

# HM Treasury

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Dear Accounting Officer,

## REPORTING PFI CONTRACTS TO PARLIAMENT

### *Purpose of this DAO*

Attached to this letter is "PFI Policy Statement No 5 - Reporting to Parliament" which has now been issued by the Treasury Taskforce to clarify Departments' responsibilities for reporting information about their PFI contracts to Parliament.

### *Information*

2. Policy Statement 5 formalises Departments' reporting of PFI contracts to the Treasury Taskforce Policy Team and, from 1 April 2000, its successor body, The Office of Government Commerce (OGC), and directly to Parliament. It has been drafted in consultation with the National Audit Office. Departments' responsibilities for reporting information, specifically reportable contingent liabilities under *Government Accounting*, remain unaltered. The information required from Departments by the Taskforce Policy Team is similar to that collected previously for biannual reporting to Parliament. The procedure for reporting has been altered to allow Parliament to be notified of contracts when they reach preferred bidder stage, i.e. in advance of any contractual commitment, without introducing additional administrative burdens on departments.

3. The Policy Statement also clarifies the position for Departments in respect of whether PFI contracts are reportable contingent liabilities as defined by *Government Accounting*. TOA have accepted that PFI contracts compliant with the Taskforce's *Standardisation of PFI Contracts* are arrangements of a "standard type" and, therefore, not generally reportable. The exceptions to this are schemes of a significant or unusual nature which would require reporting regardless.

### *Action by departments and other public bodies*

4. The Policy Statement applies to all Departments, Agencies, Trading Funds and NDPBs. Departments should send copies of this letter to sponsored bodies to enable them to take suitable action.

## ***Enquiries***

5. Any questions on the Policy Statement or PFI issues should be addressed to Peter Stanton-Ife in the Private Finance Policy Team (0171-270-5527). General questions on contingent liabilities should be addressed to Sue Bamber of Treasury Officer of Accounts Team (0171-270-4833).

6. Further copies of Technical Note Number 1 (revised) may be obtained from the Treasury's Public Enquiry Unit (0171-270-4860).

*Yours sincerely*  
*Jamie Mortimer*

**JAMIE MORTIMER**



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# TREASURY TASKFORCE

Private Finance

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## POLICY STATEMENT No. 5

Provision of Information  
to Parliament

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## 1. INTRODUCTION

1.1 This policy statement is the fifth in a series of papers issued by the Treasury Taskforce, addressing key policy issues arising from the implementation of the Private Finance Initiative (PFI). Each statement is endorsed by the Chief Secretary and represents the definitive statement of general Government policy on a particular aspect of PFI.

1.2 This policy statement sets out best practice in relation to Departments' obligations to disclose information to Parliament. It is fully consistent with *Government Accounting* and has been prepared in consultation with the Treasury Officer of Accounts (TOA) Team. It has been sent to Principal Finance Officers in all Departments, under cover of a Dear Accounting Officer letter.

## 2. REPORTING SPENDING COMMITMENTS AND CONTRACTUAL TERMS

2.1 PFI transactions lead to long-term spending commitments which impact on future public spending plans. As a result, Parliament must always be fully informed of the extent of the estimated commitments.

### ***DISCLOSING AGGREGATE CONTRACTUAL COMMITMENTS TO PARLIAMENT***

2.2 The Treasury has provided summary tables of the estimated PFI commitments to Parliament twice a year. The way this information has been presented is set out in Annex A, tables A1 and B1. Departments entering into PFI transactions should be aware that they will be required to provide the necessary information to Treasury (using tables A2 and B2, Annex A) to allow the aggregate data to be compiled. The aggregation of the figures supplied prevents any disclosure of commercially sensitive, project-specific data.

2.3 Furthermore, Parliament has requested that it be given advance warning of significant forthcoming PFI commitments in aggregate. The format for presenting this information is set out in Annex B. It requires the completion of new tables C1 and C2. As before, the aggregation of the figures supplied prevents any disclosure of commercially sensitive, project-specific data. To ensure consistency of reporting, the trigger for disclosure should be the appointment of preferred bidders rather than an arbitrary date before the estimated signing of contracts.

2.4 Both the existing table A1 in Annex A and the new additional table C1 in Annex B define the capital value of a PFI project as "the public sector procuring body's estimate of the capital value of the property the private sector purchases or creates for delivering services under a PFI contract".

***DISCLOSING CONTRACTUAL TERMS TO PARLIAMENT***

2.5 Parliament is entitled to know the sensitivities which may affect the actual payments made. The payment mechanism (allowing scope for deductions), the change of service clauses, and the termination arrangements contained within the project agreement will be key factors affecting the likely level of payments. Any direct agreement (or similar instrument) between the client and the lenders will also be relevant because of the funders' step-in rights that they will contain.

2.6 Accordingly, the Taskforce has deposited its own standard contract terms in the Parliamentary Libraries. This does not prevent Departments employing sector-specific arrangements or seeking to vary the terms of the contract in response to new factors arising during the course of negotiating a project agreement. However, in every case, Departments will need to consider whether additional disclosure to Parliament, e.g. use of the Minute procedure (see Section 3), is required to ensure Parliament is fully informed of potential future expenditure.

2.7 Where Departments develop, in conjunction with the Treasury, their own specific PFI model agreements they should also deposit a copy of a sample project agreement and/or direct agreement setting out their specific standard approach to PFI in the Parliamentary Libraries. Plain English summaries may be used if appropriate.

2.8 In addition, the Taskforce and TOA consider it best practice for Departments agreeing contractual terms which differ materially from their standard approach (i.e. which have novel features) to deposit a copy of the relevant project agreement and the direct agreement (or similar instrument) in the Parliamentary Libraries. Plain English summaries may be used if appropriate. If Departments are in any doubt as to whether contractual arrangements are "novel", they should consult the Treasury Taskforce.

2.9           When considering depositing copies of the contracts in the Parliamentary Libraries, Departments should review the advice in Policy Statement No.4: *Disclosure of Information and Consultation with Staff and Other Interested Parties*, which addresses issues of commercial confidentiality.

### 3. CONTINGENT LIABILITIES

3.1 PFI Project Agreements provide for compensation to be paid to the providers of finance, in certain circumstances, where the contract has terminated early. There has been some debate as to whether these provisions give rise to reportable contingent liabilities as defined by Chapter 26 of *Government Accounting*.

3.2 Departments' attention is drawn to paragraph 26.3.6 of *Government Accounting* which states that :

Liabilities which result from a specific guarantee, indemnity or letter or statement of comfort are covered by the reporting arrangements unless the guarantee is of a standard type which is given in the course of normal commercial business dealings .....

3.3 Departments are also reminded that *Government Accounting* (paragraph 26.3.2) requires that even where a liability could be regarded as arising in the normal course of business, if expenditure at a later date may be significant or of an unusual nature Parliament should be given notice.

3.4 For the avoidance of doubt, TOA considers that the approach set out in the Treasury Taskforce's *Standardisation of PFI Contracts* are of a "standard type". Departments following a different approach to that set out by *Standardisation of PFI Contracts* will need to consider whether the difference is sufficiently material to make the provisions reportable. If a procurement team is in any doubt, it should consult TOA at the earliest possible opportunity, and copy any correspondence to the Taskforce.

3.5 In any case, *Government Accounting* rules covering contingent liabilities and the need to report to Parliament (as set out in Chapter 26 of *Government Accounting*) will need to be considered carefully, in particular the requirement to notify Parliament in good time before making a contractual commitment from which a reportable contingent liability might arise.

## 4. FURTHER INFORMATION

4.1 Advice on PFI can be obtained from:

The Treasury Taskforce,  
Private Finance Policy Team,  
HM Treasury,  
Parliament Street,  
London SW1P 3AG  
(Tel : 0171 270 5527).

4.2 Copies of other Taskforce publications are available from:

Public Enquiry Unit,  
HM Treasury,  
Parliament Street,  
London SW1P 3AG  
(Tel: 0171 270 4558/4860/4870).

The text of this statement is also available at:  
<http://www.treasury-projects-taskforce.gov.uk> on the Internet.

## ANNEX A

**PFI DATA DISCLOSED BIANNUALLY TO PARLIAMENT**

NB Figures are provided for illustration only and are taken from the *Financial Statement and Budget Report - March 1998*

**TABLE A1 - ESTIMATED CAPITAL SPENDING BY THE PRIVATE SECTOR (SIGNED DEALS)**

	1997/8	1998/9	1999/00	2000/01
	£M	£M	£M	£M
Defence	200	340	300	220
FCO and Overseas Development	0	20	30	0
Agriculture <sup>1</sup>	10	20	20	20
Trade & Industry	10	30	60	20
Environment, Transport and Regions <sup>2,3</sup>	920	1,070	1,520	1,380
Education and Employment <sup>4</sup>	0	30	20	20
Home Office	170	180	330	330
Legal Departments	10	30	20	20
Cultures Media and Sport	10	10	20	10
Health	50	320	590	790
Social Security	10	70	270	150
Scotland	70	360	540	300
Wales	10	90	70	70
Northern Ireland	0	50	100	80
Chancellor's Departments	20	50	40	40
Local Authorities <sup>5,6</sup>	10	300	300	150
<b>Total</b>	<b>1,500</b>	<b>2,970</b>	<b>4,230</b>	<b>3,600</b>

<sup>1</sup> Includes Forestry Commission

<sup>2</sup> Includes the private sector capital investment in CTRL

<sup>3</sup> In addition, substantial private investment is levered in through housing, urban regeneration and other programmes

<sup>4</sup> Excludes private finance activity in education institutions classified to the private sector  
Estimated total values for these are £189M in 1997-98 and £93M in 1998-99

<sup>5</sup> Figures represent spending on projects signed and expected to be signed, up to the end of 1998-99 only

<sup>6</sup> PFI activity in local authority schools is included in the local authorities line

DISCLOSURE OF INFORMATION TO PARLIAMENT

TABLE A2 - DEPARTMENTAL ESTIMATE OF CAPITAL SPENDING BY THE PRIVATE SECTOR  
(SIGNED DEALS)

	1997/8	1998/9	1999/00	2000/01
	£M	£M	£M	£M
<b>Defence</b>				
Project 1	xxx	xxx	xxx	xxx
Project 2	xxx	xxx	xxx	xxx
Project 3	xxx	xxx	xxx	xxx
Total	xxx	xxx	xxx	xxx
Notes				

TABLE B1 - ESTIMATED PAYMENTS UNDER PFI CONTRACTS - MARCH 1998  
(SIGNED DEALS)

	£M		£M
1998 - 99	1,030	2012 - 13	2,910
1999 - 00	1,650	2013 - 14	2,800
2000 - 01	2,060	2014 - 15	2,730
2001 - 02	2,460	2015 - 16	2,360
2002 - 03	2,760	2016 - 17	2,450
2003 - 04	2,950	2017 - 18	2,500
2004 - 05	3,210	2018 - 19	1,980
2005 - 06	3,160	2019 - 20	1,890
2006 - 07	3,120	2020 - 21	2,080
2007 - 08	3,050	2021 - 22	1,860
2008 - 09	3,090	2022 - 23	1,990
2009 - 10	2,950	2023 - 24	1,850
2010 - 11	3,000	2024 - 25	1,830
2011 - 12	3,030	2025 - 26	1,680

Note

Table B1 shows a forecast of the estimated payments for services flowing from new private investment over the next twenty five years. Actual expenditure will depend on the details of the payment mechanism for each contract. Payments may be lower than estimated deductions from the service payments, caused either by the supplier's failure to make the service available or because of a failure to meet the required performance standards. In addition, variances may occur due to changes in the service requirements agreed during the course of the contracts. Payments may also vary as a result of the early termination of a contract triggering contractual arrangements for compensation on termination.

**TABLE B2 - DEPARTMENTAL ESTIMATED PAYMENTS UNDER A PFI CONTRACT FOR [PROJECT NAME]**

Completion of table B1 (above) by the Treasury requires that Departments provide information in the format of table B2 below for each of their PFI projects.

£M	£M
1998 - 99	2012 - 13
1999 - 00	2013 - 14
2000 - 01	2014 - 15
2001 - 02	2015 - 16
2002 - 03	2016 - 17
2003 - 04	2017 - 18
2004 - 05	2018 - 19
2005 - 06	2019 - 20
2006 - 07	2020 - 21
2007 - 08	2021 - 22
2008 - 09	2022 - 23
2009 - 10	2023 - 24
2010 - 11	2024 - 25
2011 - 12	2025 - 26

Note

Table B2 shows a forecast of the estimated payments for services flowing from new private investment over the next twenty-five years. Payments may be lower than estimated because of deductions from the service payments, caused either by the supplier's failure to make the service available or by a failure to meet the required performance standards. In addition, variances may occur because of changes in the service requirements agreed during the course of the contract. Payments may also vary as a result of the early termination of a contract triggering contractual arrangements for compensation on termination.

## ANNEX B

**ADDITIONAL PFI DATA TO BE DISCLOSED BIANNUALLY TO PARLIAMENT****TABLE C1 - ESTIMATED AGGREGATED CAPITAL VALUE OF PROJECTS AT PREFERRED BIDDER STAGE**

	2000/01 £M
Defence	XX
FCO and Overseas Development	XX
Agriculture	XX
Trade & Industry	XX
Environment, Transport and Regions	XX
Education and Employment	XX
Home Office	XX
Legal Departments	XX
Culture, Media and Sport	XX
Health	XX
Social Security	XX
Scotland	XX
Wales	XX
Northern Ireland	XX
Chancellor's Departments	XX
Local Authorities <sup>1</sup>	XX
<b>Total</b>	

<sup>1</sup> PFI activity in local authority schools is included in the local authorities line

**TABLE C2 - DEPARTMENTAL ESTIMATED CAPITAL VALUE OF PROJECTS AT PREFERRED  
BIDDER STAGE**

Completion of table C1 (above) by the Treasury requires that Departments provide information in the format of table C2 below for each of their PFI projects.

	<b>£M</b>
Defence:	
Sample project 1	XX
Sample project 2	XX
Total	XX
Notes	