

BRIEFING NOTE - Schools Forum

Subject: Bradford PFI Contracts – Background & Key Issues

Confidential - No

1. Purpose

To brief the Schools Forum on the background to the Bradford PFI contracts and current key issues. This report responds to the request made by Members at the meeting held on 13 March 2019 for a report, which examines the affordability of PFI costs in schools across the medium and longer terms.

2. Decisions Required

None – this report is presented for information only.

3. Background

3.1 The Council has two PFI contracts awarded under the Building Schools for the Future (BSF) Programme.

The Phase 1 contract went live in 2008 and includes Tong Leadership Academy, Titus Salt School and Buttershaw Business and Enterprise College.

The Phase 2 Contract went live in 2011 and includes Grange School, Hanson School, University Academy Keighley and Beckfoot School together with the special schools of Hazelbeck, Beechcliffe and Southfield.

Each contract runs for a period of 25 years and includes the provision of services through the PFI contracts such as building cleaning, grounds maintenance and building maintenance.

As at 1 June 2019, seven of the ten schools within the two PFI contracts are academies.

3.2 The day to day PFI operation is run by the Local Education Partnership (LEP), which is part of the PFI structure. The key parties in the structure are:

Phase 1 Funders are Sumitomo Mitsui Banking Corp. Europe, Bacchus 2008-2 plc, DEPFA Bank plc Landesbank Hessen – Thuringen Girozentrale, HSBC Bank plc, IKB Deutsche Industriebank AG London and KfW – IPEX Bank GMBH.

Phase 2 Funders – Landesbank Hessen – Thuringen Girozentrale, Sumitomo Mitsui Banking Corporation Europe Ltd and European Investment Bank Hypo Noe Gruppe Bank AG JP Morgan Asset Management UK Ltd.

PFI SPV – Integrated Bradford SPV One Limited and Integrated Bradford SPV Two Limited.

Local Education Partnership - Consortium including the Authority, Amey, Costain Pension Fund, Infrared, Amber Infrastructure.

Construction Company – Educo (consortium of Costain & Ferrovial)

FM Company – Amey.

4. Key issues

4.1 Funding of the PFI Contracts

The BSF PFI contracts in Bradford, as with all similar contracts nationally, are funded through a unitary charge contribution the Authority pays to the PFI SPVs each month. This charge is made up of the PFI credits the Authority is allocated by the Treasury as well as the monthly contributions the PFI schools make from their delegated budgets.

The unitary charge payments cover the repayment of the cost of constructing the schools, the loan repayments, the Facilities Management (FM) services provided under the contract (Hard and Soft FM) and the costs of lifecycle required under the 25 years of each contract.

Under the contract the unitary charge contributions can increase in two ways:

- The costs rise each year by the RPIX benchmark and are applied from April.
- Every five years the FM contract is subjected to Benchmarking against other similar contracts, which can also increase costs.

The monthly contributions from the PFI schools contain the school's own contribution as well as, in the case of the seven mainstream secondary schools, the proportion of the cost met by the DSG (the "affordability gap"), which is passed through their delegated budgets on an in-out basis. Academies are invoiced in order to recover their proportions.

The DSG supports the cost of the PFI contract by covering the cost of the agreed "affordability gap". This was agreed with the Schools Forum at the time the financing of each of the contracts was established. The cost of this for the seven mainstream secondary schools is charged to the Schools Block; at £6.348m in 2019/20. The cost for the three special schools is charged to the High Needs Block; at £0.764m in 2019/20.

The charge to the High Needs Block remains a 'topslice' as we are not funded additionally for it. Prior to the introduction of the National Funding Formula (NFF) in 2017/18, the charge to the Schools Block was also a 'topslice' against the primary and secondary school budget. Under the new NFF arrangements however, our Schools Block is additionally funded for our PFI costs. Currently, we receive the value of spend on PFI in the Schools Block that we recorded in the previous year plus RPIX. The DfE has indicated that it is seeking to develop a NFF for the funding of PFI costs moving forward. The timescales for this are currently unclear. This a development that we must closely monitor as a new formula approach may change the level funding we receive in the DSG for already determined PFI affordability gap contributions. The uncertainty that this NFF review brings also means that we must be cautious about how we may think about any possible adjustment to the distribution of PFI costs within the DSG (between the DSG and individual schools) now or in the future.

The contributions the ten schools make from their delegated budgets were originally negotiated on an affordability basis towards the unitary charge payment, rather than on a defined payment against the delivery of specific services. The Dedicated Schools Grant (DSG), and school formula funding, regimes are now different in certain respects from those in place when the contracts were entered into. The DSG has moved further towards

the adoption of a National Funding Formula and this has amended some aspects of how schools are funded. For example, lump sum funding for secondary schools has reduced and funding on the basis of the buildings area of a school has ceased. The special school funding formula has been significantly simplified under the Place-Plus system to remove the previous separate buildings, site and fixed-cost related factors. Protections, such as the Minimum Funding Guarantee and fixed place-led funding, have ensured that schools have not lost significant values of funding in absolute terms. However, these system changes have come over a period when the annual settlement for schools has remained basically cash flat per pupil but costs, especially staffing costs, have significantly increased.

This general pressure being understood, there are two main additional factors that will influence change in the affordability position of the PFI contracts at individual school level.

- Unlike the NFF's funding of the affordability gap element at DSG Schools Block level, the annual inflationary increase on the unitary charge payments made by individual schools is not separately and additionally funded within our funding formula. This means that the annual cost of the RPIX increase on the school's unitary charge must be absorbed by the school's existing budget.
- Whilst the unitary charge contribution is a significant sum for all the schools in the PFI contracts, those schools that do not have a full cohort of children will clearly struggle more with affordability issues. There is no mechanism in the contractual PFI funding arrangements, which gives relief from contributions due to falling pupil numbers. As with all BSF PFI contracts, the funding mechanisms are set when the contract is signed and these remain in place for the 25 years of the contract period

4.2 Governors' Agreements

When the contracts were entered into, each school signed a Governors' Agreement, which set down each school's obligations under the contract; in the main around payment of contributions.

Seven out of the ten schools in Bradford's two PFI contracts are now academies and when each school converted the Governors' Agreement was replaced by a Schools' Agreement and a Principle Agreement; standard parts of the documentation, which the DfE puts in place when BSF PFI maintained schools convert to academy. As academies are no longer under Council control, the Principle Agreement mandates that the DfE must step in to make unitary charge contributions for any academy, which stops making payments. This was a key part of securing the approval of the PFI funders to enable PFI schools to convert to academy status.

4.3 Cost of Utilities

The Council has been in dispute with the PFI SPVs over the volume of utilities, which the schools should use and how this should be dealt with through the contract. An adjudicator has looked at the issues and decided in the Council's favour with regards to which utilities benchmarks should apply under the contract. A further adjudication is being prepared to allow the final part of the dispute to be finalised.

Recommended – The Schools Forum is asked to consider and to note the information provided.

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