Cynulliad Cenedlaethol Cymru
National Assembly for Wales

Finance Committee

Inquiry into Public Private Partnerships

September 2008

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National Assembly for Wales

Finance Committee

Inquiry into Public Private Partnerships

Finance Committee

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Chair’s Foreword

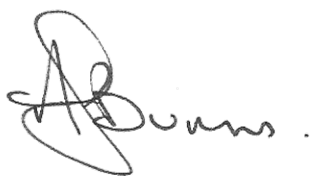
There are some major challenges facing Wales in meeting the requirements for capital investment in infrastructure over the next few years. There is a pressing need to overhaul our public infrastructure to build and update schools and hospitals and invest in a wide range of other assets. However, public sector money for investment is very limited. A number of countries have resolved this issue by drawing on private sector money – and by doing so have gained the strengths and expertise that the private sector can offer both in managing this kind of project and in managing the risks that go with this.

However terms like private finance and Public Private Partnerships create concerns in many people’s minds. These concerns touch on issues such as whether the public sector gets true value for money and whether risks are correctly transferred. Therefore the Committee decided to make this the subject of its first inquiry. We invited evidence about what has worked and what has not worked and the lessons that have been learned. And we received views from both the public and the private sector - developers, financiers, unions and managers of services in the public sector.

In this first report of the Inquiry, the Committee presents its preliminary conclusions on what is needed if Wales is to draw successfully on the resources and expertise that the private sector has to offer to benefit the public sector. The Committee intends, in the next phase of the inquiry, to examine some of the alternative and successful approaches that have been developed in building partnerships between the public and private sectors with a view to identifying and recommending models that could be used in appropriate cases.

The Committee is very grateful to the wide range of people listed in the annex who made submissions to the consultation and who have provided oral evidence.

We have also very much appreciated the advice and guidance from our Expert Advisers Simon McCann and Gronw Percy who have helped us find our way through this very complex subject. We have been extensively supported by the National Assembly’s Members Research Service who have provided extensive briefing and background information for all stages of the Inquiry. Finally, I would like to record my, and the Committee’s, appreciation of John Grimes, the Committee’s Clerk, and his team who have pulled all the threads together to produce such a comprehensive and thoughtful report.



Angela Burns,
Chair, Finance Committee

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Summary of Conclusions and Recommendations

1. There is a major challenge facing Wales in meeting its future needs for capital investment in public services. However, the issue is not unique to Wales and in its inquiry the Committee learned how others had addressed similar situations. The Committee has noted some impressive achievements, in particular in Scotland and Northern Ireland, which indicate the kind of opportunity that can be available from partnerships with the private sector and the kind of public service that could be available for the people of Wales.

2. Nonetheless the Committee recognises that there are some strongly held, and justifiable, concerns about the way in which public private partnerships have operated in the past – particularly some of the earliest Private Finance Initiative (PFI) schemes. These issues need to be recognised and the Committee was greatly encouraged to learn that others have done just this and that ways have been found to resolve, or at least ameliorate, many of them.

3. A key issue that emerged regularly through the review was the need to develop skills within the public sector in Wales. While there was a widespread acceptance that the private sector was, at present, often more successful at completing projects to time and budget, there was also a general view that the public sector should be able to do just as well if it had the opportunity to do so and was given the skills. The Committee feels this is an issue that should be addressed and **recommends** **that the Welsh Assembly Government (WAG) should come forward with proposals for developing and strengthening these skills within the public sector generally.**

4. A major conclusion was a widespread lack of skills in relation to constructing, negotiating and managing partnerships with the Private Sector and these need to be developed in Wales. The Committee **recommends** **that the Welsh Assembly Government establishes a central body or unit to promote and support partnership projects with the private sector.**

5. A critical part of the unit's role will be to ensure that the expertise gained in one project is used to inform and support subsequent projects. The Committee therefore **recommends** **that the central unit should take a lead role, with local management, in developing project specifications, negotiating contracts with the private sector partner and monitoring and managing performance in relation to the contract.**

6. The work of such a unit would be greatly helped if this could be set within a longer term framework which would provide a clear perspective within which both the public and private sector can plan. The Finance Committee therefore **recommends** **that the Welsh Assembly Government publishes forward plans for its capital/infrastructure programme including setting out the funds that were expected to be available.** This work would sit alongside the work of the Strategic Capital Investment Board that WAG is developing. It would also ensure that Wales' capital programme was developed as a cohesive whole matching Wales' needs with the range of resources available.

7. The Committee has noted the approach in Scotland in which at the outset there was a clear statement of which staff would transfer to another organisation as part of a partnership project. It noted also the development of a 'concordat' as a broader, agreed framework covering the terms and conditions that apply to both new and transferred staff. The Committee **recommends** **that the Welsh Assembly Government should, as a matter of priority, work with the Trades Unions and**

Employer Organisations to develop a similar concordat for use in Wales. This might be a first task for the new Central Unit although the committee recommends that the Government does not delay in developing the concordat in the event of there being a delay in the establishment of the Central Unit.

8. A particular challenge in developing Public Private Partnerships (PPPs) in Wales will be to reduce the time and bureaucracy involved in setting them up. The Committee feels it ought to be possible to develop further standardised and simplified legal processes for the establishment of these partnerships.

9. The Committee noted a fundamental imbalance in the way that maintenance is handled via the traditional public sector procurement route and for PFI/PPP projects. The Finance Committee considers the Welsh Assembly Government should seek to develop systems by which the necessary ongoing maintenance of assets, including the funding for this, is built in at the start. The public sector needs to adopt an approach in which investment, having been made, is protected into the future.

A. Background

10. The use of private sector funding for capital investment in public services has been the focus of much discussion and controversy for some time as new schemes and approaches to it have been developed.

11. The private sector has for centuries been involved in the provision of public services and infrastructure with, for example, the provision of toll roads, toll bridges and even warships[1]. It has also been involved extensively, and without much disagreement, in the construction of schools, hospitals and roads etc.

12. The issue became more controversial in the early 1990s with the development of the Private Finance Initiative (PFI) in which schemes and approaches were developed which involved the private sector not just carrying out the construction of capital assets but also taking responsibility for funding the project and its subsequent operation. The public sector retains overall responsibility for the service – but transfers a range of risks to the private sector and pays for it through a service (unitary) charge over the operational life of the facility.

13. Those in favour of the approach have argued that it increases the pool of resources available for investment in public services and is a means of enabling investment that would not otherwise occur. They argue that the skills and expertise of the private sector, the transfer of many of the risks, and the discipline of market pressures, ensure these projects are delivered as efficiently and as effectively as possible. The approach is further strengthened through the use of performance-based incentives.

14. Those against the approach have argued that, at the end of the day, the public sector has to foot the bill which must be higher because on top of the 'project' costs there must be a 'profit' for the private sector. They argue that a PFI project is essentially mortgaging the future and must either cost more than if it is done in the 'traditional' way through public sector funding or there have to be savings elsewhere such as through reductions in pay levels or service standards or both.

15. In the 20 years or so since PFI was introduced there have been a number of changes to it, and alternative approaches have been developed, to address some of these issues. There is now a much wider and more flexible range of Public Private Partnership (PPP) models that can be used. In view of the continuing concerns about funding for capital investment in Wales, the Finance Committee decided to undertake an inquiry to investigate how public private partnerships in Wales might be used to best advantage. Given the developing nature of PFI and PPP, a working definition is attached at Annex A1.

16. The first part of the inquiry has been to examine the current state of PFI/PPP in Wales and for the Committee to gain an understanding of the strengths and weaknesses of the existing projects and the attitudes of the key organisations involved. The Committee intends, in the next phase of the inquiry, to examine some of the alternative approaches to public private partnerships with a view to identifying models that might be most appropriate for the future.

[1] Finance Committee meeting 20 September 2008, FIN(3) 02-07: Paper 3: Private Finance: Frequently asked questions; a note by the Auditor General for Wales

B. The Committee’s approach

17. The Terms of Reference for the Inquiry are at Annex B1.

18. As part of the process of informing itself about the issues, the Committee took some initial evidence in the autumn of 2007 before issuing a formal call for evidence on 19 October 2007 (Annex B2). 19 written submissions were received in response to this and these, and other papers considered by the Committee, are listed at Annex B3.

19. The Committee subsequently took oral evidence from the witnesses indicated in Annex B4.

20. The Committee also visited Northern Ireland and Scotland to meet informally the promoters of partnership projects in those countries and to discuss the approach their Governments have to Public Private Partnerships.

21. The Committee advertised for an Expert Adviser and, after considering a number of applications, jointly appointed Simon McCann of Morgan Cole and Gronw Percy of PricewaterhouseCoopers. The Committee wishes to place on record its thanks to them for their advice and guidance with the inquiry.

C. The challenge facing Wales - the overall position on capital investment

22. There are no firm figures on the level of capital investment in public services required in Wales or, indeed, in the UK more generally. It has however long been considered that there is a substantial deterioration in public assets and that a substantial back log of investment has been building up.

23. The position is confirmed by a recent (March 2008) Treasury report[2] on the procurement of infrastructure which says that the UK’s public services have historically suffered from a sustained legacy of under-investment. It says that under-investment in new assets necessary for the effective delivery of public services has been accompanied by a damaging backlog of repairs and maintenance which has hampered the ability of public servants to deliver high quality services. The document states that in 1997 it was estimated that the backlog of repairs for the UK was £7 billion for schools and over £3 billion for NHS buildings

24. In Wales, in *Firm Foundations* (2006),[3] the Minister for Finance, Public Services and Local Government (Sue Essex) stated that public sector net investment fell from 5 per cent of Gross Domestic Product (GDP) to 0.5 per cent between 1963-64 and 1997-98. This decline was partially attributable to the reduction in the size of the public sector, but also to the fact that capital investment was not a priority in the UK during this time. The report states that: This underinvestment resulted in a deterioration in the fabric of our roads, hospitals, schools and local authority houses. It also says that the significant increase in capital investment since Devolution in 1999 has meant that the decline has begun to reverse.

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[2] HM Treasury. *Infrastructure procurement: delivering long-term value*. (March 2008).
[3] Welsh Assembly Government. *Firm Foundations: The Assembly Government's outline capital investment plans for 2006-07 to 2008-09.* (April 2006).

25. More recently, the CBI in its written evidence[4] to the Committee said that public spending had increased significantly in Wales since 1999 and that the Assembly budget has doubled since 1999 rising to over £14 bn by 2007-08. The UK Government's October 2007 Comprehensive Spending Review announced further increases in public spend for Wales but at a slower rate of growth – an average increase of 1.8% in real terms for the next three years.

26. Despite this increase in capital investment, the general consensus is that public services in Wales are still in need of significant capital investment. In their *Expenditure Sub Group (ESG) Report 2008/09-2010/11*,[5] the WLGA states that it is increasingly clear that swift and significant capital investment in local council assets is needed and that without this councils will be unable to meet the needs of local people and deliver the policies of the Assembly Government.

27. The WLGA commissioned a report in 2006 entitled *Managing the Funding Gap,*[6] which attempted to estimate the investment required to cease the deterioration of local council assets, and ensure they are fit for purpose. They compared the investment required with available resources in order to identify the 'funding gap' in terms of schools, housing and other assets, and the environment. This report estimated that for the period until 2012, the overall 'gap' was over £4 billion.

Education sector

28. With regard to the education sector, *Firm Foundations*, says, under the heading Education, Lifelong Learning and Skills, that the sector's estate has suffered from chronic under-investment in previous years. In *Wales: A Better Country*[7], the strategic agenda of the Welsh Assembly Government (2003), the Government set out a commitment to invest £560 million in the improvement of school buildings with a view to all schools in Wales being fit for purpose by 2010. A continuing commitment to improvement is given in *The Learning Country: Vision into Action*[8], (October 2006) the Welsh Assembly Government's strategic plan for education, lifelong learning and skills in Wales until 2010. This says that the Assembly Government will provide, on average, funding of £150m a year to 2009-10 for school buildings; keep under review the progress made by local authorities; consult and set target dates for individual authorities to reach the fitness target.

29. More recently, in response to a Written Assembly Question in February 2008,[9] the Minister for Children, Lifelong Learning and Education (Jane Hutt) stated that: Current estimates provided by local authorities indicate that the figure for repair and maintenance and upgrading of all school buildings stands at £818 million. Authorities need to review their school provision, ensure that they have the right number of schools of the right type and size and in the right locations to meet local needs. They need to take a view as to which buildings it is appropriate to invest in—which need replacement, which need renewal and which might be better closed and disposed of. That work is currently ongoing in a number of authorities and until those exercises are

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[4] National Assembly for Wales. Finance Committee Paper FIM(3)-05-08. Written evidence submitted by CBI. (24 April 2008).

[5] Welsh Local Government Association. *Expenditure Sub Group Report 2008/09-2010/11*.

[6] WLGA & PwC. *Managing the funding gap.* (June 2006).

[7] Welsh Assembly Government. *Wales: A Better Country - the strategic agenda of the Welsh Assembly Government.* (September 2003).

[8] Welsh Assembly Government. *The Learning Country: Vision into Action - the Welsh Assembly Government's strategic plan for education, lifelong learning and skills in Wales until 2010.* (2006).

[9] National Assembly for Wales. WAQ51151 and WAQ51152. RoP p2. 13 February 2008.

completed authorities cannot provide accurate figures regarding the cost of replacing both primary and secondary schools where that need is identified.

Health sector

30. In 2003, the Wanless Review,[10] said that while there are examples of modern hospitals in Wales using state of the art building technology and equipment, there remain too many examples of the NHS attempting to deliver 21st century healthcare in buildings which are outdated or inaccessible. More than three-quarters of the built estate is over twenty years old, with one in ten properties built before 1900. In 2001 only half of the estates held by Trusts was assessed as fully or reasonably fit for purpose. The backlog maintenance figure is estimated to be over £400 million.

31. In Wales, there are around 750 GP premises in Wales. A recent survey found that while £12.6m would be required to ensure statutory compliance of premises, extrapolation from a pilot in Rhondda Cynon Taf suggests that £150-£250m would be needed to provide the premises across Wales from which to deliver modern health services as part of an integrated health and social care system.

32. Concerns over the capital investment required within the Health sector were also presented to the Committee during evidence sessions. Referring to the Neath Port Talbot hospital, the Chief Executive of Bro Morgannwg NHS Trust, Mr Paul Williams said[11] that they inherited a maintenance backlog of £45 million which meant that the buildings were not fit for purpose for patients or for staff and were dangerous.

33. Unison expressed a similar concern over the level of investment required in the NHS[12]. They said there was a period when there was little expenditure or insufficient expenditure to keep the pace of maintaining the existing buildings and that they had members working in crumbling buildings.

34. The Committee noted the pressing need for investment in public services and the limited resource availability.

D. What can we learn from the use of PFI?

35. Much of the response to the Committee's call for evidence was in relation to the Private Finance Initiative (PFI) rather than the broader concept of Public Private Partnerships (PPPs) which was the Committee's main focus in this inquiry. This is not surprising as the PFI scheme has been in existence since the early 1990s and a great many projects have been undertaken using the approach. Therefore there is considerable experience of what has and has not worked. Secondly, it is well defined as a model whereas some of the newer approaches, designed to meet a number of the shortcomings in 'traditional' PFI, are still being developed.

36. The Committee also noted that some of the criticism of the approach is based on concerns about practical and financial aspects of PFI, others are objections to the principle of using private sector money for the delivery of public services. Many were a mixture of both.

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[10] *The Review of Health and Social Care in Wales: The Report of the Project Team advised by Derek Wanless.* (June 2003)..

[11] National Assembly for Wales. Finance Committee. RoP paragraph 205. 18 October 2007.

[12] National Assembly for Wales, Finance Committee ROP, paragraph 117, 10 April 2008

37. The Committee considered it important to examine the various claims made for and against PFI so as to come to a view on the strengths and weaknesses of the approach. In doing this the Committee was conscious that the PFI 'model' had developed over the years and that the approach had been varied for different projects as circumstances required.

38. The Committee explored with witnesses a number of views on Public Private Partnerships:

Does the private sector build to time and budget?

39. A number of witnesses spoke about the private sector building to time and budget. Senior Management at the Baglan Hospital[13] told the Committee that the hospital "was handed over on time and within agreed operating costs". KPMG told us that the National Audit Office had reported that in 2003 76% of PFI buildings were completed on time compared with Treasury findings in 1998/1999 of 30% for traditionally procured buildings. KPMG also reported a reduction in cost overruns which they attributed to the transfer of risk to the private sector.

40. The senior staff at Penweddig school[14] told a similar but slightly different story in that the school was due to open on 20 December but the staff and pupils could not move in until 15 January due to the need for remedial work. A three week delay is small, but significant, on a 62 week building programme. However, the case also illustrates how an unexpected problem with water was resolved over the Christmas period by the contactor, and at no additional cost to the school.

41. The link between delivery time, unexpected problems and risk management is not surprising. Although, the Committee did not examine them in detail, it was told of one or two cases where difficulties with a contractor had led to delays and, while the projects were eventually delivered, the significant cost of resolving the issues had fallen entirely on the private sector.

42. Even some witnesses who were opposed to PFI acknowledged the public sector's weakness in relation to cost and deadlines. Unison said to the Committee "A big issue with that that we cannot hide from is that it [public procurement building] was often over budget and not on time[15]. They went on to argue that this was because public sector organisations did not have the necessary management skills and that they should have employed experts and bought in the skills to deliver projects on time and to cost. They said that it would have been possible to bring in private sector expertise without going all the way to a full PFI project but the public sector was never given the opportunity[16].

43. The Committee notes the general agreement that in the past the private sector has broadly built to time and budget in PFI projects although this has not always been the case. The Committee also notes the view that, given the appropriate training, the public sector could match the private sector's performance, but has not examined this in any detail.

[13] National Assembly for Wales, Finance Committee ROP, paragraph 70, 18 October 2007
[14] National Assembly for Wales, Finance Committee ROP, paragraph 252, 18 October 2007
[15] National Assembly for Wales, Finance Committee ROP, paragraph 22, 10 April 2008
[16] National Assembly for Wales, Finance Committee ROP, paragraph 22, 10 April 2008

Is PFI Value for Money?

44. A number of witnesses expressed views about PFI in terms of its value for money – both for and against.

45. Some took the view that undertaking a project in the traditional way with public sector funding had to be cheaper than using PFI because the Government could borrow money more cheaply that the private sector, and PFI required an element of 'profit' to be paid to the private sector partner[17].

46. The Treasury lays down procedures for deciding whether to follow a PFI approach for a project. These include an assessment of the PFI project according to a strict set of criteria which includes the construction of, and comparison with, a Public Service Comparator (PSC).

47. Some witnesses expressed concern that this methodology was unfairly biased in favour of the PFI. References were made to the possibility of manipulating the PSC to deliver whatever result was required[18] and to in-built assumptions that favour the private sector. However, little evidence was presented on what these assumptions were and, in a further submission on this point, the WTUC referred only to the private sector having the ability to modernise services[19]. Others claimed there was an incentive to manipulate the figures to get the 'right' result because PFI/PPP was the 'only game in town'[20].

48. However, many of these claims were asserted without detailed analysis to support them and the Committee found it difficult to come to a view on their strength.

49. Alongside this, the Committee received evidence from the Auditor General for Wales[21] which set out the background to PFI and gave a more analytical approach to these issues. He told the Committee that "In economic terms very little difference will arise between the private finance and conventional public finance options: essentially the same economic resources (such as physical resources or labour) are used in either case."

50. He went on to highlight some of the complex and difficult economic judgements that are involved in this type of assessment. He said[22] that the Treasury used to object to PFI on the same grounds that the public sector could borrow more cheaply than the private sector however, this was no longer their policy. He went on to say that there were very distinguished economic experts from places such as Harvard Business School who say that that analysis is just wrong. They argue that the cost of capital for a project is a function of the risks of the project and not of the person who owns the project. So, for particular risks, the public sector and the private sector, financing the project, will experience just the same costs for those risks." The Auditor General for Wales also said that "The question is controversial amongst economic experts."

51. A further issue was the need to ensure that comparisons were based on the correct figures and that appropriate adjustments were made to reflect factors such as inflation and the timing of the expenditure. This often meant that the results emerged in terms surrounded with jargon that was meaningful to only a small number of technical 'experts'.

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[17] National Assembly for Wales, Finance Committee ROP, paragraph 36 and 67, 21 February 2008 and Finance Committee ROP, paragraph 71, 10 April 2008
[18] National Assembly for Wales, Finance Committee ROP, paragraph 14 and 84, 10 April 2008
[19] FIN(3)-PPP-020
[20] National Assembly for Wales, Finance Committee ROP, paragraph 14 and 84, 10 April 2008
[21] FIN(3)02-07 (p3)
[22] National Assembly for Wales, Finance Committee ROP, paragraph 139, 20 September 2007

52. The Committee therefore decided to examine in detail a 'typical' hospital project to understand just what was going on in the analysis and just what the conclusions meant[23]. The case was based on actual figures and followed the Treasury methodology carefully.

53. In the particular example, the conclusion was that for a project with a total (discounted) cost of around £100m the private sector 'alternative' would cost around £12m more. In exchange for this, the private sector took on risks valued at £15.5m. In effect, the public sector was for £12m transferring a risk valued at £15.5m - thereby making a small gain for the public purse.

54. If, in delivering the project, the private sector partner could manage the risk below a loss of £12m then the outcome would be a 'win-win' - which should be the ideal outcome from any good partnership.

55. However, the most significant conclusion from the analysis was confirmation of the high degree of judgement involved in assessing the elements of the comparison with the PSC. While it might be relatively simple to assess the costs involved in constructing a building, it is a much more complex matter to assess the costs of providing services over perhaps 30 years or longer. In order to compare the PFI project with the PSC it was necessary to forecast costs for a large number of individual items over the life of the project. These needed to include 'on both sides' the costs of the full range of services – including facilities management, maintenance repairs and, particularly, staff. Overall, the specific analysis the Committee considered involved the assessment of some 50 different 'risk' items.

56. It is not difficult to conclude that, where the alternatives are relatively finely balanced, the final comparison will often depend crucially on the accuracy of assessing these many elements. In many cases this involves a series of subjective judgements and, even when these are made as objectively and honestly as possible, they are nonetheless judgements. For a complex project, the reality must be that the final decision will reflect the quality of those judgements.

57. The Committee's analysis confirmed the view put by Unison who quoted the Auditor General for Wales as telling "the Financial Times (Timmins, 2002) that the PSC suffers from 'spurious precision' and that the associated value for money exercises were 'pseudo-scientific mumbo-jumbo where the financial modelling takes over from thinking… It becomes so complicated that no one, not even the experts, really understands what is going on." The Auditor General for Wales reaffirmed this in his evidence to the Committee[24] when he said that when trying to compare the cost of PPP financing with a conventional project, practical experience was that "you can never tell because of the uncertainties in the figures."

58. There is no consensus on this issue. The procedure for comparing the options is complex and involves a wide range of judgements. While the methodology is laid down by the Treasury, and is required to be used throughout the UK, the Committee finds it difficult to understand how it can be considered to give an unequivocal conclusion in every case. In many cases the difference between options will be narrow and may depend critically on the judgements going into the analysis. The Committee also notes that many people, including academics, disagree on aspects of the use of a Public Service Comparator on both theoretical and practical grounds.

59. This does not invalidate the use of PFI or the approach to analysing alternatives using a PSC. It simply leads to the conclusion that the analysis is in some cases bound to

[23] FIN(3) 06-08 (p4)
[24] National Assembly for Wales, Finance Committee ROP, paragraph 141, 20 September 2007

reflect a degree of judgement. Given all the elements that go into a project the difference in some cases is likely to be narrow and the final decision may also involve a degree of pragmatism.

60. One might also conclude that there is a degree of 'swings and roundabouts' in play here. The public sector might pay more for a PFI project in return gaining from private sector expertise, particularly in managing construction work, which minimises the public sector's risks and guarantees the costs. This could provide a benefit for both partners – although the analysis could change if the public sector develops its skills in managing this kind of project

To what extent can risk be transferred?

61. One of the key reasons for involving the private sector in a project, through a PFI or PPP approach, is to transfer some or all of the project risks to the private sector. Reducing the public sector's risk is a possible justification for paying an additional amount for a project, as was indicated in the hospital example above.

62. The Committee received a range of views on this. Most witnesses considered that risk transfer did constitute a major part of any PFI/PPP project. However, some took the view that while there was a lot of talk of risk transfer there was in reality only limited scope to transfer risk away from the public sector.

63. Unison spoke of examples[25] of "major breakdowns, cost overruns, time overruns, costs being passed on to the public and services being cut as a result of these problems" In their view "it is far less risky to return to more conventional means of financing these sorts of projects".

64. Others spoke in similar terms referring to the buck always stopping with the public sector because they had only limited choice over the services they had to provide. As an example, the NUT[26] said that local authorities maintained the "risk" that pupil numbers will be sustained at the levels for which the accommodation was built. Should the number of pupils at a school fall, the authority remains locked in a contract with the private provider at the level of accommodation anticipated when the contract began.

65. Shaw Healthcare, from the private sector, took a similar view saying that the banks always took great care to ensure there was not much risk transfer[27]. They said risk transfer was an illusion and that the banks looked straight through the private sector organisation to the public sector. They went on to say[28] that because of the complexity of preparing PFI schemes they had moved away from them, preferring to invest, and take the risk, directly. However, because they were taking all the risk, and there was no certainty about bed usage, they had to charge higher rates[29].

66. A major concern in relation to a project being managed by the private sector was the risk of a contractor going out of business and being unable to complete it. Although even a conventionally funded project could suffer from the failure of a contractor, the impact in this case would be less severe because the main project remained under the control of the public sector. Gwalia Housing spoke of the climate changing (in relation to the social housing and university sector.) They said they spent a considerable amount of time discussing these issues when a project was developed – and that banks always worked on the assumption that the contractor would go bust. Gwalia

[25] National Assembly for Wales, Finance Committee ROP, paragraph 76, 21 February 2008
[26] FIN(3)-PPP-006a
[27] National Assembly for Wales, Finance Committee ROP, paragraph 38, 24 April 2008
[28] National Assembly for Wales, Finance Committee ROP, paragraph 43, 24 April 2008
[29] National Assembly for Wales, Finance Committee ROP, paragraphs 44 and 45, 24 April 2008

said[30] that in this case, there would be plenty of other organisations willing to take over the role and, while there was a risk of a delay, the cost would be borne by the creditors and bankers of the contractor. There was no risk to the public sector. Shaw Healthcare endorsed this assessment.

67. Similar views were expressed by Babcock and Brown who spoke of a school in East London[31] where the contractor had gone bust. This too had resulted in a slight delay but a new contractor had been brought in and the project completed with the additional cost being borne by the private sector. The WLGA told similar stories such as[32] the case of a school where a landslip had resulted in extra costs of £0.5m for the private sector but none for the authority involved, or another case which they did not detail[33] where a PFI project had led to the private sector meeting a cost and time overrun of £20m which would otherwise have fallen on the public sector.

68. On the other hand Unison said[34] that in their experience every time something went wrong it seemed that the public sector picked up the tab. They referred[35] to a number of major projects investigated by the National Audit Office (NAO) where the contractor was bailed out by the public sector. In their view the government remains the guarantor of last resort for essential public services.

69. The key conclusion from all this is that the transfer of risk is a complex business – there is a need to identify the risks, to value them and then decide who is best placed to bear them. This is not always easy to do but is fundamental to assessing whether a PFI/PPP approach is the right way to undertake a project.

70. Risk transfer is at the heart of the PFI/PPP approach. The crucial challenge is to recognise where each risk can be most appropriately handled and to recognise that some may be better managed by the private sector and some by the public sector. It is also necessary to assess the cost and value of each risk as this is critical to any negotiation to pass them to the private sector. This leads on to issues about training in the public sector and its need to develop expertise in assessing and managing risks.

Does PFI lock the public sector in for too long?

71. A concern expressed by a number of witnesses was the extent to which a partnership with the private sector and the need for this to be set out in a closely specified contract locks the public sector into a project, and the use of a particular building or provision of services for longer than they would wish.

72. The NUT spoke of changes in education over the last two years. Their view was that private companies needed a 30 year project life in order to get a return on their investment and that the consequence was that long term investments presented more problems than solutions. They said that the last two decades had seen the quickest and most dramatic technological changes and that it was likely the next 20 years would be similarly fast changing[36]. They pointed to interactive learning and changes in information technology and considered that it would be easier to manage these changes if they were in the hands of the public sector. As an example, they said that in some parts of the NHS what was needed was[37] "good, modern, cheap and cheerful

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30 National Assembly for Wales, Finance Committee ROP, paragraph 58, 24 April 2008
31 National Assembly for Wales, Finance Committee ROP, paragraph 212, 24 April 2008
32 National Assembly for Wales, Finance Committee ROP, paragraph 156, 21 February 2008
33 FIN(3)-PPP-019, paragraph 27
34 National Assembly for Wales, Finance Committee ROP, paragraph 66, 10 April 2008
35 FIN(3)-PPP-010
36 National Assembly for Wales, Finance Committee ROP, paragraph 59, 21 February 2008
37 National Assembly for Wales, Finance Committee ROP, paragraph 38, 21 February 2008

buildings that will only last five years". But the private sector was not interested in "cheap and cheerful" investment unless it will be used "for 30 years"[38].

73. The NUT said that the situation in schools was a little different[39] but that schools still needed a degree of flexibility. They considered that what was appropriate even 30 years ago was not necessarily appropriate now and pointed to schools built in the 1960s that were no longer fit for purpose. They did however acknowledge that there were limits on the flexibility that could be provided by the conventional route and that the public sector had never constructed schools with a life span of less than 30 years[40].

74. Babcock and Brown acknowledged that flexibility was a concern with, particularly, a traditional PFI project[41]. One of the dangers was that the project was specified by people not directly involved with the organisation's operational needs. Another was that, while the building might be built to the exact specification agreed, the specification needed to change over time. In their view this was evidence for the need for 'more subtle PPP relationships' where long term value for money could be provided than could be obtained through PFI.

75. The WLGA[42] emphasised the importance of ensuring that a long term contract recognised that things will change over its lifetime and so it needed to be constructed in the first place to provide for the handling of these changes.

76. The Wales CBI told the Committee that modern contracts have far more flexibility than those made previously. In their view there was not a great deal of evidence of massive inflexibility at the moment because there is increasingly close liaison between the various parties involved and with the community as a whole[43].

77. On a cautionary note, the NAO in its recent report[44] warned of the dangers of value for money being lost when changes to a contract were negotiated.

78. The Committee also visited the Belfast Health and Social Care Trust to learn about a project involving the provision of hospital equipment via a Managed Equipment Service contract which was funded via private finance. The hospital had found in the past that they were forced to hold on to old equipment until it reached the end of its life leading, at the end of this period, to poor performance and prolonged periods of downtime. They had recently entered into a partnership agreement with an equipment manufacturer which not only 'passed on' the problems of maintaining old and obsolete equipment but also provided for a 'technology refresh' at regular intervals. This had resulted in the hospital being able to provide a better quality and more reliable service. While there is obviously not the same scope to replace a building within a short time scale, if needs or requirements change, there is clearly the potential to incorporate provision for elements of the managed service within a larger contract to be refreshed at appropriate times.

79. PFI/PPP does lock the public sector in for the contract period. This in itself need not be unacceptable provided that the contract contains sufficient flexibility to meet changing needs. The key to success in this area is the public sector knowing precisely what it wants and how to specify it. It also needs to have considered the

[38] National Assembly for Wales, Finance Committee ROP, paragraph 59, 21 February 2008
[39] National Assembly for Wales, Finance Committee ROP, paragraph 39, 21 February 2008
[40] National Assembly for Wales, Finance Committee ROP, paragraphs 56 and 57, 21 February 2008
[41] National Assembly for Wales, Finance Committee ROP, paragraph 156, 24 April 2008
[42] National Assembly for Wales, Finance Committee ROP, paragraph 158, 21 February 2008
[43] National Assembly for Wales, Finance Committee ROP, paragraph 43, 6 March 2008
[44] National Audit Office, *Making Changes in Operational PFI Projects*, HC 205 Session 2007-2008, 17 January 2008

period of time for which it is prepared to be locked in and how to incorporate this, and the flexibility they need into the contract. These in turn lead to issues about training within the public sector and its need to develop expertise in these areas.

Is the process of negotiating a PFI/PPP contract too long, too cumbersome and too expensive?

80. One of the problems raised by a number of witnesses was the time taken to negotiate and finalise PFI contracts. Concerns came from all sides. The Auditor General for Wales spoke of negotiations taking up to 10 years and so long that the requirement had changed before it had been signed[45]. The WLGA said that it would have been a lot easier to have gone to the bank to borrow the money but this was not allowed[46]. In their view[47] one of the factors was that negotiating these contracts required a different skill set from that which local government officers normally had.

81. Babcock and Brown endorsed these views saying that they did think there was a skills gap in the sense that it is anyone's fault. People do not go into public service to run the public side of PPP procurements and so the people who do this take it on as an additional responsibility to their core jobs[48].

82. But the issue was wider than this. Babcock and Brown told the Committee[49] that PFI as a delivery vehicle was significantly more cumbersome and that there were a lot of costs involved in putting the deal together. They noted though that there was a positive element to this in that it ensured that what was agreed had been properly considered.

83. Shaw Healthcare said that because of the transfer of risk, the banks invested much more in the project. They said they had signed 300 documents for one deal, and spent two days in a room at the end of a two-year process. They described the solicitors' fees for this as 'colossal'[50].

84. Shaw Healthcare agreed that PFI was a cumbersome process and made very expensive by the need for legal and other consultants[51]. They said[52] that although they had some PFI schemes they had moved away from them because they were not worth the management time and the return. They would now prefer to develop a community hospital at their own and the bank's risk because, although the risks were higher than for a PFI project, the cost in management time and the loss of opportunities to do other business was much greater. They did however apply higher charges to reflect their higher risks.

85. This was one of the issues that figured in the Committee's informal discussions in Belfast and Edinburgh where the Committee was told of work being done to simplify and standardise contracts, albeit this was limited by the required Treasury framework.

86. The Finance Committee understands the concerns about bureaucracy, lengthy delays in finalising contracts and the accompanying levels of professional fees. However, it notes that some degree of 'bureaucracy' is essential in ensuring projects are properly specified and scrutinised and is necessary to provide a firm basis for managing

[45] National Assembly for Wales, Finance Committee ROP, paragraph 132, 20 September 2007
[46] National Assembly for Wales, Finance Committee ROP, paragraph 123, 21 February 2008
[47] National Assembly for Wales, Finance Committee ROP, paragraph 128, 21 February 2008
[48] National Assembly for Wales, Finance Committee ROP, paragraph 206, 24 April 2008
[49] National Assembly for Wales, Finance Committee ROP, paragraph 194, 24 April 2008
[50] National Assembly for Wales, Finance Committee ROP, paragraph 36, 24 April 2008
[51] National Assembly for Wales, Finance Committee ROP, paragraph 38, 24 April 2008
[52] National Assembly for Wales, Finance Committee ROP, paragraph 43, 24 April 2008

performance subsequently. Nonetheless, it welcomes the efforts being made to develop simpler and standardised contracts and procedures which, after many years' experience with PFI, should be possible. While a simplified approach might not be appropriate for every project it should offer a significant benefit in many cases.

Are staff adequately protected in a PFI project?

87. The Committee received a considerable level of concerns, particularly, from the Trades Unions about staffing issues in relation to PFI.

88. There were a number of key themes. A number of witnesses expressed the view that many staff working in the public sector did so because they were committed to public service. The WTUC told the Committee that many public servants worked in the public sector because they wanted to contribute. They said they could be earning more in private sector organisations, but choose to work in the public sector. The WTUC felt there was real value in maintaining that sort of public sector element to public services[53].

89. PCS took a similar line saying[54] that their view was that public services were better provided by public servants and that the public service ethos should be prized. They considered that civil and public servants generally showed a great deal of commitment to providing good-quality public services and were opposed to anything that would detract from that. Nonetheless, in terms of other areas of public service they took a fairly pragmatic position.

90. Unison echoed these views saying that it was not so much about job security or pensions. People had personal values that they often brought to the job[55].

91. However, the concept of a special 'public sector' ethos was challenged by other witnesses. The CBI[56] "strongly refuted" the suggestion that workers in the private sector have a different service ethos from those in the public sector. They said that private sector companies succeeded only by satisfying their customers consistently. They thought it better to refer to a 'Public Service' ethos. Babcock and Brown questioned what this ethos was[57] saying that private sector organisations were by definition as lean as they could be within the management structure because that was a matter of pure cost. However, within a public sector organisation it was less clear whether people's personal priorities were directly aligned with their organisation.

92. A further concern was the view that in order to make a profit out of a PFI project the private sector partner had to reduce staff terms and conditions. The WTUC said that while TUPE rules might apply, this was only on the day of transfer. Transferred staff had their conditions reduced over time. Working for a contractor introduced a different cultural arrangement, staff turnover was higher and training of a lower standard. The public sector ethos soon disappeared[58]. In a short time, usually in the first two years of any contract, very few of the transferred staff remained[59]. The Committee received little evidence that the revised TUPE arrangements TUPE+ (see Annex A3) had brought much benefit but this may be because it is too soon to come to any conclusions.

[53] National Assembly for Wales, Finance Committee ROP, paragraph 33, 10 April 2008
[54] National Assembly for Wales, Finance Committee ROP, paragraph 20, 21 February 2008
[55] National Assembly for Wales, Finance Committee ROP, paragraph 46, 10 April 2008
[56] National Assembly for Wales, Finance Committee ROP, paragraph 36, 6 March 2008
[57] National Assembly for Wales, Finance Committee ROP, paragraph 198, 24 April 2008
[58] National Assembly for Wales, Finance Committee ROP, paragraph 42, 10 April 2008
[59] National Assembly for Wales, Finance Committee ROP, paragraph 42, 10 April 2008

93. The WTUC[60] challenged the Wales CBI's views on the ethos of workers in the private sector delivering public services saying that the people doing the jobs found themselves on the minimum wage, a poor pension and might have contracts for 10 or 11 hours a week because it is easier to have 15 people on those types of contracts than to have people working a greater number of hours. The ethos had disappeared because the motive was profit.

94. Another concern was the acceptance of lower standards, for example the level of cleaning undertaken. The key concern here was that, after taking over, the contractors were free to set the standards of service delivery and chose ones that could be delivered with lower skills requiring less investment in training[61]. Unison said that in their view the contractor's ethos was to have it clean at a minimum cost to their standard. It might not be the previously acceptable standard but it was for the purchaser to decide whether or not they were happy to accept[62]. This view was challenged by the CBI who said that private sector companies succeed only by satisfying their customers consistently. Should they fail to do that consistently, they soon find themselves without any customers. The key was specifying the objectives clearly and well[63].

95. During its visit to Edinburgh the Committee was told of the development of a 'concordat' (Annex A4) which set out employees' terms and conditions and protected them for the life of a project. The Committee was also told how they sought to ensure there was a clear statement before a project started about which staff would transfer to a private sector partner. Moreover, staff transfers were limited to those involved in 'hard' services such as maintenance of the project asset. Staff involved with 'soft' services, the main service provided by the organisation, remained with their existing employer who remained the 'user' of the asset.

96. The need to ensure staff do not lose out in the transfer of any activity into a PFI or PPP project is of major importance. The Committee has noted the concerns put to it by a number of witnesses and agrees that there are some real issues, particularly with some of the earlier PFI contracts. The 'TUPE +' provisions should be an improvement although it is probably too early to tell. The Committee was encouraged by the work being done to manage and minimise the negative effects of PFI/PPP projects on staff and felt the development of 'concordats' by which agreed terms and conditions for staff were set out clearly in advance are a very helpful way forward.

How true is the claim that "Wales is closed for business"?

97. One of the concerns raised at the start of the inquiry was that the Welsh Assembly Government's attitude to PFI was sending negative messages to the private sector and acting as a disincentive to their investing in Wales. Annex A2 examines the existing PFI projects in Wales and makes comparisons with the rest of the United Kingdom. In terms of capital value per head the level in Wales is roughly one fifth of that in England and Scotland and one third of that in Northern Ireland. There is nonetheless a significant number of PFI projects in Wales with the majority in the Health sector.

98. It was also recognised throughout the inquiry, and by a wide range of witnesses, that the public sector relies on the private sector for all its construction work regardless of how it is funded. The concern was expressed that if Wales did not embrace the type

[60] National Assembly for Wales, Finance Committee ROP, paragraph 46, 10 April 2008
[61] National Assembly for Wales, Finance Committee ROP, paragraph 42, 10 April 2008
[62] National Assembly for Wales, Finance Committee ROP, paragraph 46, 10 April 2008
[63] National Assembly for Wales, Finance Committee ROP, paragraphs 36 and 38, 6 March 2008

of wider and deeper partnership that was being developed elsewhere, private sector companies might look elsewhere for business and Wales would lose out on investment.

99. The Committee invited the Minister for Finance and Public Service Delivery to give evidence and set out the current Government's policy at the start of the inquiry. The Minister indicated at that time that he was committed to exploring links with the private sector and was keen to ensure all options remained open to the Government. However, his discussions with the private sector were at an early stage and he felt the debate would be more productive and effective for the Committee if it were left until later. The Committee will discuss PPP with the Minister in the second phase of the Inquiry.

100. The One Wales agreement[64] says "We will rule out the use of Private Finance Initiative in the Welsh health service during the third term."

101. Witnesses gave differing views on this issue. The WLGA[65] said they did not buy into the argument and that the private sector figured very highly in much delivery and many public services within local government. They did, however, acknowledge that the withdrawal of PFI credits and the ideological position of the Assembly Government had played a part in the wider view. They spoke of their recent discussions with the CBI and "the approach, stemming from Beecham, about partnership and, in some areas, a mixed economy of service provision."

102. The Wales TUC did not accept the point either[66], referring to the many contracts, such as road building, that cannot be done 'in house'. They noted also that Wales still attracts high levels of foreign direct investment.

103. Shaw Healthcare took a slightly different view and regretted the fact that while they were a Welsh-based organisation, with a head office in Wales, only about £2m of their annual £120-130m turnover this year would be in Wales. Their view was that this was because the "intellectual and cultural climate is very strongly opposed to the independent and private sector providing healthcare services"[67]

104. Babcock and Brown[68] referred to a lack of clarity in Wales about the priority of capital investment projects. They said that "Wales has lacked a real identification of the top 50 schemes …. and the policy and political drive to implement them." Cowlin[69] said that PPP arrangements were "not a tool that is encouraged". However, they were currently dealing with six projects on a 'PPP-type arrangement' and that "momentum is being gained".

105. The Wales CBI spoke of the work they were doing within Wales and with the WLGA to develop partnerships. Their view[70] was that the market for PFI/PPP was huge and developing internationally. There were many opportunities for companies to get involved and, if the message was that Wales was not interested, these companies would go elsewhere. In this regard "tone is terribly important"[71]

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[64] *One Wales: a progressive agenda for the Government of Wales*, page 10
[65] National Assembly for Wales, Finance Committee ROP, paragraphs 105 and 108, 21 February 2008
[66] National Assembly for Wales, Finance Committee ROP, paragraph 47, 10 April 2008
[67] National Assembly for Wales, Finance Committee ROP, paragraph 21, 24 April 2008
[68] National Assembly for Wales, Finance Committee ROP, paragraph 225, 24 April 2008
[69] National Assembly for Wales, Finance Committee ROP, paragraph 226, 24 April 2008
[70] National Assembly for Wales, Finance Committee ROP, paragraph 53, 6 March 2008
[71] National Assembly for Wales, Finance Committee ROP, paragraph 51, 6 March 2008

106. The CBI went on to say that an underlying issue was the need for contractors to invest in their own people and infrastructure and that this took time to build up and could not be turned on and off.

107. BT also said that the role of the private sector in the delivery of public services in Wales was restricted. They said there were some examples of partnerships with the public sector which have worked well, but they were few in number and small in size, and could not be described as 'transformational'[72]. They did not have a clear view of the reasons for this but wondered if it was related to perceptions that this kind of partnership might undermine the public sector in someway In their view there was a concern about whether the public sector in Wales had the necessary skills to organise and manage these contracts[73].

108. The Committee found very little evidence to support the claim that "Wales is closed for business" – and notes that in many ways it is a meaningless phrase. There is some evidence that the Welsh Assembly Government's current attitude to PFI/PPP, particularly in the health care sector and the limited number of PFI projects in Wales, is sending out mixed messages to industry. However alongside this there is clear evidence of a desire from both public and private sectors to work together to develop services in Wales. Nonetheless, 'tone' is important and this is an issue that needs to be kept under review.

E. Conclusions and Recommendations

109. There is clearly a challenge facing Wales in meeting its future needs for capital investment in public services. However, the issue is not unique to Wales and in its inquiry the Committee learned how others had addressed similar situations. Both Scotland and Northern Ireland have invested significant capital resources as a result of collaborative ventures using varying forms of PPP. For example in Scotland the Government has used PFI to construct some 200 schools in 4 years. This amounted to a capital investment of around £3bn and the replacement of one third of Scottish schools.

110. In the health sector the Committee visited a hospital group in Belfast where, by entering into a close relationship with a private sector partner, staff now provided services using 'state of the art imaging, biomedical and diagnostic equipment. Alongside this the contract provides provision for regular replacement and upgrades ensuring the hospital keeps pace with technological developments and always operates up to date and reliable equipment. The Committee noted with interest the way that Scotland and Northern Ireland have through partnerships with the private sector harnessed additional funds for investment in capital assets.

111. These are impressive achievements by any standards and indicate the kind of opportunity that can be available from partnerships with the private sector and the kind of public service that could be available for the people of Wales. The Committee notes the argument that investing in this way is 'mortgaging the future'. It notes also the counter-argument that PPP is investing in the future to provide high quality modern services and that the approach, with its incorporation of regular maintenance and technological updates ensures the service provided through this investment is protected into the future.

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[72] FIN(3)-PP-015, page 11
[73] National Assembly for Wales, Finance Committee ROP, paragraph 102, 6 March 2008

112. Nonetheless the Committee recognises that there are some strongly held, and justifiable, concerns about the way in which public private partnerships have operated in the past – particularly some of the earliest PFI schemes. These issues need to be recognised and the Committee was greatly encouraged to learn that others have done just this and that ways have been found to resolve, or at least ameliorate, many of them.

113. An essential requirement of any PPP is that the proposed approach must provide value for money. In order to assess this the PPP approach needs to be assessed in comparison with other means of financing a project. Clearly Treasury guidance and, where appropriate, the construction of a Public Sector Comparator (PSC) should be a part of this. But, the Committee considers this analysis should recognise that the PSC is a crude tool and should not be used blindly but as part of a balanced assessment of all the issues.

114. The approach to this analysis also needs to offer flexibility in assessing risk at the individual project level. The Committee considers that the key to this is to ensure that the assessment of risks, and the decision as to where they are best managed, is taken as close as possible to the project. And if the private sector is going to take some of the risk associated with a project away from the public sector then it is fair and reasonable that there should be an appropriate element of profit for them within the contract.

115. In assessing the most appropriate way to carry out a project, there should be a recognition that the private sector has skills and expertise in particular areas, such as building to 'time and budget', that can be of benefit to the public sector. Harnessing these skills is at the heart of a successful partnership. A number of witnesses took the view that the public sector could just as well deliver a project to 'time and budget' if it had the opportunity and were given the skills. There is no reason to doubt this but the evidence suggests that at the moment they do not appear to have the skills. These need to be developed but there is unlikely to be a quick solution to this. The Committee nonetheless feels it is an issue that should be addressed by the Welsh Assembly Government and **recommends that the Welsh Assembly Government should come forward with proposals for developing and strengthening these skills within the public sector generally.**

116. A major issue that came out through the inquiry was a widespread lack of skills in relation to constructing, negotiating and managing partnerships with the private sector and these need to be developed in Wales. These need to cover the full range of activities including analysing customer needs, defining and specifying projects, and negotiating with the private sector.

117. Then, having agreed a project specification and having finalised a contract, the public sector needs to develop its skills in monitoring and managing the contract and ensuring delivery of the results, particularly in terms of quality, that have been agreed.

118. One of the reasons that the public sector lacks expertise in these areas is lack of experience. The relatively small number of PFI/PPP projects carried out in Wales is undoubtedly a part of this. But a more important reason is the fact that any individual project normally falls to the 'local' team to carry out. Once a project is completed the project leaders do not generally take their 'hard-earned' expertise on to another such project but go back to the 'day job' of managing or operating the facility in question. Other projects are then led by their respective managers who in turn have to go through the same learning process.

119. In its discussions in Scotland and Northern Ireland, the Committee noted the important role played in the development of PPP in those areas by their central support units.

The Committee considers that such a unit could play a valuable role in Wales. It would be particularly useful, for example, in ensuring that lessons learned from one project inform and strengthen other projects but there are a number of more specific functions it might perform. The Committee **recommends** **that the Welsh Assembly Government establishes a central body or unit to promote and support partnership projects with the private sector.**

120. There are a number of ways in which such a unit might operate and the Committee considers that its functions should include, at least:

- o acting as a central source of knowledge and expertise;
- o ensuring the public sector deals on equal terms with private sector;
- o developing skills in project specification, monitoring and management;
- o ensuring the development of these skills throughout the public sector in Wales;
- o maintaining links with central bodies elsewhere in the UK;
- o maintaining links with the devolved administrations – particularly to share experiences and best practice.

121. The Committee understands that there was such a unit in WAG in the past but this was disbanded. The Committee has not looked at this in any detail, but there might be a basis there for establishing a new unit.

122. A critical part of the unit's role will be to ensure that the expertise gained in one project is used to inform and support subsequent projects. The Committee therefore **recommends** **that the central unit should take a lead role, with local management, in developing project specifications, negotiating contracts with the private sector partner and monitoring and managing performance in relation to the contract.** The Committee does not see this as increasing centralisation in the provision of services but supporting local management by providing additional skills and expertise to accelerate investment in infrastructure.

123. Developing such a unit and the planning of its activities, including its training work, would be greatly helped if this could be set within a longer term framework which would provide a clear perspective within which both the public and private sector can plan. The Finance Committee therefore **recommends** **that the Welsh Assembly Government publishes forward plans for its capital/infrastructure programme including setting out the funds that were expected to be available.** This work would sit alongside the work of the Strategic Capital Investment Board that WAG is developing. It would also ensure that Wales' capital programme was developed as a cohesive whole matching Wales' needs with the range of resources available.

124. The Committee also feels that such a unit should work to develop longer term partnerships between public and private sectors in order for both sides to gain a better understanding of each other's requirements and to develop closer working and planning relationships. Nonetheless, it is important that these do not lead to the public sector getting locked into a partnership at the expense of losing the sharpness that comes from the competitive edge when dealing with the private sector.

125. A key factor in the success of any change to the operation of a service activity is the way in which staff issues are handled. This is particularly so in areas such as health and education where the commitment and dedication of staff are crucial to the quality of service delivered. The evidence put to the Committee indicated a high degree of staff nervousness about services being transferred as part of a PPP which is understandable. While TUPE arrangements go some way to addressing staff concerns, the Committee feels that more can be done in this regard.

126. The Committee noted in particular the suggestion that the only staff to be transferred to an external employer for a PPP project should be those, such as maintenance staff, whose work relates directly to the project asset. They noted also the approach in Scotland in which at the outset there was a clear statement of which staff would transfer to another organisation as part of a project and the development of a 'concordat' as a broader, agreed framework covering the terms and conditions that apply to both new and transferred staff. The Committee considers that this approach would be a major step forward in addressing the concerns expressed by unions and employees about PPP. The Committee **recommends that the Welsh Assembly Government should, as a matter of priority, work with the Trades Unions and Employer Organisations to develop a similar concordat for use in Wales.** This might be a first task for the new Central Unit although the committee recommends that the Government does not delay in developing the concordat in the event of there being a delay in the establishment of the Central Unit.

127. A particular challenge in developing PPPs in Wales will be to reduce the time and bureaucracy involved in setting them up. Closer working and an improved understanding by the private and the public sectors of each other's needs should help with this. It ought also be possible to work to develop further standardised and simplified legal processes for the establishment of these partnerships.

128. The Committee also noted a fundamental imbalance in the way that maintenance is handled via the traditional public sector procurement route and for PFI/PPP projects. The theoretical assessment of these is addressed in relation to value for money issues. But there is a very practical difference in that, of its nature, a PFI project incorporates maintenance of the project asset within the unitary charge. Thus a PFI school or hospital has built into its management plan the provision for repairs and maintenance to be carried out and for regular redecoration. Assets provided using conventional funding mechanisms do not have these built in. This risks both the premature deterioration of such assets and their becoming an unsatisfactory environment for staff to work in and for the public to receive services. While this is not a simple issue, the Finance Committee considers the Welsh Assembly Government should seek to develop systems by which the necessary ongoing maintenance of assets, including the funding for this, is built in at the start. The public sector needs to adopt an approach in which investment, having been made, is protected into the future.

Future Action

129. This first stage of the Committee's inquiry into Public Private Partnerships In Wales has focused on examining the various aspects of public private partnerships, and understanding the constraints and the opportunities they offer. The Committee has also explored some of the approaches being taken to develop and improve the way in which these partnerships work so as to address some of the concerns expressed by participants.

130. The Committee proposes next to look in more detail at some of the differing models that have been suggested to it and to report on these. This will include clear recommendations to the Welsh Assembly Government to explore in detail those that look likely to be of most benefit and use in Wales in tandem with the recommendations made in this report.

Annex A1 - Public Private Partnerships: A Working Definition

1. At its broadest, the concept of PPP is simply an arrangement under which the public sector and the private sector act together to deliver a service or a facility for the use of the general public. Such arrangements are intended to provide the public sector with access to new sources of capital funding, skills and expertise. The most well-known initiative under the umbrella of PPP is the Private Finance Initiative (PFI), introduced by the then Chancellor of the Exchequer, Norman Lamont, in his Autumn Statement in 1992.[74] However, the Committee has purposely not confined itself to a study of PFI (although being the most widely-used form of PPP, there is more evidence available for this model than other forms).

2. There is no single accepted definition in the various legal and academic texts which have been written on PPP. The publication which is probably the most widely referred to by practitioners, *Public Private Partnerships and PFI*[75] defines PPP very broadly as involving:

   a a public sector body;
   b a private sector contractor: and
   c an agreement between these parties which relates to the provision of an asset and/or services for public benefit.

3. The Committee considers this definition too broad to be useful in answering the terms of reference agreed for this inquiry. It could for instance include “traditional” contracts for the construction of a hospital or school. Therefore, having heard the evidence and discussed the issue with its Expert Advisers, the Committee has adopted a tighter working definition of PPP for the purposes of this inquiry, as follows:

4. A PPP is a contract:

   a between a public sector body and a private sector contractor;
   b relating to the provision of an asset and/or services for public benefit;
   c where the private sector pays for the initial construction, installation or set-up;
   d where the private sector takes the risk associated with the initial construction, installation or set-up, so that no payment is made by the public sector until this phase is complete, and the agreed payment is not varied despite, for instance, increased costs to the private sector or delays to completion[76];
   e which includes a structured payment mechanism based on repayment of capital, interest, service or maintenance charges and a profit element; and
   f where payment is performance-related, so that failures to meet performance standards are penalised financially.

5. All the models considered by the Committee in its evidence-taking sessions and visits contained the above elements.

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[74] HC Deb 12 November 1992 Vol 213 c998.
[75] Arrowsmith, S., 1999. *Public Private Partnerships and PFI.* Pub. Sweet and Maxwell.
[76] Save for certain limited, defined situations, eg where the public sector asks for variations or extra elements.

Annex A2 - PFI in Wales compared to the rest of the UK

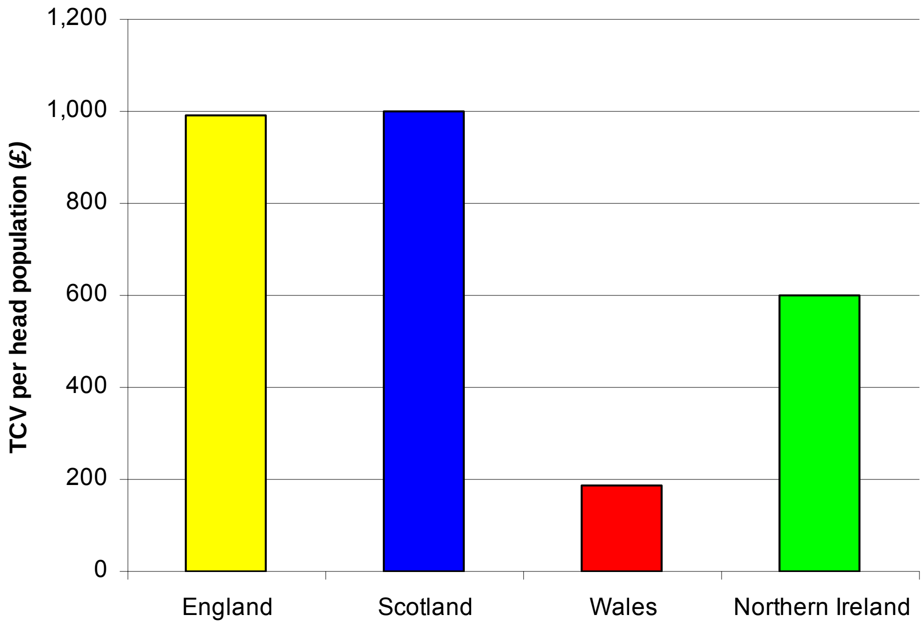
1. PFI: projects and capital value – national comparison

Since 1995 there have been 37 projects in Wales, with a total capital value of £624.7 million, [77] giving an average capital value of £16.8 million per project. This represents 5% of the projects occurring in the UK and 1% of the total capital value of UK PFI projects. These projects are listed in Table 1. This list represents a complete picture of PFI projects undertaken in Wales (excluding those commissioned by UK Government departments in non-devolved areas[78]).

England makes by far the most use of PFI in public procurement, accounting for 77% of all projects in the UK and 88% of the capital value.[79] However, despite the disparity between the number and capital value of projects, Scotland and England demonstrate comparable levels of capital value per head population as can be seen in Figure 1.

The application of PFI as a procurement method in Wales appears to be significantly lower than in England and Scotland, both in terms of project numbers and capital value of PFI schemes. Wales and Northern Ireland have a similar share of the PFI market in terms of number of projects; however PFI in Wales has a much lower capital value as compared to Northern Ireland, and this is again reflected in capital value per head population.

Figure 1: Capital value per head population



Source: Partnerships UK.
Note: Excludes non-devolved projects occurring within devolved administrations commissioned by UK Government departments.

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[77] Calculated using both the Partnerships UK projects database and HM Treasury signed projects list. These figures exclude non-devolved projects commissioned by the UK Government.
[78] UK Government commissioned projects occurring within devolved administrations. **Scotland**: Edinburgh Inland Revenue Office Accommodation (HMRC); Glasgow Inland Revenue Office Accommodation (HMRC); Bannockburn Family quarters (MoD); RAF Lossiemouth Family quarters (MoD); Tornado G4 simulator (MoD) and ASTUTE class training service (MoD). **Wales**: Ammanford Police Station (HO); HMP Parc (MoJ); St Asaph Central Divisional Headquarters (HO); DVLA estates transformation project (DfT); Ystrad Mynach police station (HO); RAF Hawk simulator (MoD) and Severn Crossing (DfT).
[79] Calculated using figures sourced from the Partnerships UK project database.

Table 1: PFI projects in Wales

Project Name	Commissioning Body	Total capital value (*£m*)	Financial close	Contract term
University Hospital of Wales - Car parks†	Cardiff & Vale NHS Trust	5.8	1995	20
University Hospital of Wales - Main entrance & concourse†	Cardiff & Vale NHS Trust	1	1995	20
Singleton Hospital - Incinerator replacement†	Swansea NHS Trust	0.7	1995	15
OSIRIS§	National Assembly for Wales	64.4	1996	7
Llandough Hospital - Contract energy management & combined heat & power†	Cardiff & Vale NHS Trust	0.6	1996	15
Energy management†	Pembrokeshire & Derwen NHS Trust	0.3	1996	..
Prince Philip Hospital - Energy management & combined heat & power*(a)	Carmarthenshire NHS Trust	0.3	1996	15
A55 Llandygai to Holyhead trunk road*(b)	National Assembly for Wales	100	1998	30
Chepstow Community Hospital*(c)	Gwent Healthcare NHS Trust	10	1998	25
Royal Gwent Hospital & St Woolos Hospital - Energy management*	Gwent Healthcare NHS Trust	4	1998	15
Neville Hall Hospital - Endoscopy & day surgery unit*(d)	Gwent Healthcare NHS Trust	3.5	1998	25
Royal Glamorgan Hospital - Staff residences*	Pontypridd & Rhondda NHS Trust	2.5	1998	30
Sully Hospital - Contract energy management & waste†	Cardiff & Vale NHS Trust	0.9	1998	19
Lloyd George Avenue & Callaghan Square*	Welsh Development Agency	45	1999	25
Ysgol Penweddig, Penweddig Secondary School*	Ceredigion CC	12	1999	30
Llandough Hospital - Staff & day nursery†	Cardiff & Vale NHS Trust	1.6	1999	25
Neath Port Talbot Hospital*(e)	Bro Morgannwg NHS Trust	66	2000	32
St David's Community Hospital*(f)	Cardiff & Vale NHS Trust	16	2000	31
Pembroke Dock Primary School*	Pembrokeshire CBC	8	2000	30
Glan Clwyd Hospital - Renal & dialysis unit*	Conwy & Denbighshire NHS Trust	3.4	2000	30
University of Wales Hospital - Sterile services†	Cardiff & Vale NHS Trust	2	2000	10
Morriston Hospital - Car parking/Security†	Swansea NHS Trust	0.3	2000	..
Ysgol Gyfun Cwm Rhymni & Lewis Boys*	Caerphilly CBC	25	2001	30
Neville Hall Hospital - Energy management project*	Gwent Healthcare NHS Trust	3.3	2001	25
Newport Southern Distributor Road*(g)	Newport CBC	57.1	2002	40
Council offices*	Denbighshire CC	12.1	2002	25
Conwy Schools project*(h)	Conwy CBC	40.7	2004	30
Sirhowy Enterprise Way Road scheme*	Caerphilly CBC	34.3	2004	30

Project Name	Commissioning Body	Total capital value (*£m*)	Financial close	Contract term
Schools & Lifelong Learning Centre*(i)	Rhondda Cynon Taf CBC	27.2	2004	25
Fire training facility†	South Wales Fire Service	7.2	2004	25
Monnow Court*	Gwent Healthcare NHS Trust	4	2004	30
Prince Charles Hospital - Energy management§	North Glamorgan NHS Trust	1	2004	25
Abergele Hospital - Energy management†	Conwy & Denbighshire NHS Trust	0.3	2004	..
Bronglais Hospital - Energy management†	Ceredigion & Mid Wales NHS Trust	0	2004	..
Maesteg Secondary School*(j)	Bridgend CBC	24	2006	27
Waste PFI*(k)	Wrexham CBC	23.7	2007	27
Newport Schools project†	Newport CBC	16.5	2008	25

Source: Partnerships UK and HM Treasury.
.. denotes data not available
* denotes project is listed on both Partnerships UK and HM Treasury.
† denotes project is listed only on Partnerships UK.
§ denotes project is listed only on HM Treasury.
(a) HM Treasury shows 13 year contract; Partnerships UK shows 15 year contract.
(b) HM Treasury shows 28 year contract: Partnerships UK shows 30 year contract.
(c) HM Treasury shows 27 year contract; Partnerships UK shows 25 year contract.
(d) HM Treasury shows capital value of £6.67 million; Partnerships UK shows £3.5 million.
(e) HM Treasury shows 30 year contract: Partnerships UK shows 32 year contract.
(f) HM Treasury shows capital value of £13.85 million: Partnerships UK shows £16 million.
(g) HM Treasury shows 37.4 year contract: Partnerships UK shows 40 year contract.
(h) HM Treasury shows 25 year contract: Partnerships UK shows 30 year contract.
(i) HM Treasury shows capital value of £28.18 million: Partnerships UK shows £27.2 million.
(j) HM Treasury shows capital value of £20.4 million & 25 year contract: Partnerships UK shows £24 million & 27 year contract
(k) HM Treasury shows capital value of £23.65 million: Partnerships UK shows £23.7 million.

Note: The Welsh Assembly Government recently adopted a more restrictive definition of PFI and, in response to a recent Oral Assembly Question,[80] the First Minister stated:

> There are some 16 existing PFI schemes in Wales relating mostly to road, hospital and school infrastructure.

Officials subsequently sought clarification of this, and an understanding of why the other projects were excluded. The response received said:

> "…there are more than 16 PFI 'projects' in Wales, however some of these will not be funded by the Assembly Government and are not reflected in the original response.
>
> Many of the projects with very small capital values (usually in our case, health schemes of under £4m CV) whilst originally recorded as PFI projects are no longer classified as such and have not featured in Assembly Government figures for some time.
>
> In responding to Assembly Questions, answers to PFI queries are based on those projects within devolved areas which are either very large and/or which receive direct financial support from the Assembly Government, namely, the 11 local authorities with schemes (bundled or otherwise), our own projects (Bute Avenue/Callaghan Square and the A55) and three hospitals (Chepstow, St David's Cardiff and Neath Port Talbot). This reflects 16 projects referred to in the original drafted response."

80 OAQ(3)1056 Leanne Wood to Rhodri Morgan (First Minister), RoP p1, 3 June 2008. [as on 10 June 2008].

Thus, the 16 projects referred to in the First Minister's response are shown in Table 2.

Table 2: 16 PFI schemes in Wales

Project Name	Commissioning Body	Financial close	Total capital value (*£m*)	Contract term
A55 Llandygai to Holyhead trunk road*[a]	National Assembly for Wales	100	1998	30
Chepstow Community Hospital*[b]	Gwent Healthcare NHS Trust	10	1998	25
Lloyd George Avenue & Callaghan Square*	Welsh Development Agency	45	1999	25
Ysgol Penweddig, Penweddig Secondary School*	Ceredigion CC	12	1999	30
Neath Port Talbot Hospital*[c]	Bro Morgannwg NHS Trust	66	2000	32
St David's Community Hospital*[d]	Cardiff & Vale NHS Trust	16	2000	31
Pembroke Dock Primary School*	Pembrokeshire CBC	8	2000	30
Ysgol Gyfun Cwm Rhymni & Lewis Boys*	Caerphilly CBC	25	2001	30
Newport Southern Distributor Road*[e]	Newport CBC	57.1	2002	40
Council offices*	Denbighshire CC	12.1	2002	25
Conwy Schools project*[f]	Conwy CBC	40.7	2004	30
Sirhowy Enterprise Way Road scheme*	Caerphilly CBC	34.3	2004	30
Schools & Lifelong Learning Centre*[g]	Rhondda Cynon Taf CBC	27.2	2004	25
Maesteg Secondary School*[h]	Bridgend CBC	24	2006	27
Waste PFI*[i]	Wrexham CBC	23.7	2007	27
Newport Schools project†	Newport CBC	16.5	2008	25

Source: Partnerships UK and HM Treasury.

* denotes project is listed on both Partnerships UK and HM Treasury.

(a) HM Treasury shows 28 year contract: Partnerships UK shows 30 year contract.

(b) HM Treasury shows 27 year contract; Partnerships UK shows 25 year contract.

(c) HM Treasury shows 30 year contract: Partnerships UK shows 32 year contract.

(d) HM Treasury shows capital value of £13.85 million: Partnerships UK shows £16 million.

(e) HM Treasury shows 37.4 year contract: Partnerships UK shows 40 year contract.

(f) HM Treasury shows 25 year contract: Partnerships UK shows 30 year contract.

(g) HM Treasury shows capital value of £28.18 million: Partnerships UK shows £27.2 million.

(h) HM Treasury shows capital value of £20.4 million & 25 year contract: Partnerships UK shows £24 million & 27 year contract.

(i) HM Treasury shows capital value of £23.65 million: Partnerships UK shows £23.7 million.

2. Distribution of PFI schemes by sector

Table 3 provides information on how these Welsh projects are distributed across sectors. Over the UK as a whole the majority of projects appear to be concentrated in the health and education sectors. However, the transport sector demonstrates the highest capital value, reflecting the large, costly nature of such schemes. In comparison to the UK as a whole, the PFI market in Wales shows a higher proportion of schemes in the health and transport sectors, and a lower proportion in almost all other sectors. In comparison, the Scottish PFI market is dominated by health and education schemes, whereas in Northern Ireland, there are a high proportion of ICT schemes.

Table 3: Number and value of projects by sector

Sector	Number of projects	% projects	Capital value (*£m*)	% Capital value
Education	7	19	153.4	25
Health	21	57	127.2	20
Accommodation	2	5	19.3	3
Environment	2	5	24.0	4
Equipment	0	0	0.0	0
Housing	0	0	0.0	0
ICT	1	3	64.4	10
Leisure services	0	0	0.0	0
Property	0	0	0.0	0
Transport	4	11	236.4	38
Total	**37**	**100**	**624.7**	**100**

Source: Partnerships UK and HM Treasury.

Note: Excludes those projects which were commissioned by UK Government departments.

Annex A3 – Background note on TUPE +

1. Staff transfers from the public sector to the private sector in relation to contracting out (including second and subsequent rounds) may be subject to TUPE[81] but in any event are also subject to government policies which give additional protection to workers.

2. Government policy has evolved over time. Concerns over the two tier workforce emerged in parallel with these developments.

3. Initially the policy concern was to ensure that TUPE applied to protect employees in all public sector cases, whether or not TUPE applied as a matter of law (since at the time it appeared arguable that TUPE might not apply in certain public sector "transfers"). In addition, the Government wanted to protect the pensions of those who transferred out of the public sector. At the time, there was no protection at all for pensions in the event of a transfer. The Government decided that the pension benefit would have to be matched by a private sector employer who took over public sector staff. The requirement was to provide a "broadly comparable scheme" which in practice meant a final salary scheme approved by the Government Actuaries Department as being of comparable value, and which therefore was very expensive to provide (and highly valuable to the employees). The scheme not only had to match the pension values but also the value of associated benefits such as early retirement. This policy was recorded in "*Staff Transfers in the Public Sector – Statement of Practice 2000*"[82] (which incorporated "*A Fair Deal for Staff Pensions*" 1999 (later updated in 2004 in a document known as *New Fair Deal*[83]). This policy is sometimes referred to as TUPE+, in view of the benefits it offers compared to TUPE.

4. The operation of this policy, combined with the normal effect of TUPE, created a situation whereby outsourced services could become staffed by two groups of employees. The first group were those who transferred from the public sector and who were consequently protected under TUPE and under the Statement of Practice. They therefore received identical terms and conditions as they had received in the public sector, including a pension of similar value. The second group were new recruits and, occasionally, employees who were already working for the private sector employer. In their case, the employer was free to set their terms and conditions as they saw fit and there was no obligation to provide any pension, let alone a final salary pension. Typically this group were less likely to be unionised.

5. This phenomena is known as the "two tier workforce" and was the basis of lobbying from the unions, who were concerned about the apparent iniquity whereby two employees could be on very different terms and conditions in relation to the same work. In broader terms their fear was that public sector services were being provided by private sector employers who could undercut public sector labour costs in relation to their new recruits, and also that this could lead to pressure on the transferred former public sector employees to erode their terms and conditions.

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[81] *The Transfer of Undertakings* (*Protection of Employment*) *Regulations 2006*. SI 2006/246.
[82] Cabinet Office. *Staff Transfers in the Public Sector: Statement of Practice 2000*. (January 2000).
[83] HM Treasury. *Fair Deal For Staff Pensions: Procurement of Bulk Transfer Agreements and Related Issues. Guidance Note.* (June 2004.)

6. In 2004 the Labour Party and the TUC reached an agreement on a number of issues, including how the two tier workforce should be addressed. This agreement was known as the Warwick Agreement[84].

7. As a result of this commitment the government produced a further policy statement governing transfers in the public sector. This took the form of the 2005 "*Code of Practice on Workforce Matters in Public Sector Service Contracts*".[85]

8. The Code tried to address the two tier issue by making specific requirements in relation to staff who are recruited by the private sector employer to work on the public sector contract. The main points of this Code were that:

    a. New staff who are recruited by the private sector employer to work on the contract in question must be provided with terms and conditions which are "overall, no less favourable" than the TUPE+ terms.

    b. In addition, they should be provided with a good quality pension scheme. This does not have to match the public sector scheme and can simply be a money purchase scheme based upon a 6% matched contribution.

    c. The private sector employer is required to consult with a recognised union or staff representatives, where no union is present, in relation to the terms and conditions for the new joiners.

9. As with the 2000 Statement of Practice[86] it is the responsibility of the public sector body in question to ensure these measures are put in place and are policed. This requires specific drafting in the commercial contracts. This is now well established in PFI/PPP contracts.

10. The two tier workforce has not been completely resolved by these measures. This is because the new staff who are recruited to work on the contract do not have to be provided with the final salary pension scheme which their TUPE+ colleagues will receive. The TUPE+ colleagues will also benefit from connected redundancy and early retirement benefits. Additionally, some flexibility is allowed for the new employer to set the terms since they do not have to match the TUPE+ terms exactly, but have to provide terms which, taken as whole, are no less favourable. Finally, if a contractor already has incumbent staff at the time of the contract then the 2005 Code[87] will not apply to them.

[84] http://www.unionstogether.org.uk/warwick.html
[85] Cabinet Office. *Code of Practice on Workforce Matters in Public Sector Service Contracts*. (March 2005).
[86] Cabinet Office. *Staff Transfers in the Public Sector: Statement of Practice 2000*. (January 2000).
[87] Cabinet Office. *Code of Practice on Workforce Matters in Public Sector Service Contracts*. (March 2005).

Annex A4 - The Concordat in Scotland and the PPP Protocol

1. In Scotland, the Labour former Executive sought to secure greater union involvement in the PPP process and in concert with the Scottish TUC, to work to eradicate the "two-tier" workforce. This was against the backdrop of a large-scale PPP programme.

2. The first step was the entry (in April 2002) into a Memorandum of Understanding[88] between the Scottish Executive and the STUC to consult unions and allow them greater say in the development of executive policy. The STUC said that they believed that the agreement would be judged a success if it led to a reduction in the number of PFIs, but the then First Minister, Jack McConnell, stated that:[89]

3. "…*if the only innovation the private sector can offer is on the basis of reduced employment standards, that is not good enough for me. However, for those who can rise to the challenge and use their experience to the benefit of the public sector, we should work with them*".

4. This was followed in November 2002 by the *Public Private Partnerships in Scotland – Protocol and Guidance Concerning Employment Issues*[90] ("PPP Protocol"). This was also agreed between the Scottish Executive and the STUC and has as its stated aim the elimination of the two-tier workforce.

5. In summary, the PPP Protocol[91] makes the following key recommendations:

   a. Potential service providers should be required to demonstrate their commitment to fair employment practices and positive employee relations, including union recognition;

   b. Procurement decisions should reflect quality as well as value for money, and should not be dependent upon dilution of employees' pay and conditions;

   c. Terms and conditions of transferred employees must be safeguarded and changes should only be effected with the agreement of the unions;

   d. Public sector organisations should be expected to ensure there is no "two-tier" workforce and thus should require that new employees be taken on, on terms which are no less favourable;

   e. Broadly comparable pension arrangements for transferred and new employees.

6. Ensuring fairness through the tender process and the contract terms

   a. The above obligations can be made binding on private sector partners by using the tender process and contract terms effectively. As part of the tender process, prospective bidders can be required to consult with the unions representing affected workers and develop proposals in agreement with the unions for union recognition and fair treatment of the workforce (both transferring and new). Bidders are then scored on their proposals as part of the overall tender

[88] Scottish Government. *Memorandum of Understanding: The Scottish Executive and the STUC working together*. (15 April 2002).
[89] http://www.scotland.gov.uk/News/This-Week/Media-Briefings/102
[90] Scottish Government. *Public Private Partnerships in Scotland: Protocol and Guidance Concerning Employment Issues*. (November 2002).
[91] Scottish Government. *Public Private Partnerships in Scotland: Protocol and Guidance Concerning Employment Issues*. (November 2002).

evaluation (i.e. this forms part of the “quality” assessment). This already happens in some major, non-PPP procurements in Wales.

b. Once the winning tenderer has been selected, the proposals made in the tender process can be turned into contractual obligations so that if the private sector partner fails to make good its promises, it may be penalised financially or have its contract terminated in serious cases. This is becoming the common practice in PPPs in other parts of the UK.

Annex B1 – Terms of Reference

Finance Committee

Inquiry into Public Private Partnerships
Terms of Reference

To examine the scope for drawing on private finance for public sector projects with particular reference to:

1. the potential benefits, costs and risks that may be involved;

2. any policy changes (whether to remove barriers or apply controls) that may be needed to realise the optimum outcome; and

3. practical guidance to enable the public sector to strike the most advantageous arrangements within the agreed policy framework."

Annex B2

19 October 2007

CALL FOR EVIDENCE

Finance Committee calls for evidence into Public Private Partnership schemes

The National Assembly's Finance Committee is calling for evidence for its inquiry into the use of Public-Private Partnerships (PPPs) (including Private Finance Initiative (PFI) schemes).

The Committee wishes to examine the ways in which private sector money can be used to promote public sector projects in Wales and has agreed the following terms of reference for the inquiry:

To examine the scope for drawing on private finance for public sector projects with particular reference to:

a. the potential benefits, costs and risks that may be involved;

b. any policy changes (whether to remove barriers or apply controls) that may be needed to realise the optimum outcome; and

c. practical guidance to enable the public sector to strike the most advantageous arrangements within the agreed policy framework.

The Finance Committee invites written submissions from interested parties on any aspect of this inquiry.

Interested parties are invited to submit written evidence to the Clerk of the Committee at the address below, to arrive no later than Friday 30 November 2007***.*** If possible please supply this in electronic form in MS Word or Rich Text format, either by e-mail to Karl.gomila@wales.gsi.gov.uk or on a disk.

Witnesses should be aware that once written evidence has been submitted to the Committee it is treated as the property of the Committee. It is the Committee's intention to place written papers on its website, and may subsequently be printed with the report. The National Assembly will not publish information which it considers to be personal data.

In the event of a request for information submitted under UK legislation, it may be necessary to disclose the information that you provide. This may include information which has previously been removed by the National Assembly for publication purposes.

If you are providing any information, other than personal data, which you feel is not suitable for public disclosure, it is up to you to stipulate which parts should not be published, and to provide a reasoned argument to support this. The National Assembly will take this into account when publishing information or responding to requests for information.

The Committee is also advertising for an expert adviser to assist with the inquiry – further details are on the Assembly's web site.

Annex B3 - Written submissions considered

Written responses to the Committee's call for evidence

FIN(3)-PPP-001	Board of Community Health Councils Wales
FIN(3)-PPP-002	Bro Morgannwg NHS Trust
FIN(3)-PPP-003	The Educational Institute of Scotland
FIN(3)-PPP-004	King Sturge
FIN(3)-PPP-005	Swansea Bay Racial Equality Council
FIN(3)-PPP-006	National Union of Teachers
FIN(3)-PPP-007	Seren Group
FIN(3)-PPP-008	GSL
FIN(3)-PPP-009	Institute of Chartered Accountants in England & Wales
FIN(3)-PPP-010	UNISON Cymru
FIN(3)-PPP-011	Public and Commercial Services Union (PCS)
FIN(3)-PPP-012	Association for Public Service Excellence
FIN(3)-PPP-013	Centre for International Public Health Policy. University of Edinburgh
FIN(3)-PPP-014	Professor Jean Shaoul
FIN(3)-PPP-015	British Telecom
FIN(3)-PPP-016	Wales TUC
FIN(3)-PPP-017	KPMG
FIN(3)-PPP-018	Confederation of British Industry (Wales)
FIN(3)-PPP-019	Welsh Local Government Association

Other written evidence received and considered by the Committee

FIN(3)-02-07 p(3)	Private Finance: Frequently Asked Questions (Auditor General for Wales)
FIN(3)-02-07 p(4)	Inquiry into Public Private Partnerships - Terms of Reference
FIN(3)-04-07 p(3)	Private Finance Initiative - Neath Port Talbot Hospital
FIN(3)-04-07	Presentation from Neath Port Talbot Hospital
FIN(3)-04-07 p(4)	Extract from the Penweddig Business Case, December 1999
FIN(3) 06-08 p(3)	Alternative models of PPP: PriceWaterhouseCoopers
FIN(3) 06-08 p(4)	PPP Inquiry – methodology for comparing options (Committee Secretariat)
FIN(3) 07-08 p(1)	Gwalia Housing
FIN(3) 07-08 p(2)	Shaw Healthcare
FIN(3) 07-08 p(3)	Cowlin Construction
FIN(3) 07-08 p(4)	Babcock and Brown
FIN(3) 08-D01	Further evidence submitted to the PPP Inquiry by Wales TUC following the oral evidence session on 10 April 2008

Annex B4 - Witnesses giving oral evidence

20 September 2007	
Wales Audit Office	**Jeremy Colman,** Auditor General for Wales
18 October 2007	
Baglan Moor Hospital	**Paul Williams,** Chief Executive, Bro Morgannwg NHS Trust **Paul Stauber,** Director of Planning, Bro Morgannwg NHS Trust **Eifion Williams,** Finance Director, Bro Morgannwg NHS Trust
Penweddig School	**Gwyn Jones,** Director of Finance, Ceredigion County Council **Arwel George,** Headteacher, Ysgol Gyfun Gymunedol Penweddig
31 January 2008	
KPMG	**Chris Nicholson,** Partner, Head of Public Sector, KPMG LLP **Richard Threlfall,** Director, KPMG Corporate Finance
21 February 2008	
Public and Commercial Services Union	**Darren Williams,** Campaigns Officer (Wales), Public and Commercial Services Union
NUT Cymru	**Dr Heledd Hays,** Education Officer, NUT Cymru **Rhys Williams,** Communications, Campaigns and Political Officer, NUT Cymru
WLGA	**Steve Thomas,** Chief Executive, Welsh Local Government Association **Mari Thomas,** Finance Policy Officer, Welsh Local Government Association **Phil Davy,** Head of Economic Development, Caerphilly Borough Council
6 March 2008	
CBI	**David Rosser,** Director, CBI Wales **Thomas Moran,** Principle Policy Advisor, Public Services Directorate
BT	**Ann Beynon,** BT Director, Wales **Douglas Johnson-Poensgen,** Director, Strategy and Transformation, Government Services, BT Global Services
10 April 2008	
WTUC	**Derek Walker,** Head of Policy and Campaigns, Wales TUC
Unison	**Dave Galligan,** Head of Health in Wales, Unison Wales
PricewaterhouseCoopers	**Jon Sibson,** Partner, Public Private Advisory, PricewaterhouseCoopers

24 April 2008

Gwalia Housing	**Michael Williams,** Chief Executive, Grŵp Gwalia **Hugh Jones,** Director of Finance, Grŵp Gwalia
Shaw Healthcare	**Jeremy Nixey,** Chief Executive, Shaw Healthcare
Cowlin Construction	**David Harris,** Regional Managing Director, Cowlin Construction
Babcock and Brown	**Giles Frost,** Head of PPP Division, Babcock and Brown **Giles Parker,** Development Director, Babcock and Brown