed to detect significant errors in the public sector comparator and the Trust now expects to achieve some £12 million less in savings
  (Public Accounts Committee Twelfth report : The PFI Contract for the New Dartford and Gravesham Hospital March 2000)

- Cumberland Infirmary, Carlisle
  The Prime Minister opened the first acute PFI hospital, in Carlisle, in June 2000
  - Two ceilings collapsed because of cheap plastic joints in piping and other plumbing faults - one joint narrowly missed patients in the maternity unit.
  - The sewerage system could not cope with the number of users and filth flooded an operating theatre.
  - Clerical and laundry staff could not work in their offices because they were too small.

    - Expensive bespoke trolleys had to be commissioned because those supplied did not fit the spaces between beds.
    - The transparent roof meant that on sunny days the temperature inside Cumberland Infirmary reached over 33C - the hospital has no air conditioning.
    - Two windows blew out of their frames, one showering a consultant and a nurse with glass.
    - in August 2000, when hospitals are usually quiet, there were 'bed jams' at the 444-bed Cumberland, which is currently at full capacity.
- Backlog of 3,000 unreported X-rays amassed between opening in April 2000 and September. The Trust said the x-ray department had been placed under “additional pressure” by the merger of four x-ray departments under the PFI scheme.

- Fiasco at the Passport Agency 1999, when the brand new state of the art computer system did not materialise and people were queuing for passports.
    - The company Siemens, failed to develop the new computer system on time and when they did get it running it processed fewer passports than the system being replaced. That was a PFI scheme that was not delivered on time. Siemens, is paying just £2 of the £13 million bill. The public will pay for the rest with a 75% increase in passport charges.

- National Insurance Recording System

The flagship computerisation by Andersen Consulting was so delayed that the DSS paid pensions providers more than £35 million compensation for late posting of records.

- Inland Revenue

The amount to be paid to EDS, the US computer company, has doubled to £2 billion whilst Inland Revenue staff are reported to be unhappy with the service they are getting.

- Armories Museum in Leeds was another pathfinder PFI project and it now is facing closure because it failed to attract the number of visitors needed to keep it solvent.

- Channel Tunnel Rail Link. The largest PFI scheme ever, that had to be bailed out by the government who guaranteed a bonds, thereby taking on the risk of the project.

- PFI contract for the Newcastle Estate of the DSS. (Commons Public Accounts Committee report (May 2000):
- cost £51 million more than remaining in the existing accommodation
- the expected efficiency savings were overstated
- the deal provides much less space than before, but staff numbers are expected to rise beyond the capacity of the building
- the cost of the procurement to the DSS rose eleven-fold, from £0.4m to £4.4million