How to

Exclude Support Services

from

BSF and PFI/PPP Projects

A Best Practice Report for
UNISON, GMB, NUT and NASUWT
in Tyne and Wear using
HM Treasury VfM Methodolgy

CENTRE for PUBLIC SERVICES

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November 2004

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List of abbreviations

BSF	Building Schools for the Future
BVPP	Best Value Performance Programme
BVR	Best Value Review
DfES	Department for Education and Skills
DSO	Direct Service Organisation
FBC	Full Business Case
FM	Facilities Management
HMT	Her Majesty's Treasury
ICT	Information and Communications Technology
LEA	Local Education Authority
LEP	Local Education Partnership
LIFT	Local Improvement Finance Trust
NPV	Net Present Value
OBC	Outline Business Case
OGC	Office of Government Commerce
ODPM	Office of the Deputy Prime Minister
OJEU	Official Journal of the European Union
PFI	Private Finance Initiative
PfS	Partnership for Schools
PSC	Public Sector Comparator
SBC	Strategic Business Case
SPA	Strategic Partnering Agreement
SPB	Strategic Partnership Board
SPV	Special Purpose Vehicle
TUPE	Transfer of Undertakings (Protection of Employment) Regulations 1981
VfM	Value for Money
4ps	Public Private Partnerships Programme

Executive Summary

Support services can be excluded from BSF and PFI/PPP projects

Government policy states that support or soft services such as cleaning, catering, repairs and maintenance, grounds maintenance and security can be excluded from Private Finance Initiative (PFI) contracts **before** the procurement process commences (see Part 1 and Appendices 1 and 2 for NHS LIFT and Scotland PPP situations respectively).

A decision to exclude soft services must be based on strategic priorities, the council's procurement policy and a HM Treasury value for money and quantitative assessment.

Strategic choices facing local authorities

Local Education Authorities (LEA), local authorities, school governors, parents, teachers, pupils, community organisations and trade unions have seven strategic choices which will determine how BSF will be implemented and largely determine the longer-term viability of the LEA and Direct Service Organisation (DSO). Strategic decisions are required on:

- The future of the LEA.
- To retain a key role for the LEA and DSO or to establish an alternative private sector 'business' which will undermine both organisations.
- To exclude or include an Academy.
- How community needs are met in extended schools.
- Design of schools.
- The wider role of BSF in regeneration strategies.
- An employment policy which will safeguard terms and conditions for all staff.

Value for money not at expense of workers

The Treasury has stated that value for money should not be achieved at the expense of workers' terms and conditions. There is also substantive evidence which shows the importance of job satisfaction and employee participation in achieving productivity gains and service improvements.

The methodology and evidence to justify the exclusion of support services

The report uses HM Treasury's Value for Money methodology to demonstrate why soft services should be excluded from BSF and PFI/PPP projects. This includes the strategic rationale, improved standards of service delivery, flexibility of public service provision, equity, efficiency and accountability criteria set by the Treasury.

The report also suggests methods of removing or neutralising the bias in favour of PFI which is often built into quantitative assessments. It also explains why schools should support the exclusion of soft services on the grounds of quality, cost, flexibility, service integration and synergy, sustainability, added value, community benefit and reduced risks.

The Treasury's quantitative assessment covers lifecycle costs, operating expenditure, third party income, transaction costs and a wide range of indirect value for money factors. The report explains how these costs and impacts should be built into the spreadsheet and identifies sources of evidence. In particular, it examines the externalities and non-market factors in a worked example of a multi-criteria analysis performance matrix. The report also discusses how optimism bias and risk assessment should be considered in the qualitative assessment.

Strategies for DSOs

The report recommends that DSOs and LEAs should adopt best practice and integrated service provision, in particular a number of in-house improvements such as:

- FM service design for BSF
- A continuous improvement plan.
- A planned maintenance schedule.
- A service assessment including benchmarking, Best Value reviews.
- A help desk.
- A local labour scheme for services.

BSF evaluation criteria

Finally, the report notes the criteria for options appraisal and recommends additional criteria to be used in the evaluation of BSF bids.

Appendix 3 summarises the performance of facilities management contractors in PFI schools contracts.

Part 1
Introduction: Strategic choices

This report addresses the issue of the exclusion of soft services from Private Finance Initiative (PFI) contracts generally, and in particular, schools. Treasury guidance, supported by Audit Commission evidence, is very clear on the ability of local authorities to exclude soft services from all PFI projects, not just school projects.

This report focuses on the criteria and evidence which can be included in Value for Money (VfM) and Quantitative Assessment to justify the exclusion of soft services. It does not address the wider assessment of PFI and public sector options and affordability issues.

The inclusion/exclusion of soft services should not be a factor where a local authority directly funds investment in BSF schools. However, many local authorities and Local Education Partnerships (LEPs) are likely to make the case for inclusion of soft services on the grounds of economies of scale.

There are three key issues regarding the provision of soft services, which are clearly stated in PFI and BSF guidance:

- Soft services need not be included in PFI projects if it is not essential for achieving the overall benefits of improved standards of service delivery specified by the procuring organisation.
- Value for money should not be pursued at the expense of the terms and conditions of staff.
- Local authorities will have to make strategic decisions about the future role and function of the LEA and DSO. These are strategic issues, which transcend narrow VfM procurement matters.

The process of excluding soft services must be robust, transparent and open to scrutiny. This report provides the rationale and evidence to support this approach.

Definition of soft services

Soft services are the support services required for the operation of the building or facility and support the activities carried out within the building. The range of soft services includes:

- Cleaning
- Caretaking
- Catering
- Grounds maintenance
- Waste management
- Utility management
- Security and alarm systems
- Routine repairs and maintenance
- Equipment maintenance
- Reception

There are three other categories of services to schools:

1. White-collar support services to schools such as human resources, pay roll, finance and legal services.
2. Educational support services such as school transport, school improvement and special educational needs.
3. Information and Communications Technology (ICT) services including maintaining and updating the extensive ICT infrastructure planned for BSF schools.

The needs of BSF schools

BSF will focus on investment in secondary schools, most of which will be extended schools with community facilities, some being jointly located with other public services. This will mean that BSF schools will need:

- Joint use of facilities.
- To operate with extended hours from 8.00am to 6.00pm as proposed by the government.
- To focus on integrated and flexible services.
- Quality of service.

Stage at which decisions on soft services should be made

The decision on the exclusion/inclusion of soft services is part of the qualitative and quantitative assessment at Stage 1 and 2 of the investment programme and project assessment set out in the Treasury VfM guidance. The decision must be made **before** an Official Journal of the European Union (OJEU) Notice is issued.

The current advice on the preparation of the Outline Business Case (OBC) from the 4ps stresses the need for an early decision on service delivery:

> "One of the first tasks in developing an OBC will be to determine the scope of services to be included within the project. The careful definition of the scope of services to be covered is vital to the sound progression of the OBC, as this will enable clear judgments to be made about costs, risks and the benefits of different project and service delivery options. The scope of the project is an issue for each Local Authority, and will depend upon local organisational and service delivery issues, and the results of the strategic service review, CPA or Best Value review" (4ps, 2004).

This statement stresses that the scope of the project is a local decision depending on organisational and service delivery issues.

A letter from HM Treasury accompanying the revised VfM and Quantitative Assessment guidance states that

> "…..it is very important that VFM assessments should take place at the earliest practical stage of any decision making process and that departments ensure there is flexibility to pursue alternative procurement routes if at any stage PFI does not offer the best VFM" (HM Treasury, 2004).

For the sake of clarity, soft services can be excluded from BSF and PFI projects prior to the start of the procurement process if a satisfactory VfM and Quantitative Assessment has been carried out and the council's procurement policy is taken into account.

Mandatory bid

If a BSF or PFI project had already commenced the procurement process when the exclusion of soft services was being considered, then a local authority could require a mandatory bid by the in-house service/DSO to be submitted for soft services. The OJEU Notice must indicate to tenderers that the in-house service will be submitting a bid for soft services. The bid would be evaluated together with the PFI FM provider bid.

This process has several disadvantages. Firstly, the in-house service will incur additional costs to prepare tenders, which it would not otherwise have to bear. Secondly, it reduces the time available for the in-house service to develop an integrated one-stop-shop supplying not just FM, but a range of educational support services. Thirdly, requiring a tendering process tends to increase the financial bias in the award of contracts. Fourthly, it contradicts the local authority's procurement policy, where the continued provision of a good quality service does not require a procurement process.

Procurement policy

The decision on excluding soft services will need to be taken in the context of the principles and processes in the local authority's procurement strategy and policy. Newcastle City Council's procurement strategy sets out the procedure to be followed, if a service has not recently been subjected to a Best Value Review. In these circumstances the procedure requires future service needs to be assessed and informed by "…..a full understanding of the City Council's aims and external environment" including the needs and views of service users, the purpose of the service and its contribution to the council's strategic aims, the track record of other forms of provision, the added value to equalities, diversity, community well-being and environmental sustainability (Newcastle City Council, 2003).

Once future service needs have been identified, including delivery, "…..the existing service will be compared to the future needs and when a service does not appear to have the expertise, culture or capacity to:-

- meet future needs or
- be capable of developing a service improvement plan or,
- where either:-
    - a service improvement plan fails to be implemented or
    - falls short of user expected service delivery or
    - fails to achieve targeted performance indicators

  a procurement exercise will be undertaken.

In other words, a procurement process is not automatically triggered where a service is performing well, can meet future needs and has an improvement plan (ibid).

Market response

In the past, an assumed negative response from PFI bidders, has been one of the factors used to justify the inclusion of soft services in PFI projects. However, there are a number of issues, which make this assumption invalid, especially in this case:

- The Treasury and the government would not be providing unequivocal guidance stating that soft services can be excluded, if it considered that there would be a negative response from the market.
- Where local authorities and NHS Trusts have excluded soft services from PFI contracts, there is no evidence that this has led to a negative or lower response from PFI bidders.

- The first wave of BSF investment is £500m of construction and related work in Tyne and Wear alone. Many facilities management services are provided by subsidiaries of construction companies with specialist services provided by sub-contractors. However, the contracts will be substantial without including the cost of soft services and the FM sector is sufficiently robust for the non-construction related FM services companies.
- Excluding soft services at the outset allows the local authority to concentrate its resources in the procurement process on the important task of achieving high quality design and construction.

The scope of BSF

The Building Schools for the Future programme is intended for the renewal of secondary education with spending rising to £2,200m by 2005/6 (of which at least £1.2 billion will be PFI credits and £1.0 billion in conventionally funded projects) compared to £850m in 2002/03 (all PFI credits).

BSF has a number of components. A new national organisation, Partnership for Schools (PfS), a DfES quango, works with local authorities and the private sector to review, design and implement secondary education provision. A Local Education Partnership (LEP) is established to design, build, finance and operate schools, most of which will be extended schools with community facilities.

The DfES is encouraging local authorities to 'add value' by creating a new 'business'. It will include a wide range of educational services and regeneration within the scope of the LEP, 80% controlled by a private sector partner. Section 6 of the BSF Partnering Services Specification template states that:

> ".....the LEP is intended to be a strong local business with substantial delivery capacity" (PFS, 2004, page 31). It also states that "....there are a number of value added services which LAs could seek from the LEP", which are summarised as estate rationalisation and property development; maximising the regeneration potential of BSF; finance and commercial support to schools; educational support services to schools; and running change management programmes. It states that the decision on whether or not to seek these services from the LEP ".....is entirely up to the local authority and schools and should be made on a value for money basis" before commencing LEP procurement (ibid).

The provision and maintenance of information and communications technology equipment must be integrated into the design and operation of schools.

Local authorities are being pressurised by DfES into including an Academy in their BSF projects even though government guidance only obliges them to have considered and evaluated the option of including an Academy.

The BSF process requires a local authority to prepare a Strategic Business Case (SBC), setting out its strategy for the renewal of secondary schools, community facilities, Information and Communications Technology and services to schools. The SBC is reviewed annually by a Strategic Partnership Board (SPB) consisting of representatives from schools, trade unions, the LEA and local authority and other agencies such as the Learning and Skills Council and Connexions. The SBC is followed by an Outline Business Case to trigger the procurement process to select a private sector partner to build/refurbish the schools and operate the LEP.

The opportunities created by BSF

There are positive aspects of BSF because it provides:

- Additional investment in schools.

- Scope for innovative design to meet educational and community needs.
- Increased community facilities and use of schools.
- Integrated information and communications technology in the design and operation of schools.
- Scope for linking with adult education.
- Scope for combining educational facilities with health, social services and leisure facilities.
- Joined-up funding.
- An element of conventional public funding.

Strategic choices for LEAs, local authorities, school governors, parents and teachers

The BSF programme means that LEAs, local authorities, school governors, parents, teachers, pupils, community organisations and trade unions are confronted with seven strategic issues:

1. The future of the LEA: Does the LEA continue to provide a wide range of educational support services for schools or does it reduce to merely being a policy unit?

2. Establishment of alternative private sector 'business' which will undermine both the LEA and DSO: The outsourcing of soft services, white collar and educational support services and ICT services in BSF schools will undermine the economic viability of the LEA and DSO and the provision and cost of services to the rest of the council.

3. Academy: There is a clear choice to either resist the pressure to include a Academy in the BSF programme on strategic and educational grounds (but adhere to the requirement to provide evidence that the local authority has considered and evaluated this option) or to include one in the BSF plan.

***4. Meeting community needs in extended schools*:** The focus should be on meeting community needs in the planning and design of facilities and functions in extended schools and not treating third party income (fees from renting school facilities to local organisations for community events) as a funding mechanism for PFI or a cash cow for schools, in effect imposing a tax on the community.

***5. Design of schools**:* The design of many PFI schools nationally is disappointing and a wasted opportunity. There is an opportunity for the council's architectural and technical services to undertake the planning and design of BSF schools. There is also an opportunity for community organisations to be involved in the design process as well as governors, teachers, parents and pupils.

6. Regeneration strategies: The local authority must retain planning and policy of education and regeneration and not transfer responsibility to a privately controlled LEP.

7. Employment policy: The government has stated that a PFI option should not be at the expense of terms and conditions of staff, and that the Best Value Code of Practice on Workforce Matters protects staff from this. However, this Code of Practice includes important loopholes and local authorities cannot rely on the Code to meet their employment obligations.

These seven strategic choices will, in effect, largely determine the scale and scope of community benefits obtained from the BSF programme. The consequences of trying to avoid or fudge these decisions will have a long-term impact on the quality of education and community provision.

The level of outsourcing will affect the degree of involvement and leverage of parents, teachers and the community in how schools are designed, constructed and managed. It will also limit their contractual power to determine future standards of maintenance and achieve the flexibility of provision required to meet educational and community needs in extended schools.

BSF Charter

In the light of all the concerns about the implications of the BSF programme, UNISON, GMB, NUT and NASUWT in Tyne and Wear have drawn up the following Charter of changes in how the BSF programme is implemented. It is divided into three parts:

1. Schools and the wider community need to be consulted and fully involved in BSF

- Full consultation with community organisations, trade unions and parents on BSF proposals, particularly the review of the authority's educational vision and the preparation of the Strategic Business Case.
- Revision of educational vision to include participation of trade unions, community organisations and educational organisations.
- Community needs – a plan for identifying, prioritising and meeting community needs for meeting facilities, adult learning facilities, sport and leisure, community events, is prepared and consulted on *before* an Outline Business Case is prepared. This should be more than the tokenistic consultation to date.
- A Strategic Partnership Board is set up as a matter of urgency and should have wide representation from trade unions, parents, community organisations and educational organisations. The SPB should have clear powers to evaluate and revise the Strategic Business Case.
- An alternative organisation to the planned Local Education Partnership (LEP) should be fully investigated and appraised. The council should have a minimum 20% control.
- Full transparency and disclosure of LEP and related organisations.

2. BSF should be a school building programme only

- LEP to be confined to those schools receiving BSF investment.
- Minimum use of the Private Finance Initiative (PFI).
- Exclude an Academy from BSF plans. The local authority is only obliged to have considered and evaluated the option of including an Academy; there is no requirement to have one.
- A full local impact assessment of BSF proposals should be carried out before submission to the Department for Education and Skills.

3. BSF has to meet local needs and protect local jobs

- Local authority will develop its own local criteria at each stage of the process.
- No outsourcing of educational support services.
- Exclusion of soft services from PFI contracts.
- Local authority Direct Services Organisations to bid for contracts where services are included based on quality plans

- Local authority architectural and technical services to design some BSF schools.
- Production and supply chains should be strengthened to maximise employment in the regional construction industry and related services.

Part 2

The government's position on the exclusion of soft services

PFI guidance on the exclusion of soft services

> "A crucial choice for Procuring Authorities is the extent to which a range of services is included in the scheme. Are these restricted to hard FM or does the scheme also include soft FM? **There is no *priori* reason why a PFI scheme has to include soft services where the Authority believes that their transfer is not essential for achieving the overall benefits of improved standards of service delivery specified by the procurer, and where not transferring staff is consistent with delivering the Prime Minister's commitment to flexibility in public services.** This should form part of both the quantitative and qualitative analysis" (Value for Money Guidance, HM Treasury, August 2004, para 1.10, our emphasis).

The Treasury report, 'PFI: Meeting the Investment Challenge', which detailed the government's approach to PFI, also made virtually the same statement, adding

> "The Government believes that PFI procurement does not involve maximising the transfer of employees to the private sector and that the value for money benefits it can offer……are not obtained at the expense of workers' terms and conditions." (*PFI: Meeting the Investment Challenge*, HM Treasury, July 2003, para 7.18)
>
> The Green Book: Appraisal and Evaluation in Central Government (Annex 1 p55) outlines "the importance of considering the impact on employment in appraisal." (para A.10, HM Treasury, 2004)

Audit Commission evidence on PFI schools

The Audit Commission compared the cost of FM services in PFI schools with those of traditionally funded schools using the Commission's database of non-PFI schools running costs, which is updated annually. The analysis found that "…there were no statistically significant differences between PFI and other schools in the costs of building maintenance, grounds maintenance, water and sewerage or fuel" (Audit Commission, 2003).

The study also concluded that PFI schools were not better designed and were not achieving efficiency savings in terms of the cost and quality of FM services.

These findings helped to eliminate some of the wildly optimistic and unsubstantiated claims made for the inclusion of soft services in PFI contracts. The 'pros' of PFI were said to provide "…guaranteed quality of service" and give "…certainty to future costs" and allow "…schools to focus on education".

Building Schools for the Future guidance on soft services

The draft guidance for the Local Education Partnership (LEP) model states: "It would be up to local authorities to decide what mix of soft services they wished to include (in the LEP)" (DfES, 2004).

The Partnership for Schools response to the consultation feedback on the BSF draft documentation stated:

> "There is no intention for mandatory inclusion of soft FM services. In keeping with the recent HMT paper *Meeting the Investment Challenge*, LEAs will have the flexibility to assess the appropriate scope of soft FM provision and whether this is supplied in-house or through the LEP on VFM grounds" (LEPs: PfS Response to consultation feedback on the LEP model, August 2004, response No 22, page 31).

Other evidence

There is also other evidence to support the case for the exclusion of soft services.

A study by Eversheds in 2002 concluded that it was generally accepted that there were no legal obstacles to local authority Direct Service Organisations (DSOs) participating in PFI schemes for soft services. They also concluded that the provision of soft services by in-house teams did not compromise transfer of risk to the private sector and, therefore, met the FRS5 test allowing the project to remain 'off balance sheet'. Significantly, the study also concluded that the provision of 'hard' services such as Design and Building Maintenance could also be delivered on an in-house basis, whilst still meeting the FRS5 test (*The Involvement of DLOs and DSOs in Local Authority PFI Schemes 2002*", APSE, 2002).

Prior to this, a 1998 DETR document *Local Government and the Private Finance Initiative* had clearly stated that the choice on which services to include was a decision for Local Authorities. The Treasury also wrote to the Association for Public Service Excellence stating that "…the government has made it clear that there is not a requirement for staff providing 'soft facilities management' services – such as ancillary staff in hospitals – to transfer as part of a PFI contract" (UNISON: May 2000).

Part 3
Employment and workforce matters

Meeting the Investment Challenge set out a number of principles for employee protection in PFI projects:

- being open with staff and achieving greater transparency
- protecting terms and conditions for both transferees and new joiners
- protecting staff pensions
- retaining flexibility in public service delivery

Where staff are transferred, the Best Value Code of Practice on Workforce Matters will apply.

Value for money should not be achieved at workers' expense

The HM Treasury Value for Money Assessment Guidance makes clear the position on employment:

> "VfM should not be achieved at the expense of workers' terms and conditions; the position of the workforce within any PFI deal is a vital consideration for appraisers and project teams. Appraisers should consider carefully the impact on the risk allocation and the ensuing benefits and disadvantages of transferring staff when considering whether PFI is appropriate;"

The guidance also states:

> "In undertaking a PFI procurement, Procuring Authorities should take full account of the suite of guidance pertaining to the treatment of staff. This should include the Cabinet Office Statement of Practice issued in 2001, HM Treasury Guidance relating to bulk transfer agreements and, where applicable, the Best Value Code of Practice, NHS guidance on Retention of Employment and the Scottish Protocol on Employment issues. Due care should also be given to the advice set out in PFI: Meeting the Investment Challenge, Workforce Issues. VfM should not be pursued at the expense of staff terms and conditions; this position is embedded in the quantitative spreadsheet used at stages 1 and 2.**"** (Value for Money Assessment Guidance, HM Treasury, August 2004, paras 1.6 and 1.7).

The scope of the Best Value Code of Practice on Workforce Matters is limited in several important ways:

Firstly, it only applies when staff are transferred to a contractor. It does not apply when local authorities transfer work to the private sector by commissioning spot contracts or when a new service is initiated.

Secondly, private contractors can join the Local Government Pension Scheme to provide transferred staff with pensions but too few contractors do so. In addition the Code is "…permissive" with regard to the defined benefit/final salary option (Wing, 2004).

Thirdly, a private contractor could agree to implement the Code at the start of a contract but later use delaying tactics in awarding annual pay increases or reclassify the job titles/descriptions of new starters.

Finally, the requirement to offer new starters "…overall no less favourable" terms and conditions and a pensions package could lead to some contractors devising pay and conditions which undermine this principle. Although the Code will be part of the PFI contract, the risk of cuts and variations developing over a 30 year period is far greater than most other risks associated with PFI, particularly since it is the staff who bear the risk, not the PFI contractor or the local authority.

It is for these reasons that a TUPE Plus transfer should be standard practice.

The importance of having a skilled and committed workforce throughout the contract period is very important. An Office of the Deputy Prime Minister (ODPM) study into the role of staff in delivering high quality public services concluded that:

- A majority of local authority survey respondents believe that active staff engagement in best value and performance improvement brings positive benefits in improved service performance, higher productivity, improved staff morale, and staff recruitment and retention;
- Survey analysis identified a positive association between staff involvement in the implementation of action plans following best value reviews and local authority Comprehensive Performance Assessment (ODPM, 2004.

Earlier studies have also highlighted the importance of job satisfaction and employee participation in achieving productivity gains and service improvements (IDeA et al, 2000). However, experience in Strategic Service-Delivery Partnerships operated by private sector firms in Lincolnshire, Middlesbrough, Blackburn, Liverpool and Southwark reveals a lack of employee consultation in change management and poor training despite these practices featuring prominently in the company's promotional material and during the procurement process (Centre for Public Services, 2003).

Part 4
Value for Money assessment of soft services

This section examines the Treasury's Value for Money (VfM) model and provides a detailed case for the exclusion of soft services within the framework provided by this model. Value for Money (VfM) is defined as "…the optimum combination of whole-life cost and quality (fitness for purpose) to meet the user's requirements" which is "…rarely synonymous with lowest price" (Office of Government Commerce, 2004).

The criteria developed for the exclusion of soft services can also be used as the justification for the exclusion of a wide range of educational support services.

The need for the estimation of operating and lifecycle costs in the VfM assessment to be realistic is emphasized by the 4ps in the following statement on OBC guidance:

> "Operating costs should cover the on-going provision of services included within the scope of the project, and the associated operating, facilities management, energy, maintenance and lifecycle costs. It is easy to overlook or underestimate the costs of implementing a project and the transitional and change management resources required. It is important, therefore, that realistic estimates are prepared and included in the appraisal" (4ps, 2004).

The case for the exclusion of soft services

The Treasury's VfM Assessment Guidance (August 2004) has a qualitative assessment methodology based on three factors - viability, desirability and achievability. The key issues and questions are summarized in Table 1 with the sections applicable to soft services included in full.

Table 1: **Treasury Value for Money Methodology for excluding soft services**

Value for Money Methodology	
Issue	**Question**
VIABILITY Programme level objectives and outputs Operational flexibility	
Equity, efficiency and accountability	"Are there public equity, efficiency or accountability reasons for providing the service directly, rather than through a PFI contract? Are there regulatory or legal restrictions that require services to be provided directly? Have the expected staff terms and conditions at stage 2 been considered and what are the impacts on the contract, equity efficiency and accountability?"
OVERALL VIABILITY	
DESIRABILITY Risk management Innovation Incentive and monitoring Lifecycle costs and residual value	
Service Provision	**"Are there good strategic reasons to retain soft service provision in house?** • What are the implications in the longer term for the organisation in losing these skills- are all the expertise transferring or is there some retention? E.g. skills to manage contracts or let future similar contracts. **Is soft service transfer essential for achieving the overall benefits of improved standards of service delivery?** • What are the relative advantages and disadvantages? • Is there a commitment that the assumed benefits are deliverable without eroding the overall terms and conditions for staff? • Is transfer necessary to achieve the optimal risk allocation? **Where soft services are not transferred, is this consistent with the Prime Minister's commitment to flexibility of public service provision?** • Are there changes in working practices that are only deliverable through transfer or are there other ways these could be achieved and do they deliver VfM?"
OVERALL DESIRABILITY	
ACHIEVABILITY Transaction costs and client capacity Competition	
OVERALL ACHIEVABILITY	

Source: Value for Money Guidance, HM Treasury, August, 2004.

The case for the exclusion of soft services is made below using the three statements in the Service Provision section in Table 1.

"Are there good strategic reasons to retain soft service provision in- house?"

- Maintaining an integrated and coordinated management of school support services. It also permits a school team approach in place of fragmented provision by different contractors.
- Maximising economies of scale because in-house provider can supply wide range of soft services (see BSF Partnering Services Specification Template, page 27).
- In-house services have a policy of purchasing of goods and services locally. It supports sustainable development with a long-term commitment to quality services and jobs, valuing natural resources and minimising the negative effect of transport and pollution through local sourcing of goods and services. The 'supply chain' – (where and how goods and supplies are produced and delivered) is important because it helps to:
    - support regional agriculture, horticulture and manufacturing;
    - boost local purchasing and good quality employment increases expenditure in the local economy, which, in turn, supports additional employment in local shops and services.
    - minimise the negative effects and costs of transport.

  Most contractors operate nationally and will be less committed to a local and north east regional strategy.
- In-house services have direct responsibility for implementing the Council's corporate policies and priorities on employment, equalities and the adoption of family-friendly policies with more flexible working arrangements. The implementation of corporate policies by third parties is frequently less comprehensive and significantly slower.
- The retention of soft services enables local authorities to maximise the impact of the BSF programme in two important ways:

  - the ability to quickly transfer and apply the benefits achieved in BSF schools to other schools operated by the LEA where the local authority is also a key provider of services:

  - linking with other initiatives in which the local authority has a major role – "BSF funding should be capable of linking up with other local initiatives eg. area regeneration, services for children" (LEPs: PfS Response to consultation feedback on the LEP model, PfS, August 2004, para 8.1.2)
- Provides better-quality jobs, terms and conditions. Although the Best Value Code of Practice on Workforce Matters provides some protection against a two-tier workforce this is not guaranteed.
- Equality issues are more fully addressed by in-house services. Catering and cleaning services are delivered mainly by women - their earnings account for a significant part of household income. Many are single parents, some are carers of the elderly, hence the wider social impact of changes to their employment and earnings is significant.
- Better quality training with established opportunities for education, learning and career development. This will translate into better-trained staff, higher levels of

job satisfaction, which in turn results in better quality services (IDeA et al, 2001 and ODPM, 2004).

- Better health and safety practices and track record of DSOs, which is particularly important in secondary/extended schools, which are also widely used by the community.
- Good project governance will be important to deal with the changing requirements of schools and community alike, concerning the use of facilities and the services required. The exclusion of soft services will enable the school to operate as an integrated team and enable issues to be discussed and negotiated thus avoiding unnecessary contractual conflicts and disputes.

  The local authority also has responsibility and fiduciary duty to ensure that its DSO provides effective and efficient services and that public investment achieves maximum benefit to improve community well being.

  Firstly, creating a LEP to compete with the DSO will almost certainly undermine the economic viability of the DSO and its ability to provide good quality services to other council directorates. There is thus a clear economic case for excluding soft services from the LEP in order that the council is not simultaneously creating a new company (80% privately controlled) whilst effectively making trading conditions for its DSO economically insecure.

  Secondly, the inclusion of the additional services in the LEP will have significant economic consequences for the DSO, LEA and possibly for other council directorates. These are strategic issues which the local authority is entitled to make and are not simply VfM issues.

"Is soft service transfer essential for achieving the overall benefits of improved standards of service delivery?"

This is usually justified on grounds of flexibility, risk transfer, better-quality services and value for money. The answer to the question is 'no' for the following reasons:

Flexibility: see below

High quality service: In-house services have the ability and capacity to provide equivalent or better quality services (Audit Commission, 2003). In addition, the package of measures outlined in Table 2 such as FM Service Design, Service Improvement Plan, Planned Maintenance, Service Assessments and Benchmarking will ensure that service delivery standards are improved and draw on innovation and technological change over the contract period.

Value for money: see Table 3 in Part 5.

"Where soft services are not transferred, is this consistent with the Prime Minister's commitment to flexibility of public service provision?"

The exclusion of soft services can achieve greater flexibilities for the following reasons:

- The emphasis of in-house services will be on responsiveness to user needs and changing circumstances rather than simply on contract flexibility. Just as BSF requires "…school facilities that are flexible enough to cope with evolving educational service delivery strategies over time" (BSF Partnering Services Specification Template, page 28) the same requirements apply to support services.
- In-house services have a facilities management strategy creating flexibility in the provision of services. The proposed criteria in Table 2 include a commitment to periodically carry out service assessments with the purpose of maintaining and improving flexibility and responsiveness.

- The council/DSO industrial relations framework is more comprehensive and stable compared to most private contractors. This will facilitate negotiation of changes in working methods and implementation of continuous improvement plans over the contract period. This framework is likely to give the LEP more flexibility than other options.
- DSO has a workforce with local knowledge to draw on staff in the case of emergencies.

There are additional reasons which support the case for the exclusion of soft services which are taken into account in the viability section of the Qualitative Assessment:

Equity

There are several important aspects of equity in service delivery – such as policies and practices which prevent a two-tier workforce from developing over the 30 year contract period. Reliance on the Best Value Code of Practice on Workforce Matters alone to achieve this objective is highly questionable. In addition, there is the need for equitable employment policies within and between sections of the educational workforce.

There are of course wider equity issues for schools such as equitable access to education and avoiding selection-based systems; community access to school and related facilities such as the provision of community and related services to meet local needs, physical access and user charges; equality groups and community involvement in the governing of schools; and equitable opportunities within schools.

Efficiency

Local authorities have demonstrated that they can drive and achieve efficiencies in service delivery working in different forms of partnerships.

Following the Gershon Review the government has set a target of 2.5% per annum year on year efficiencies for local government. This does not require a blanket application across all services. Facilities Management services have been subjected to ongoing review and efficiency drives over many years and the extent to which annual efficiency targets of 2.5% can be achieved is questionable.

Accountability

Establishing customer satisfaction assessment methodologies is another important part of value for money and continuous improvement. But most schools have already selected the DSO as their preferred supplier, many returning to the DSO after trying private provision. This preference needs to be recorded in the value for money assessment.

Other reasons

The Partnerships for Schools response to the consultation feedback assumes that a "…unified single point structure for integrated supply chain management with the ability to supply all BSF services under one umbrella" is the only option. In fact the quality of the integration is the key issue, not whether it is a single source. The focus must not solely be on achieving efficiencies (or profit for the construction and building supplies industry) but other economic and employment benefits from a more integrated supply chain. The commitment and vested interests of the organisations involved have a paramount influence on the use and distribution of the benefits which can sometimes be more effectively achieved by two or three committed organisations rather than a single organisation.

Why schools should support the exclusion of soft services

Schools will have a role in the BSF policy making process and will, therefore, need to understand the rationale for the exclusion of soft services, the longer term implications for the LEA and DSO if facilities management and educational support services are outsourced, and the new approach which in-house services will take to ensure a consistent good-quality service. The key issues for schools are summarised in Table 2.

Table 2: **Why schools should support the exclusion of soft services**

Why schools should support the exclusion of soft services from BSF	
Criteria	**The case for exclusion of soft services**
Quality	Quality of service will be paramount in extended schools open for longer hours coping with a wider variety of demands from educational and community use perspective. A responsive and consistent service provided by a trained workforce committed to implementing a continuous improvement plan. New systems in DSO and LEA will provide schools with effective and efficient service with systematic monitoring and reporting to schools.
Cost	A combination of competitively priced services which also reduces cost and time spent by schools on procurement.
Flexibility	Ability to deal with new demands for extended hours and increased educational and community use. Not reliant on legal definitions of contract clauses and expensive legal costs incurred in renegotiating the contract to meet changing needs and priorities.
Service integration and synergy	Integration and co-ordination of facilities management, school and educational support services in a holistic one-stop-shop system which cannot be achieved by other providers.
Sustainability	Environmental policies, green mainstreaming in the supply of goods and services, long-term commitment and continuity of supply.
Added value	Emphasis on local and regional production and supply chain supporting the local economy.
Community benefit	Local good quality employment providing better conditions and security, training and workforce development and implementation of the council's equalities policies.
Reduced risks	The bulk of project risk is associated with the design, construction costs and completion time. Once schools are operational much of the risk is associated with the delivery of services – that is why PFI projects are often refinanced to extract additional profits because the risk has substantially reduced on completion. No PFI provider can prove that they can deliver quality services consistently over 30 years of a contract. Operational risk is frequently exaggerated but an in-house service is equally capable of accommodating risk.

Part 5

Quantitative assessment for the exclusion of soft services

The Treasury's Quantitative Assessment guidance consists of a user guide and a spreadsheet to support the VfM decision as whether to use PFI or conventional procurement and whether to exclude or include soft services within the scope of a PFI contract.

The quantitative assessment includes modelling the whole life costs with a spreadsheet divided into five components:

- Capital expenditure (including equipment)
- Investment in lifecycle costs
- Operating expenditure (the cost of buildings and grounds maintenance and support services, overheads and insurance)
- Residual costs
- Transaction costs

This report focuses on the provision of services and hence covers only the lifecycle, operating and transaction costs.

The approach to quantitative assessment in this report is based on three key issues:

- Identifying and valuing the advantages of the exclusion of soft services.
- Identifying those parts of the model which assume that PFI provision or outsourcing have benefits over in-house provision but where evidence suggests that the in-house option is equally capable of achieving similar change and improvements. Where this is the case, the model should be adjusted to neutralise PFI bias.
- Identifying parts of the model which exaggerate the PFI advantage. The model is hard-wired so that adjustments cannot be made. However, this bias towards PFI is unjustified and compensatory adjustments must be made elsewhere in the model to eliminate bias.

Lifecycle costs

The adoption of maintenance policies by LEAs and DSOs to "…maintain the asset so that it remains fit for its intended purpose" and the adoption of operational practices at least equal to those of PFI facilities management good practice (outlined in Part 6) means that there should be no difference in lifecycle costs between the exclusion or inclusion of soft services.

The lifecycle interval for the PFI option is hard-wired as an annual cost and the option of excluding soft services should be based on the same premise.

Operating expenditure

The modelling of whole-life costs includes the operating expenditure which is the cost of operating the asset/running services to be included within the scope of the contract. The level of service will be the same for the Public Sector Comparator (PSC) and the PFI option. (Where soft services are excluded it is assumed that they are treated like other services, for example, educational support and teaching services, which fall outside the scope of PFI services and are excluded from the spreadsheet.)

A local authority could include the provision of soft services within the PSC/PFI option appraisal but the spreadsheet has been designed to nullify differences in terms and conditions, although not potential differences in the number of jobs. This is explained below:

> "In the Spreadsheet, the employment Operating Expenditure is the product of the average annual employment cost per employee and the number of employees. A PFI should not be undertaken at the expense of workers' terms and conditions, the average annual cost per employee is the same under the PFI Option as the PSC Option as this is not expected to vary simply on account of the procurement route. The Spreadsheet does not allow differential inputs for the average annual cost per employee to ensure that PFI is never selected as a consequence of lower terms and conditions for employees. However, it is possible that the number of employees may differ under the PFI Option from the PSC Option as services may be provided in a different manner and differential efficiencies achieved. Any differential input must be supported by evidence, and accordingly the Spreadsheet allows the user to enter a different figure for each option." (Quantitative Assessment User Guide, HM Treasury, August 2004, para A.99)

Third party income

The levels of deductions for non-availability and poor performance on outsourced FM contracts are also likely to impact on availability for community use in extended schools and hence the level of third party income could be lower than it might otherwise be. This could be reflected in the VfM model by having a slightly higher third party income for the exclusion of soft services compared to outsourced services.

Transaction costs

Three types of transaction costs are usually incurred in capital and service projects:

Transitional costs – the cost of carrying out the procurement process including preparing specifications and contract documentation, advertising and evaluation costs together with consultants fees. DSOs bear the cost of preparing tenders.

Permanent costs – the cost of client/commissioning functions including monitoring and managing markets by assessing provision, market forces and designing regulatory frameworks.

Periodic costs – the cost of reviewing and implementing organisational change as contracts are won or lost or adapting to new regulations to control markets.

The Treasury guidance refers to private sector costs being hard-wired into the spreadsheet and also refers to public sector costs incurred in reaching contractual agreement. However, this is a very narrow definition of transaction costs and bears little relation to reality and the widely agreed technical and academic definition of transaction costs (Williamson, 1985).

The exclusion of soft services should reduce the total transaction costs because support services will not have to go through the procurement process. This will mainly be a saving to the bidders rather than to the procuring authority since the FM partner would not have to tender or subcontract the core support services. Because of the relatively small sums involved, there is likely to only a marginal impact on bid prices.

In addition, the local authority will avoid the costs of a TUPE transfer – this would be a one-off cost reduction.

It is widely recognised that there is an additional cost of monitoring private contractors compared to in-house services.

The cost of assessing implementation of corporate policies and priorities by third parties ie private contractors providing facilities management services must also be taken into account. This will involve the authority in an additional annual cost of monitoring and verifying compared to collecting the same information through in-house management and accountability structures.

Indirect VfM factors

Local authorities can take indirect impacts into account in the spreadsheet. Indirect impacts are divided into Externalities and Non-Market impacts:

Externalities: These are benefits that accrue to the local authority which are not directly included in the price of the project. For example, the application of the benefits achieved in BSF schools to other LEA schools operated by the DSO – this could be estimated/quantified by making an assumption of the financial value of these benefits to schools/LEA as a percentage of the total annual cost of these services. The DSO could provide a faster implementation of benefits since it would be providing services across the schools network.

Non-market impacts: These are benefits associated with the particular form of procurement used. This will include hard-to-value, intangible benefits but only those which can be monetarised and are directly associated with a particular method of procurement can be included in the spreadsheet. The spreadsheet ignores those economic benefits which are similar under both procurement methods.

Where benefits cannot be given a financial value there are other methods to value non-market impacts such as willingness to pay, willingness to accept, valuing time, weighting and scoring and various methods commonly used to assess health and environmental impacts as discussed in the Treasury's Green Book (HM Treasury, 2003). Unfortunately, most of these are methods are not appropriate or could only be carried out at unreasonable cost. It is therefore proposed that the supply chain, environmental, commitment to family friendly policies, social inclusion, improved social relations, and more holistic neighbourhood management criteria are scored separately from the costings. Alternatively, a local authority could attribute a financial value related to the failure to achieve these objectives.

The Quantitative Assessment Spreadsheet

Costs must be assessed or valued over a 30-year contract period and expressed as the Net Present Value (NPV).

Table 3: **Quantitative Assessment of soft services**

Quantitative Assessment of Soft Services	
Input cells	**Evidence source**
OpEx Escalators	
Lifecycle costs	In-house service design, planned maintenance and continuous improvement should mean no difference in lifecycle costs or lifecycle intervals.
OpEx Non-employment costs Employment costs Employee numbers	Spreadsheet hardwired to ensure that the employment cost per person is equal for both PFI and PSC option. Number of employees the same in PFI and PSC option as per HM Treasury worked example.
Transaction costs Avoidance of procurement costs for soft services Avoidance of TUPE transfer costs incurred by the local authority Reduction in monitoring costs with in-house provision. Additional cost of assessing and verifying implementation of corporate policies in provision by private sector. Integrated one-stop-shop for all FM, white collar and educational support services will reduce procurement costs for schools. Reorganisation of LEA and/or DSO arising directly from reductions in workloads as work is outsourced to LEP, PFI FM provider and other private firms.	PFI SPV will avoid tendering/subcontracting costs – estimate based on client tendering costs from government market testing, plus council/DSO avoids cost of preparing tenders if soft services excluded on VfM grounds. (Cabinet Office 1995). Council should be able to calculate HR, legal and administration costs based on equivalent previous transfers. 20%-30% saving in annual client monitoring costs. For example, cost could be expressed as the salary, pension, National Insurance and allowances costs associated with a monitoring officer. Could also be expressed as all or part of the salary, pension, National Insurance and allowances costs associated with a senior monitoring officer. % saving of the total value of FM, white collar and educational support services (OGC VfM, 2004). Relevant share of reorganisation costs including consultants, redundancy and other costs plus loss of economies of scale resulting from smaller scale operation.
Third Party income	Quantitative guidance must be supported "by firm, project specific evidence" and "any difference between the two procurement methods should be explained" (page 30). PFI third party income often estimated to be 20% higher but should be the same on the balance of evidence and to avoid imposing unacceptable costs onto community. Given track record of outsourced FM contracts, this could have a negative impact on the level of availability and result in lower income.. Neutralise PFI advantage in spreadsheet.
Flexibility	The scope change, probability factor, level of

	scope change and premium flexibility factor inputs for the PSC should be the same as those in the PFI hard wired model. The performance and risk of private FM sector and approach of DSO make usual bias to PFI unjustified. An integrated service provided by a local provider of similar services to other schools and facilities will be better equipped to deal with changes in demand and usage.
Indirect VfM Factors **Externalities**	
Service quality: Benefit of DSO transferring BSF best practice to rest of LEA and other council services more comprehensively and more rapidly than with private FM provider.	Calculate cost savings as a percentage of the total cost of services to other schools. For example, a 2% additional saving on annual FM costs to all secondary and primary schools would be £20,000 per annum.
Innovation: The adoption of continuous improvement plans, planned maintenance, service assessments and other best practice operational systems will eliminate differentials between PFI and in-house provision.	The quantitative assessment guidance has a 'worked example' which inputs £2m costs savings from better management of vandalism risk on other existing schools which are not part of the contract. In-house service could implement best practice across the entire school estate faster than contractors who do not have a vested economic interest in the transfer of best practice. Therefore eliminate bias towards PFI with unjustified claims.
Health: Better health and safety track record for in-house service will mean better occupational health and also benefit to public health.	Fewer accidents, lower sickness absence rates and fewer financial reductions caused by non-availability. A 10% - 20% reduction in cost of sickness absence could be used to represent this saving.
Employment Better trained in-house workforce with education and learning programme and workforce development.	Reduction in retention and recruitment costs. Use % reduction in cost of HR services to schools.
Non-Market impacts	
Better quality pension provision with final salary scheme with economic value for staff, the local economy and reduces public spending on minimum income support for older people.	Comparison of differentials between public and private pension schemes, calculate potential loss of income for retirees over 30 years and convert into % spending in local economy and employment ratio. Use average cost of job creation/support by local authority economic development to calculate equivalent number of jobs lost by lower pensions.
Equalities: Mainstreaming of equalities in management and operational practice providing access to employment for all equality groups.	Evidence of public/private differentials in implementation of equalities policies, local authorities own track record (BVPI) and equalities profile data.
Production and supply chain: Develop a local and regional production and supply chain including Small and Medium Enterprises (SMEs) as part of local purchasing strategy and achieve sustainable development targets.	See Matrix below.

Also strengthens employment in local and regional economy.	
Environmental and sustainable development policies: Implementation of 'green' policies, recycling and reduction in harmful emissions, reduction in transport of building supplies and materials.	See Matrix below.
Commitment to family friendly working practices.	See Matrix below.
Social inclusion: Local labour scheme for services providing training and employment for people from disadvantaged communities. This will also upgrade skills in the local labour market.	See Matrix below.
Improved social relations between teaching, non-teaching staff and community organisations with integrated educational team and greater stability of workforce.	See Matrix below.
More holistic Neighbourhood Management service if services to schools are integrated with services provided to local area, with benefits to both schools and community from economies of scale and management.	See Matrix below.

Source: Quantitative Assessment, HM Treasury, 2004, and Centre for Public Services, 2004.

Valuing non-market impacts

There are a number of methods of assessing the value of non-market impacts, for example, using 'willingness to pay' and 'willingness to accept' techniques. The quantification of potential social, health and environmental impacts can also be identified through revealed preference techniques or a stated preference approach. These techniques require information on the valuation of impacts or preferences on individuals but the non-market criteria in the exclusion/inclusion of services are experienced collectively or community-wide. In addition, other techniques such as valuing time, quantifying health benefits, a prevented fatality or injury, design quality and environmental impacts discussed in the Treasury's Green Book are not appropriate for the purpose of this report.

Multi-criteria analysis

Multi-Criteria Analysis (MCA) is a means of establishing preferences between options by reference to an explicit set of objectives (DTLR, 2001). Ideally measurable criteria will be developed to assess the extent to which the objectives have been achieved. Alternatively, the analysis can assess the likely achievement of the objectives given a common set of conditions. Whilst MCA is reliant a high level of subjectivity in the choice of objectives, criteria, weights and assessments it is nevertheless a practical tool with a high level of transparency which can assess factors which would otherwise not be evaluated. A performance matrix, setting out the objectives, assessments (scoring) and weighting (according to their relative importance) is a standard feature of MCA (see Table 4).

The steps in a multi-criteria analysis

1. Establish the decision context and aims of the MCA.

2. Identify the options.

3. Identify the objectives and criteria that reflect the value associated with the consequences of each option.

4. Describe the expected performance of each option against the criteria. (If the analysis is to include steps 5 and 6, also 'score' the options, i.e. assess the value associated with the consequences of each option.)

5. 'Weighting' - assign weights for each of the criteria to reflect their relative importance to the decision.

6. Combine the weights and scores for each of the options to derive and overall value.

7. Examine the results.

8. Conduct a sensitivity analysis of the results to changes in scores or weights.

(DTLR Multi-Criteria Analysis Manual, 2001)

Scoring

We recommend that the scoring of each criteria takes into account the following factors:

- The economic interest of the organization to achieve the objective.
- The degree of control or influence over the contract organization to promote and encourage achievement of the objective.
- The capacity of the contract organization to deliver.
- The track record of the contract organization in implementation of best practice.
- The risk of failure – consequences and loss of benefit.

Each criteria is scored of between 1 and 10 based on the above factors. Evidence to take into account could the fact that some DSOs have established local/sub/regional supply chains in contrast to most PFI construction companies which operate national supply chains. The public sector often has a greater commitment to the implementation of environmental, waste recycling and sustainable development policies than private contractors. Whilst several construction companies have developed local labour schemes providing training and employment for local people, local authorities have a wide range of training schemes and are better placed to provide service-based local labour schemes. Differences between public and private sector employers in implementing family friendly working practices should also be taken into account.

Weighting

Weighting of the criteria, using numerical weights between 1 and 10, should take account of the relative importance of the objectives. For example, the economic and employment benefits of a production and supply chain may be more highly valued than improved social relations in schools between teaching, non-teaching and community organisations. These are difficult decisions and must take into account the prevailing circumstances.

A worked example

Table 4 is a worked example of a MCA performance matrix. It is based on six non-market factors or objectives (Column 1) cited in Table 3. The scoring of the objectives in the case of the exclusion of support services or alternatively their inclusion in a PFI project is set out in columns 2 and 3. The relative importance of the objectives is reflected in their weighting in column 4.

The next stage multiplies the scores by the weighing for each of the options giving a final score in columns 5 and 6. The final score of 132 for the exclusion of support services option compared to the 100 for the PFI option should be fed back into the overall qualitative assessment of support services in Table 3.

Table 4: **A Worked Example of a Multi-Criteria Analysis Matrix**

Multi-Criteria Analysis Matrix to evaluate non-market factors					
Summary of Non-Market objectives	Exclusion of soft services – in-house provision	Inclusion of soft services – PFI provision	Weighting of criteria	Scoring of options	
				Ex-clusion	In-clusion
Column 1	**Col 2**	**Col 3**	**Col 4**	**Col 5**	**Col 6**
Production and supply chain	8	6	5	40	30
Environmental policies and sustainable development	8	5	4	32	20
Social inclusion	7	6	3	21	18
Improved social relations	7	6	2	14	12
Commitment to family friendly policies	7	5	3	21	15
More holistic Neighbourhood Management	5	5	1	5	5
Total				**132**	**100**

Source: Centre for Public Services, 2004.

Optimism Bias

The new spreadsheet must also be adjusted for optimism bias. Uncertainty leads to overstating benefits and understating the timings and level of both capital and operating costs. The Green Book requires that appraisals be adjusted to take account of optimism bias. The Quantitative Assessment guidance states that "…there is little, if any, evidence to suggest that either conventional or PFI-type procurement methods deal any more or less efficiently" with optimism bias (HM Treasury, 2004).

The guidance goes on to state: "There is however, better evidence that the allocation of risks achieved under a PFI contract, once awarded, reduces the impact on the Procuring Authority of those uncertainties that remain inherent in a project, when compared with the contractual arrangements that typically result from the PSC Option" (ibid). Whilst the exclusion of soft services will change the risk matrix, the performance of PFI FM contractors indicates that risk transfer to the private sector is frequently exaggerated. The political and often financial consequences of poor performance ultimately rest with the local authority and are even more costly to resolve when the flexibility is impaired by a legally binding long-term contract.

The Treasury quantitative assessment guidance states that a local authority "…might be able to argue that that the Post-FBC Optimism Bias Factor for the PSC Option is similar to that for the PFI Option if it can demonstrate that it routinely achieves the same, very high level of confidence in its cost/benefits estimates for conventionally funded projects as is seen under PFI and contractual arrangements it normally enters into following conventional procurement provide a similar level of protection to the impact of unexpected costs and/or shortfall in benefits to that achieved (and paid for) under PFI" (ibid, page 21). Given that some key risks remain with the local authority or are shared with the PFI contractor, any costs differences must be carefully scrutinized.

Risk assessment

The bulk of the project risk is eliminated once a school is built and ready for occupation. Risks such as design standards, construction costs, completion on time and physical damage which are usually transferred to the PFI SPV are the same whether soft services are excluded or included.

Of course there are operational risks some of which are retained by the council, some risks are shared between council and contractor and others are transferred to the PFI contractor. Default by the council, demand for services/volume usage, changes to requirements/service specification and user generated damage caused by council staff are all risks retained by the local authority. Changes in safety standards, utility cost increases and off-site failure, emergency planning and changes in quality standards are risks which are shared between council and contractor.

The main risks, which are usually transferred to a PFI contractor, are lifecycle maintenance costs, cost overruns in service provision, failure to achieve quality and environmental standards, staff recruitment and employment conditions, industrial action affecting service availability, vandalism, on-site utility failure and health and safety issues. It should also be noted that although financial risk is transferred, the council retains the political risk of performance irrespective of who provides the service.

The main risks which are retained by the local authority when soft services are excluded are:

- Availability (affected by poor performance or industrial action)
- Quality of service
- Lifecycle and service costs

The risk non-availability is directly linked to the performance of the contractor. There is no evidence that PFI contractors are providing better quality services than DSOs where circumstances are comparable i.e. operating in new schools with new equipment with a package of services. The comparison of performance of DSOs operating in old buildings often with fragmented service provision with those of PFI contractors should be avoided. There is evidence that some PFI FM contractors have experienced difficulties (see Appendix 3). A DSO would suffer financial consequences but this is no different from existing provision of those services by the DSO to schools.

PFI risk matrices are often selective and exclude certain service and employment risks such as:

- The risk that a PFI contractor will not fully implement the Best Value Code of Practice for the entire 30 year length of the contract which would cause differentials in the pay and employment status between transferred and new staff and/or between different groups of 'new' employees.
- Community rooms and facilities in many PFI schools are frequently too small and inadequate to meet community needs. This is a risk of the planning and design of schools being unable to fulfill the extended school concept. This could have a knock-on effect on the schools ability to fulfill government plans for longer school opening hours.
- The risk that a PFI contractor and school may seek to maximize third party income (often on a profit share basis) which creates access and affordability problems for many community organisations and undermines the principle of extended schools and equality policies.
- PFI facilities management contractors often sub-contract services such as school

meals and grounds maintenance. There is a risk that contractors may fail to integrate service delivery resulting in disruption and delay for educational and community use of facilities.

Risk adjustments

In many PFI projects the largest single difference between PFI and the Public Sector Comparator (PSC) costs is the risk adjustment made to the PSC. The identification of risk is carried out with a degree of rigor not always apparent in other aspects of the PFI/PSC analysis, primarily because the identification and costing of risk and 'transfer' to the private sector can have a very significant effect on the overall result. Putting it more bluntly, risks retained by the local authority in the PSC option or in the exclusion of soft services can be manipulated to make the PFI option appear to be financially advantageous and provide 'value for money'.

The Audit Scotland study of PFI school projects discovered examples of questionable risk adjustments. In one example the single largest difference in the estimated costs of the PFI and the PSC was a £4 million risk adjustment to the PSC of which £1.5 million was an operating risk adjustment. Audit Scotland found this less plausible than the design and construction risk adjustments.

> "After excluding energy and rates costs (for which the PFI provider takes no risk) the adjustment was equivalent to 9% of base costs. A large part of the adjustment is attributable to life cycle and reactive maintenance costs where it could be argued base estimates were already on the high side. It is arguable whether school operations are subject to risks of a similar magnitude to those expected under the main construction phase" (Audit Scotland, 2003).

In another case the single largest difference in the estimated costs of the PFI and the PSC was a £3 million risk adjustment to the PSC of which operating risk was estimated to be £1.1m. Audit Scotland commented:

> "The operating risk adjustment was much less plausible. After excluding energy, rates and cleaning costs (for which the PFI provider takes little or no risk) the adjustment was equivalent to 20% of base operating and life cycle maintenance costs in the PSC. Without stronger evidence than available in this case it is not easy to accept that school operating costs are subject to risks of such a magnitude" (ibid).

These examples demonstrate the need for risk analysis, allocation and costing to be transparent to avoid compensatory risk adjustments being made to 'prove' that the exclusion of soft services does not achieve value for money.

Part 6

Proposed assessment model and requirements for DSOs

The first part of this section briefly summarises the claimed attributes of PFI projects. This is followed by a set of organisational and operating practices which LEAs and DSOs will need to adopt in order to demonstrate their ability to deliver soft services in PFI projects. Some DSOs have already adopted much of this best practice.

The local government supplement to the Standardisation of PFI Contracts (Version 3, 4ps, HM Treasury and ODPM, 2004) outlines the need for local authorities and contractors to regularly review performance against existing needs and demands of the service. The requirements below apply irrespective of whether soft services are excluded or included. By definition an in-house provider must have the systems in place and ability:

“to secure:

- continuous improvement,
- innovation,
- effective service delivery arising from technology developments,
- cost efficiencies,
- service performance improvements,
- swift response to changing local and national priorities, and
- adaptation to other factors which will inevitably emerge over the term of the Contract (such as changes in legislation) which will not be apparent or foreseeable at Contract signature.

A PFI or other long-term Contract should outline ways in which:

- Contractors can help Local Authorities to meet their BVR and BVPP obligations;
- Contractors and Local Authorities can work together to make arrangements for securing continuous improvement;
- Input from users, stakeholders and other third parties can be harnessed and utilised to improve standards of performance;
- Standards can be set through output specifications and the Contract payment and performance regime; and
- Reasonable flexibility can be built into Contracts without sacrificing contract certainty.

More particularly, such Contracts should seek to:

- Involve Contractors in the annual Local Authority BVPP and BVR cycle at suitable stages over the life of the Contract;
- Co-ordinate the planning of approaches to user consultation and feedback within the BVPP and BVR cycle between the Local Authority and the Contractor to best effect;
- Reflect those obligations placed on Local Authorities within the Best Value

legislation in Contracts relating to the whole service or part of the service (as the case may be) for which the Contractor has operational responsibility;

- Where appropriate, consolidate any Soft Service Cost Benchmarking and Market Testing opportunities with whole service performance reviews and continuous improvement obligations; and where appropriate benchmark the Contractor's performance against the performance of a comparator group" (4ps, HM Treasury and ODPM, 2004).

All of these can be achieved by an effective in-house service.

In-house service improvements

The current and planned performance of the DSO is an essential part of the case for the exclusion of soft services. The DSO must be committed to the same key attributes which are used to justify financial advantage to the PFI model. DSO performance will be assessed by the LEP, the Strategic Partnership Board, the LEA and the local authority.

It is important that DSOs adopt the following best practice in order to neutralise the financial advantages built into the quantitative assessment spreadsheet on the basis that this bias cannot be justified if the DSO has the same operational best practice. In addition, they are a means to building confidence in the DSOs ability to deliver good quality services in a responsive and flexible manner. The best practice proposals are also a means of creating competitive edge over private FM providers.

DSOs and LEAs should be committed to:

FM Service Design for BSF: In-house services/DSO will produce a Service Design for the provision of facilities management services in BSF schools. The DSO will also be able to provide detailed advice on the FM and maintenance aspects of particular school plans and designs.

Continuous Improvement Plan: This would draw together the proposals and commitments of DSO Best Value improvement plans and, where relevant, individual service improvement plans setting out the improvements, timetable and action required to be taken. The Strategic Partnering Agreement (SPA), Schedule 15, outlines the scope of the Continuous Improvement Plan required by the LEP. This has only one target for support services:

> "FM service contracts (where applicable)
>
> • Improved performance in the FM contracts, measured by Aggregate Payment Deductions as % of total service charge payable across all existing operational PFI contracts."
>
> The DSO will have and develop a much more comprehensive improvement plan which can be used to ensure that "….all opportunities for improving quality, cost or timeliness of services are being exploited" (Partnering Services Specification Template, page 27).

Planned Maintenance: The DSO will be committed to carrying out the contract on the principle of planned maintenance. A programme will be drawn up for the contract period identifying renewal and replacement timetables.

Service Assessment: A Service Assessment is a periodic review of service delivery requirements and working methods undertaken with frontline staff and trade union representatives. Its purpose is to draw on innovation, adjust to changes in user needs, ideas and experience of the workforce.

Benchmarking: Services will be benchmarked with comparable services/contracts at Stage 1/2 of the investment programme and at regular intervals thereafter. The BSF Partnering Services Specification template refers to "….demonstrating value for money through benchmarking" and only using market testing when benchmarking "….would not provide a convincing basis for VfM" (Pages 26 and 27). Benchmarking will be with LEAs and LEPs.

Best Value Reviews will be carried out as per the local authority timetable on a 5-yearly cycle.

Help Desk: BSF schools will have a Help Desk service for both soft services and educational support services providing a one-stop-shop service.

Local labour scheme for services: A local labour scheme, separate from a construction training scheme, should be considered by the DSO to train and employ people from disadvantaged communities.

Part 7
Evaluation criteria

Criteria for Options Appraisal

Local authority procurement strategies and policies will usually indicate the criteria to be used in options appraisal and/or the evaluation of bids. These are usually generic criteria which need to be adapted for specific projects such as BSF.

This section summarises the options appraisal criteria in Newcastle City Council's procurement policy as an example. This is followed by a recommended list of additional criteria to be used in the evaluation of BSF bids.

Current options appraisal criteria

The following criteria will be used to assess all options:

- Corporate policy
- Democratic accountability – the extent to which each option increases or reduces direct accountability;
- Corporate policies and priorities;
- Transparency and disclosure;
- Absence of legal and regulatory impediments;
- Corporate impact – organisational financial impact on other departments and services.

Service needs

- Ability to meet current/future social needs of the service or project and accommodate changing levels of demand;
- Service quality, responsiveness and flexibility to respond to change;
- Capacity for service improvement, learning and innovation;
- Service integration and co-ordination with minimal disruption;
- User involvement in planning, design, implementation and service monitoring;
- Quality management, leadership and ability to secure improved service delivery;
- User/community and staff/trade union views.

Equity, equalities and diversity

- Equity of service provision;
- Opportunity for additional equality policies and opportunities;
- Proposals for reducing/eliminating existing inequalities.

Financial assessment

- Ability to identify, access and deploy resources;
- Financial and revenue implications, the need for investment, VFM in widest sense and lifecycle costs and benefits;

- Access to capital and investment plan;
- Affordability – comparing current costs with all projected costs and cash flow.

Employment and training

- Ability to recruit/retain skilled staff;
- Local economy and supply chains, local labour;
- Quality of employment and training.

Environmental sustainability

- Environmental impact and sustainability

Management practice

- Exit strategies and their implications and costs;
- Ability to identify, apportion and manage risk.

Additional evaluation criteria for BSF projects

The evaluation of BSF bids, as distinct from the options appraisal process will require additional criteria indicated in Table 4.

Table 5: **Additional criteria for evaluation of BSF projects**

Additional criteria for evaluation of BSF projects	
Local Development Framework/Local Area Plan context	Integration of BSF proposals into local spatial, economic and social strategy.
Site plan and integration with immediate area	Integration with existing and planned facilities in the locality and improve access and local environment.
Building design	How the building meets educational needs, space standards and local requirements.
Integration of ICT infrastructure	Extent to which the building provides for comprehensive and flexible ICT.
Community facilities and use proposals	Extent to which proposals meet community needs and interface with educational provision
Relationship to children's services and nursery/day care provision	Extent to which BSF schools are linked to or provide additional facilities and/or services.
Teacher, governor, pupil, trade union and community organisation involvement in planning and design process.	Proposals and methods for involvement in design process.
Sustainability	Including building design, contribution towards sustainable development from environmental practices, use of resources, recycling and transport. Existing local/regional supply chains and commitment to further integration.

Innovation	Extent to which building accommodates innovative in use of materials, teaching and common spaces.
Maximising regeneration opportunities	The extent to which BSF proposals are linked to neighbourhood renewal, local labour schemes in construction
Support services provision to meet demands of extended hours	Quality of service, frequencies, rotas, staffing levels.
Third party income proposals	Balance between making community use accessible and affordable, covering costs and obtaining additional income for school/PFI contractor.

Source: Centre for Public Services, 2004.

Appendix 1

NHS LIFT: Exclusion of soft services

The standard form NHS LIFT OJEU notice does not allow for the provision of Soft FM Services by LIFT Co as part of the FM Services. All the first three waves of NHS LIFT projects have been advertised in the OJEU excluding soft FM services from projects.

Guidance published by 4Ps on this issue highlights four key concerns in LIFT projects:

- The interface between the operations of LIFT Co (eg hard FM) and the Soft FM Services. For example, the activities of the Soft FM provider could have a beneficial or negative impact on the life cycle cost assumptions made by LIFT Co. LIFT Co (and possibly) the Funder will want to be reassured that these interface issues will be appropriately handled.

- The potential diverse nature of the Soft FM Services to be provided. For example, the collection and disposal of waste will involve quite different standards between users where it also involves the collection and disposal of clinical waste from medical facilities on the premises.

- ODPM Circular 03/2003 (Guidance on Workforce Matters) applies to new procurements. Under certain options the procurement of Soft FM Services constitutes a new procurement after the Code was issued (unlike the first 3 waves of LIFT). Where this is the case Local Authorities will need to consider the provisions regarding TUPE protections and measures which prevent the creation of a 2 tier-workforce as part of securing a Soft FM Provider.

- EU procurement imposes responsibilities upon Local Authorities to procure through open competition certain services above a certain level, generally £153,376 (from 1 January 2004). This makes it difficult for LIFT Co to be awarded the Soft FM Services…… It is worth noting that EU case law is moving towards encouraging open competition even where the EU directives do not strictly apply. Anecdotal evidence thus far indicates that in most cases, given the long-term nature of LIFT that often the EU procurement rules will apply in joint facilities.

Provision by Local Authorities and/or PCT

4Ps guidance states:

1.1 "…….Local Authorities and PCTs may decide to provide Soft FM Services to themselves in premises occupied by them under a Lease Plus and provided under an NHS LIFT scheme

1.2 The Soft FM Services may be provided to the joint service centre by the local authority in accordance with one or more of the following:-

 1.2.1 the services are provided to prescribed public bodies within the Local Authorities (Goods and Services) Act 1970 (a PCT is a public body under Section 28 of the National Health Service Act 1977); or and more likely, 1.2.2 the services are provided under the terms of an agreement under Section 31 of the Health Act 1999, which concerns partnership arrangements between NHS bodies and Local Authorities.

1.3 Where the Soft FM Services are provided by the local authority, then the same interface issues will arise between the local authority as Soft FM service provider and LIFT Co as Hard FM service provider, as would be the case where the Soft FM service provider is an independent contractor.

1.4 If the LA or PCT undertake Soft FM Services for the other and the amount is above the EU procurement threshold it may be subject to OJEU rules.

1.5 Whichever route is taken for the provision of Soft FM Services to occupants under a Lease Plus, Local Authorities and PCTs must identify and give careful and early consideration to :

1.5.1 who will provide the Soft FM Services;

1.5.2 what Soft FM Services will be required by occupiers and providers of the premises;

1.5.3 what specific standards of performance are necessary for each type of major user;

1.5.4 contract length and likely contractual value;

1.5.5 interface issues with LIFTCo;

1.5.6 TUPE, consultation and employment implications;

1.5.7 what will happen to common parts and public areas in respect of cleaning etc; and

1.5.8 who (if any party) currently performing Soft FM Services for existing parties, is expected to take up occupation of the premises.

1.6 These issues are especially relevant where Local Authorities are seeking to 'join up' with health care providers to improve services and provide efficient and value for money services to users.” (4Ps, 2003)

Criteria used to assess soft services

The 4Ps cite the following criteria which are used in NHS LIFT projects to assess whether soft services are provided by a DSO, staff pooled with NHS staff or outsourced:

- How does the option reflect the appropriate allocation of operational risks? E.g. Service continuity, performance.
- How robust are the performance management arrangements?
- To what extent are payments linked to performance?
- What level of benchmarking and market testing is possible for each option?
- How acceptable will the proposed option be to local stakeholders and will there be internal support for the option?

- Will the proposed mix of services be compatible in terms of client group, culture, and acceptability and will they be able to agree and implement joint protocols and policies for the use of the premises?
- To what extent does the option achieve improvement or reduce duplication within services?
- To what extent will the option realise the aims of improving accessibility and reducing running costs?
- What is the extent of soft FM provision in the option and how does this meet the Local Authority's output specification?

Appendix 2:

Scottish guidance on exclusion of soft services

Recent guidance from the Scottish Executive refers to four options for public sector involvement in facilities management:

- Exclusion of a service/s from the project pre-procurement.
- Exclusion of a service from the project via a Best value Review.
- An in-house team bidding to become a sub-contractor to the PPP bidder.
- Secondment of staff.

(Scottish Executive, 2003)

The guidance calls for early decision making regarding the position of soft services. The earlier Scottish Executive and Scottish TUC Staffing Protocol had stated that:

> “Where a Public Sector Organisation (PSO) decides that a PPP should include services which are currently being provided by directly-employed staff, the PPP process is, in principle and in practice, open to bids incorporating the use of such staff, for example Direct Service (DSO) or Direct Labour (DLO) Organisations. Such bids would be considered on the same value for money criteria as other bids and overall the PPP would have to meet all the requirements of extant PPP guidance and any Scottish Executive funding requirements.”
>
> (Scottish Executive/STUC, 2003)

Appendix 3
Track record of PFI FM providers

The evidence summarized below focuses on the provision of FM services. There are many examples of design failures, delays, PFI contractors going into receivership and other failures which have been excluded.

Audit Commission: Compared 12 recent, traditionally funded schools with 17 PFI schools. It found:

- the costs of cleaning and caretaking appeared to be higher in PFI schools;
- the quality of PFI schools was not as good as schools built by more traditional means;
- the best examples of innovation came from traditional schools;
- new-build PFI schools were not even completed more quickly.

(Audit Commission, 2003, see also Part 2)

Audit Scotland: The operating costs of the PFI option were higher than the PSC in all six case studies (Audit Scotland, 2002). In addition, in five out six cases the PFI construction costs were higher than for the Public Sector Comparator. PFI financing costs were between 2.5% and 4% higher than for conventional funding.

Sheffield – Interserve FM (6 schools): Over £100,000 deductions to end of 2002 plus Sodexho school meals contract terminated after one year after contractor could deliver within lunch break resulting in reduced teaching time (4ps case study and Centre for Public Services).

Haringey – Jarvis FM (8 schools): £16,000 deductions for non-availability and poor performance in first year, 2002. (4ps case study).

Falkirk: (5 schools) “Monitoring and feedback from users since the new schools opened in August 2000 indicates that levels of service for cleaning and site supervision are broadly equivalent to those obtained previously” (Audit Scotland, 2002, p88). This is another example where the ‘higher quality and better value for money’ claimed for PF FM contracts is not evident.

Edinburgh Education Department: Better building design, better consultation and improved monitoring of PFI management of facilities are the primary findings of a review of the first phase of Edinburgh’s schools PFI project.

Scotland - Educational Institute of Scotland PFI Schools Survey: A survey of 60 new and refurbished schools concluded that “some respondents are happy with the finished result particularly when it is well designed and spacious. Such comments are disappointingly rare.” The survey focused on the impact of teacher staff comments on the final school plans (only 27% believed their comments had made an impact) but also included community use of schools and the design and quality of services. (EIS Survey of New and Refurbished Schools: Report of Findings, May 2004)

Southwark – WS Atkins: The £100m contract to operate the LEA was terminated after two years of the five year contract. Atkins failed to meet several key targets and claimed the contract was ‘unprofitable’. The contract termination cost Southwark Council £1.5m.

Brighton – Jarvis: Continuing complaints of delays and poor workmanship in repairs at Varndean School.

Cornwall – Mowlem: Teachers are unhappy with the standard of refurbishment at the Community Primary School, Cusgarne which is part of a £32m PFI project to improve and rebuild schools for the County Council (September 2003).

Glasgow – 3ED: Several schools have suffered from poor ventilation and design problems and an investigation of 'sick building syndrome' is being carried at 5 new or rebuilt schools. Air quality tests were carried out at the new 1,275 pupil Rosshall Academy after teachers complained of poor ventilation (July 2003).

East Lothian – Ballast: The firm collapsed in 2003 resulting in delays to the refurbishment of 6 secondary schools and renegotiation of a new project with Balfour Beatty. Delays in the installation of classroom equipment in art departments, craft, design and technology workshops and domestic science classrooms, resulted in pupils at Ross High, Preston Lodge and Musselburgh Grammar being unable to carry out continuous assessment tests.

Meon's Primary School, East Renfrewshire – Jarvis: Design defects in this newly built PFI school - with 800 pupils, the biggest primary school in Scotland – have constituted health and safety hazards. Fallen debris endangered 60 children after a roof collapsed in a teaching area. The council had to step in and undertake emergency repair work when Jarvis, the PFI contractor, failed to respond. Four months passed before the school was fully operational again.

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