

PRIVATE FINANCE INITIATIVE – Pay for It Indefinitely?

COURSEBOOK

**A one day course on the Private Finance Initiative
in Local Government**

<p>UNISON Learning and Organising Services</p>
--

Contents

- Introduction
- Course Aims
- Who the course is aimed at
- How the course will work
- Suggested Programme for a One-Day Course
- Working Together on UNISON Courses
- Activity 1 – Introductions
- Activity 2 – The Private Finance Initiative and UNISON’s Twin-Track Strategy
- PFI Jargon Checklist
- Activity 3 – Getting Information on PFI
 - Getting Information on PFI - Notes
 - Checklist – First Steps
 - Briefing Note
- Activity 4 - PFI – Alternative Models?
- Activity 5 – Identifying the Arguments
 - Checklist – Key Arguments Against PFI
 - Checklist – Best Value and PFI
- Activity 6 – Developing a Local Campaign Plan on PFI
- Activity 7 – PFI Checklist for Action
- Course Review
- Useful Publications and website addresses

Notes:

INTRODUCTION TO PFI IN LOCAL GOVERNMENT

Introduction

The Private Finance Initiative (PFI) is one of a range of initiatives introduced by the last Conservative Government, aimed at increasing private sector involvement in the provision of public services. The Labour Government has sought to 'reinvigorate' PFI by streamlining the process and concentrating on 'viable' projects.

Under PFI, private companies may design, build and finance the asset, such as a new hospital, school or housing, and the staff may transfer from the public sector to the private sector company to deliver the service. The public body has to pay an annual fee to the private company under a long-term operating contract for the services.

UNISONs Local Government Service Group Executive has recently reaffirmed UNISON policy to continue the campaign against privatisation and for the direct employment of staff providing public services.

UNISON believes that PFI is a more costly way of providing public services than direct borrowing by the public sector. UNISON is also concerned that transfer of staff to facilities-management companies has led to a deterioration in terms and conditions and the establishment of a two tier workforce in the public sector.

UNISONs national campaigning and lobbying has led to key legislative changes in the ways that PFI, CCT and Best value are operating. There have, for instance been amendments to part two of the Local Government Act 1988. Now Local Authorities can now take account of "workforce matters" during contracting discussions with potential private sector providers, and a recent draft circular produced by the Office of the Deputy Prime Minister entitled "Best Value and Performance Improvement" contained a number of key proposals relating to how workforce matters should be handled in contracting situations , for instance the externalisation of services under a PFI contract. In the Draft Circular

- Local authorities will be under a statutory duty to consult recognised unions, employees' associations, and staff throughout the best value process with full disclosure of information on all matters affecting the workforce
- Contractors should also have policies which ensure good communication and consultation with the workforce on key issues following a transfer
- New legislation making statutory within local government the provisions in the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector and the annex to it, A Fair Deal for Staff Pensions
- A new Code of Practice on the treatment of new recruits working on local authority contracts alongside transferred staff. The Code is to be supported in statutory guidance and written into individual contracts between local authorities and

contractors

- Under the Code the service provider will be required to offer new recruits :
 - Membership of the local government pension scheme or;
 - Membership of a good quality employer pension scheme. For a defined contribution scheme the employer must match employee contributions up to 6% wished or;
 - A stakeholder pension scheme under which the employer will match employee contributions up to 6%.

The Government has also conceded a key matter on which UNISON has long campaigned, the duty to consult staff and trade unions. At paragraph 38 of the draft circular it states that “in reviewing functions, authorities must consult recognised unions and employees’ associations, and staff engaged in that function.

CODE OF PRACTICE ON WORKFORCE MATTERS IN LOCAL AUTHORITY SERVICE CONTRACTS (ANNEX C)

The Code covers staff who were transferred from a local authority to a service provider (contractor) and also staff originally transferred out from the local authority as a result of outsourcing who are TUPE transferred to a new provider under a retender of the contact.

The Code will be contained in contracts between local authorities and private contractors or other service providers. It states that contractors who intend to cut costs by driving down the terms and conditions for staff, whether for transferees or for new joiners taken on to work beside them, will not provide best value and will not be selected to provide services for the Council. The Code also states that in its contracting out of services, the local authority will apply the principles set out in the Cabinet Office Statement Of Practice Of Staff Transfers In The Public Sector and the annexe to it - “A Fair Deal For Staff Pensions”.

While the enforcement measures contained in the guidance are very weak, the new code will at least provide a minimum standard that would require authorities to ensure equal employment treatment of all staff – transferred or new starters on outsourced contracts.

Some UNISON branches have negotiated far better contractual clauses for transferred and new staff to tackle the two-tier workforce and protect the terms and conditions of transferred staff through “TUPE plus” contractual clauses.

Despite these changes there is still a genuine concern that PFI will result in worse conditions for new starters as compared to existing transferred staff. There is also the fear that the public sector will lose control over assets and service provision. The real danger is that under PFI the future provision of public services will be determined by what the private consortium wants rather than what the public need.

To answer these problems UNISON has developed a twin track approach to tackling the threat of PFI that involves:

- Campaigning against PFI nationally and locally but
- Getting the best deal for members where PFI projects go ahead.

For further detailed information about both UNISON policy on PFI and campaigning advice contact the Local Government Service Group at UNISON H.Q. Mabledon Place. The Local Government Service Group, provides newsletters, information and circulars on the PFI and are a source of information and advice to branches. A useful port of call for information and advice is the local government service group website. You can also look in the Positively Public Unit website for information about the campaign against PFI and privatisation in the public sector.

UNISON continues to campaign against the high financial, employment and democratic costs of PFI and this one day course for UNISON members working in Local Government is part of that campaign. The course is an introduction to the Private Finance Initiative and UNISON's policy and strategy on PFI. The course is suitable for all members and branches in Local Government.

This course, which has been produced jointly by UNISON Learning and Organising Services and the Local Government Service Group to raise awareness of PFI and to encourage local campaigning around it, focuses on PFI in Local Government.

Course Aims

The key aims of this course are to:

- Raise awareness among UNISON members in Local Government of what the Private Finance Initiative is; its potential effects on our members and public services; and UNISON's strategy
- Encourage local campaigning on PFI

After completing the course participants will:

- Understand what PFI is and how to use arguments against it
- Be familiar with UNISON's twin-track strategy on PFI
- Know where to get information and advice on PFI
- Have developed a campaign or action plan on PFI to use in their branch.

Who the course is aimed at

This course is aimed UNISON members in the Local Government Service Group. The course is suitable for members both in areas where there are currently no concrete PFI proposals and for those where they already have knowledge of a potential PFI project.

The course is suitable for a group of approximately 16 participants.

How the Course Will Work

Trade union education aims to help you develop confidence and practical skills, and to put the knowledge you gain during the course to good effect in your branch and workplace. To achieve this the course is organised in an active way that will give us all an opportunity to have a say, as well as listen to others. Therefore, you will often be working in small groups. To encourage a branch team approach to campaigning on PFI you will work as part of a branch team during the course.

Participants on the course may be from the same branch or from different local government branches. The course offers the opportunity to share experience of PFI and to come to a collective approach to campaigning against PFI and protecting members' interests where a PFI scheme exists.

Suggested Programme For a One Day Course

		Timing
Arrival – Tea and Coffee		30 minutes
Activity 1	Welcome and Introductions	30 minutes
Activity 2	PFI and UNISON's Twin Track Strategy	30 minutes
Activity 3	Getting Information on PFI And Potential PFI Projects	45 minutes
Activity 4	PFI – Alternative Models	30 minutes
	LUNCH	45 minutes
Activity 5	Developing a Local Campaign Strategy on PFI	90 minutes
Activity 6	PFI Checklist for Action	60 minutes
Course Review		15 minutes
Close of Course		

Working Together on UNISON Courses

Introduction

UNISON is committed to the fullest possible participation of all its members in the activities of the trade union. On trade union education courses, so long as the applicant meets the advertised eligibility criteria for the course, no-one should be put off from participating because of the actions, attitudes or language of other course members. In particular, women, black, lesbian, gay men and disabled members have the right not to be made to feel ill at ease or distressed on a course as a result of other course members' behaviour.

The following guidelines have been drawn up to help course members meet UNISON's commitment to the full participation of all its members in a practical and constructive way. You will see that underlying this guide is a commitment to the principle that everyone has equal rights to benefit from, to contribute to and enjoy the course. This means, among other things, that we should avoid language and behaviour that is unacceptable to other members, because it is sexist, racist, homophobic or offensive to disabled people.

We assume that course members will agree with these principles and hope the guidelines will assist in putting them into practice.

Working Together

A key feature of trade union education is the value it places upon the knowledge, experience and skills that each member brings with them to the course - both in terms of their trade union work and their everyday lives. It is important that everyone feels equal and able to make a contribution if they so wish. So:

- *Listen to what others have to say, and avoid being dismissive of their contribution.*
- *Wait until a speaker has finished and do not interrupt their train of thought.*
- *Aim to have reasoned discussion, not arguments.*
- *Any criticism should be constructive and help members to develop confidence, skills and knowledge.*
- *Make your own contribution as clear and concise as possible and do not dominate the discussion.*
- *Ensure that everyone who wishes to speak is given encouragement and the opportunity to do so.*
- *It is equally important that members on the course can speak openly about problems they or their members have experienced in the full knowledge that personal or sensitive information is restricted to the classroom.*
Confidentiality must be respected.

Language

Language is important and UNISON's policy is not to use language which offends or hurts people. This type of language should always be avoided as it causes distress. Often it is a reflection of stereotyped thinking about UNISON's membership and policies. Do not be surprised if you are challenged if you make broad sweeping generalisations about any group of UNISON members, e.g. that women only go out to work for pin money.

Language which contains anti-lesbian, anti-gay or disablist sentiments and which is abusive or threatening in any way should not be used and nor should jokes or comments which perpetuate discrimination.

Jargon

Jargon is a barrier to good communication. The more we become involved in trade union work the more likely we are to use jargon. Take care to explain any jargon or initials you use which other members may not be familiar with so that everyone understands what you are talking about.

Harassment

There must be no sexual, racist, anti-lesbian/gay or disablist harassment of any kind:

Sexual harassment - is defined as any unwanted and unwelcome sexual comments, looks, actions, suggestions, or physical contact that is found to be objectionable and results in an unpleasant or intimidating environment being created.

Racial harassment - is defined as any unwanted and unwelcome terms, comments, looks, actions or behaviour relating to a person's race, ethnic origin or colour which members of a racial, cultural or religious group find offensive and results in an unpleasant or intimidating environment being created.

Anti-lesbian/gay harassment - is defined as any unwanted and unwelcome terms, comments, actions, or behaviour relating to a person's sexual preference or lifestyle which is found to be objectionable and results in an unpleasant or intimidating environment being created.

Anti-disability harassment - is defined as any unwanted and unwelcome terms, comments, actions, looks or behaviour relating to a person's condition or speculation about a person's condition.

Outside Course Hours - Tea/Coffee/Lunch Breaks

What has been outlined as guidance for behaviour during course hours is equally applicable to the scheduled breaks during the course.

Outside Course Hours (Residential Courses)

The social side of courses - discussions in the bar for example - should be both enjoyable and valuable. It is important that this is true for everyone. This means on the one hand, making sure that everyone feels able to join in if they want to - just as in the class - on the other hand, not putting pressure on individuals to fall in with a group if they do not want to, e.g. drinking alcohol, going out or staying up late. If you stay up late yourself, be careful not to disturb others - everyone needs to be able to participate fully at the first session in the morning.

Time Keeping

The course has a tight timetable and members are responsible for their own time keeping. When participating in the course, you will often have a limited amount of time. Make sure you use it well and return to the main group in time for the report back.

Mobile Telephones

Using mobile telephones during the course or leaving them switched 'on' for incoming calls during the course is not acceptable. PLEASE SWITCH THEM OFF.

Smoking

Smoking is not permitted during course sessions. Smoking is an access issue for some members and smokers must remember this. Smokers who have difficulty in abstaining until scheduled breaks will be permitted to take smoking breaks during group/syndicate work, but not plenary sessions. (This will be subject to the rules of the establishment in which the course is being held.)

Conclusion

These guidelines are intended for you to use during the course to counter problems as they arise, and to ensure that no-one feels excluded from the course as a result of language, actions or attitudes of other course members. They also seek to promote UNISON's policies on discrimination and equal opportunities in a positive way as far as the conduct of trade union education courses is concerned.

ACTIVITY 1

INTRODUCTIONS

Aims:

- To get to know who is on the course
- To identify existing involvement in and experience of PFI
- To identify what you want to get out of the course
- To identify what PFI is
- ◆ To begin to look at the potential threats to members in PFI schemes

Tasks:

Task 1

For this activity you will be working in pairs. Interview your partner to find out the information below. Take notes of what your partner tells you, as you will be asked to introduce them to the rest of the group.

Ask each other the following questions:

- Name
- Branch and positions held in UNISON
- What experience, if any, you have of PFI in your workplace
- Please complete the following sentence.

By the end of this course I would like to know/be able to.....

Task 2

Working with your partner draw up a list of the main threats to members jobs and conditions of service that you believe PFI projects pose.

ACTIVITY 2 THE PRIVATE FINANCE INITIATIVE AND UNISON'S TWIN-TRACK STRATEGY

Aims:

To familiarise you with:

- What the Private Finance initiative is
- UNISON's twin-track approach
- To identify the key questions you/your branch may have

Task:

The tutor will give a short introduction to:

- What PFI is
- PFI in Local Government
- UNISON's position on PFI and the twin-track strategy

During the tutor's presentation, make a note of any questions you want to ask or issues that you think are particularly important for your branch. If you come across any unfamiliar words, phrases or jargon make a note of it on the jargon checklist on page 13 and raise it with your tutor.

It may be possible for the tutor to answer your questions or explain any jargon straight away or it may be something which will be covered later in the course, in which case the tutor will make a note of your question and refer back to it at the appropriate time.

This will help both you and the tutor to work through the information in a structured and logical way.

Notes:

Aims:

- To decide what information you need to collect about potential or actual local PFI projects
- To find out where you can obtain the information
- To develop strategies for obtaining information and for involving members

Tasks:

PFI is a major threat to UNISON members working in Local Government and to the public services they provide. Campaigning to raise awareness of the dangers of PFI at the early stages is crucial. Intelligence gathering is, therefore, extremely important at local level to find out whether any PFI schemes are being considered and, if one is being considered, what service is involved. This activity will help you to identify possible sources of information on PFI and potential PFI projects.

Task 1

Working in small groups, on the left-hand side of a flip chart, make a list of the kind of information you would need to collect about:

- a) a planned potential or actual PFI project in your area or place of work
- b) general information on PFI that would help with campaigning
- c) possible effects on members conditions of service

You will need to think about:

- How you could find out whether your employer is considering a PFI project
- Other PFI schemes which you could use as examples
- Government information about PFI (e.g. policy papers, guidance for employers)
- Workforce / conditions of service information
- Alternatives to PFI

Task 2

Try to identify where you could obtain that information and write up your possible sources on the right hand side of the flip chart.

Think about what you will do if your employer refuses to give you information, saying it is commercially sensitive. There is information on disclosure of information on the following pages.

You may also think about how you could involve members in collecting information about the services that they provide and workforce information.

Please use any of the materials available to you as these contain useful information on this.

Getting Information on PFI – Notes

Use this space to make notes of what information you might need and where you could find it.

Information Needed	Where To Find It

FIRST STEPS CHECKLIST

Branches can negotiate PFI agreements with the employer like the Newcastle agreement included in the resource pack. This does not mean that branches are signing up to PFI. The agreement can be simply a mechanism for ensuring that UNISON is provided access to information and any discussions on PFI proposals that will help in campaigning and protecting members' interests.

PFI agreements should meet the Best Value Best Employment code and should provide for:-

- Consultation and negotiation with trade unions at the earliest possible stage. That is as soon as the local authority suggests any proposal for a PFI project.
- Full disclosure of all relevant information, including copies of key documents such as:
 - outline business plans/cases
 - full business plans/cases
 - copies of invitations to tender
 - invitations to negotiate
- Time off and facilities for stewards and branch officers involved in PFI projects, including facilities for training.

DISCLOSURE OF INFORMATION AND CONSULTATION WITH STAFF

– A BRIEFING

This briefing outlines the key points from the **Draft 4Ps Guidance to Local Authorities on Disclosure of Information and Consultation with Staff and other Interested Parties on PFI** and key points from UNISON's response.

The 4Ps (Public Private Partnership Programme Ltd) produced the guidance in conjunction with the DETR and the Treasury Taskforce on PFI during 1999. Copies of the 4Ps guidance is available to branches.

Key Points from the 4Ps Guidance

- ❖ Information and consultation on PFI projects must be in line with the principles of Open Government.
- ❖ Information and consultation on PFI projects must also be in accordance with the legal duty of local authorities to consult with key stakeholders.
- ❖ Recognises that trade unions and employees are key stakeholders.
- ❖ The key principle to the provision of information and consultation it is a matter of **when** and not **if** information will be provided to key stakeholders.
- ❖ Local authorities will decide when information is deemed confidential.

Key Points from UNISON's Response

- ❖ *UNISON has highlighted the secrecy of the PFI process under which commercial confidentiality is used to deny proper disclosure of information.*
- ❖ *UNISON has raised concerns about a number of local authorities refusing UNISON branches access to information on PFI proposals, in some cases this has occurred even after PFI contracts has been signed. It is also a matter of freedom of information to the public*
- ❖ *there are few PFI projects available following contract signature in the Treasury Taskforce library, despite the Government's commitment to ensure that such documentation would be kept in the Treasury Taskforce library.*
- ❖ *The PFI process and information and consultation on PFI proposals should comply with the duty to consult under the Best Value legislation.*

- ❖ *In the event of a transfer of staff the PFI process and information and consultation on PFI proposals should comply with the requirements to inform and consult trade unions under the Transfer of Undertakings (Protection of Employment) Regulations 1981, as stated in previous Government Guidance and paragraphs 3.11 and 4.2.11-4.2.19 of the guidance.*
- ❖ *Disclosure of information and full consultation on PFI proposals with key stakeholders - trade unions, employee, user and local community representatives, **before** any decision is made to opt for a PFI proposal. Information and consultation with key stakeholders should begin at stages one and two of the PFI process and continue throughout all 14 key stages of the PFI process.*
- ❖ *There should be mandatory guidelines on disclosure as for example is the case in relation to NHS PFI schemes. All key PFI documents including Outline and Full Business Cases for PFI schemes must be made publicly available within one month of their respective final approval. The definition of publicly available includes:*
 - ◆ *1 copy of each must be placed on local authority premises for employees, service users and other key stakeholders to see;*
 - ◆ *1 copy of each must be provided to the Chairperson of trades unions representing local authority employees;*
 - ◆ *1 copy of each must also be sent to the main local public Library where it must be available for viewing.*
- ❖ *Where any information is withheld about a PFI scheme, local authorities should be required to give a full explanation for non-disclosure rather than hiding behind blanket phrases of ‘commercially confidential’ or ‘not in the public interest.’*
- ❖ *As the Guidance states disclosure should focus on **when** and not **whether** information should be disclosed, to this end, at each of the 14 key stages of the PFI process, there should be a clear timetable for the release of PFI documents with which all authorities would have to comply.*

Activity 4 PFI Alternative Models

Aims :

- To begin to identify what PFI involves
- To think about what alternative models of PFI are available
- To think through the effects that they may have on members

There are a number of different ways in which local authorities can organise a PFI project. Branch activists need to identify at an early stage whether the PFI proposal involves the transfer of staff to the PFI consortia or whether it is just concerned about refurbishing a building or the construction of a new building.

You need to consider

- Do the proposals for the PFI involve the transfer of staff?
- What alternatives could you propose? E.G, that in-house staff are subcontracted to work for the PFI, or seconded to work for the PFI
- Do the proposals for the PFI involve buildings and equipment only?
- How will this affect your approach to campaigning against the PFI and negotiating on the PFI?
- What effect will the buildings and equipment only PFI have on staff? Will they have to relocate? Have staff, trade unions and the community been involved and consulted on the design of the buildings or refurbishment of the building?
- Are there any health and safety considerations?

Given that there are a number of different ways in which management locally may wish to proceed with PFI. Each of these ways may have different effects on the jobs that members do, on their conditions of service and on the services that they provide. Before we can identify the arguments against PFI in each case we need to be clear about why we oppose or support each model and the effects that they have on our members.

Task 1:

In your group try to identify the different models of PFI that are available to management. After you have done this read through LG 27/2002 and LG 40/2002 in your resource pack.

Then in your group prepare a report outlining which models of PFI may be available to your employer

Task 2

Once you have identified these work out

- The potential benefits to members of using each model locally
- The potential threats to members of using each model locally
- What alternatives UNISON should be arguing for in local negotiations and campaigning

- What arguments you would use to support your stance

Bear in mind UNISON's twin track approach

Use the analysis sheets on the following pages to help you structure your report.

Activity 4:

Analysis Sheet

1. Alternative 1

Main Characteristics :

--

Potential Benefits to Members

Potential Threats to Members

--	--

Activity 4:

Analysis Sheet

2. Alternative 2

Main Characteristics :

--

Potential Benefits to Members

Potential Threats to Members

--	--

Activity 4:

Analysis Sheet

3. Alternative 3

Main Characteristics :

--

Potential Benefits to Members	Potential Threats to Members

Briefing – How Branches See PFI

In 2001 UNISON Direct conducted a survey of local government and police authority branches where PFI projects had been signed, the comments showed that a lot of branches did not conduct campaigns where the PFI scheme did not involve the transfer of staff.

Nevertheless some branches still wanted to be involved in negotiations, as there were health and safety issues which needed to be considered about the construction or refurbishment of buildings, where staff would be working.

See comments below:

“Branches should be involved right from the start, check all and any documents thoroughly, especially with regard to pensions”;

“ The project involved buildings and equipment only. The main problem was the health and safety issues regarding what furniture/equipment any staff would be expected to use. Reps should be included in negotiations right from the start, even if there are no staff involved.”;

“no employees were involved, therefore Unison not heavily involved”;

“Branch deeply opposed the scheme, but it went ahead anyway. The branch fear that it will be difficult/impossible to contact members as they will lose touch with the members. They also fear that the branch will have probs recruiting stewards under these new contractors. Also the branch have noticed changes in attitudes from private companies after contracts have been signed, they seem a lot more reluctant to contact the branch and update them”;

“This branch meets with another seven branches regularly to discuss the PFI issues and keep each other informed. These branches are all involved with the same private company so look to each other for helpful info”;

“Did not involve a transfer of staff. The branch were happy to see this project going ahead as it does not affect members of staff and actually makes life easier for members who work directly with the salt. However the branch would have liked to see the council purchase this outright, but realise that they did not have the funds to do this. On the other hand the branch are opposing an education PFI which involves cleaners etc, as the long term economics are horrific “

UNISON should continue to oppose the PFI scheme, but as this is not always possible we should ensure that UNISON negotiates a fair deal with the contractor and have a good working relationship with them. This branch are happy to provide any other branch/region with advice esp. when dealing with Jarvis. This is quite a new scheme for the branch - started in July so everything is still in the early stages

ACTIVITY 5

IDENTIFYING THE ARGUMENTS

Aims

To explore:

- How to tackle arguments made in favour of PFI
- The most effective arguments to use against PFI
- Issues relating to PFI and Best Value

Task:

Campaigning against the Private Finance Initiative is not easy. The community and even staff may welcome the much needed capital investment without considering the long term implications for service delivery and cost. Local Councillors, Members of Parliament (MPs and MSPs), and Assembly members will often be ignorant of the true facts, or the long-term implications. Other unions whose members are not directly affected may not be supportive. And the local media will lose interest unless there is something new to report.

The case against PFI, however, is a strong one and it is important for us to continue to put the arguments against PFI to our employers, to our members and to the public and service users. National campaigning has resulted in changes to the PFI process and at local level even where schemes eventually go ahead local campaigns have strengthened our ability to negotiate better protection for members.

Task 1

The tutor will divide you into small groups and will ask each group to consider one of the campaign target groups below.

Working in your small group and using the materials available to you identify the key arguments that might be used in favour of PFI and which UNISON would have to counter and the key arguments against PFI in relation to:

- The council/local councillors
- UNISON members/other employees
- The local communities, and other members of the general public and other outside bodies such as School Governors and Tenants' Associations.
- political representatives such as MPs

You will need to think about

- The cost of PFI
- Why the group that you are focussing on may support PFI

- What the potential effects on members and other employees are and who will be most affected
- What will happen to the facility or service in the short and long term
- What alternatives to PFI we can argue for
- If the authority will, in the long run support a PFI project what would be our negotiating aims
- What the relationship will be to Best Value and how you can you use Best Value arguments with the employer. You may find it useful to look at the Best Value Checklist on the following pages and the Best Value performance management plan in the course resource book and try to decide how the PFI project might be made part of the Best Value framework.

Try to work out

- ◆ What arguments your target group may use to support the concept of PFI
- ◆ How you would counter arguments in favour of a PFI proposal. What are your alternative arguments?
- ◆ What information you will need to gather to develop and support your arguments against PFI

Task 2

Write the arguments you identify up on a flip chart and prepare a brief report (no more than five minutes) to the rest of the course on your discussions. If you identify arguments which might be used by others to support the PFI proposal, for example one the employer might use, you should say how you would counter that argument.

Task 3

When each group has reported back the tutor will ask you to identify what you think are the strongest arguments against PFI to use with each of the groups above. You can choose one argument for each target group. This will help you to identify any potential weaknesses in your arguments that need to be addressed and those arguments that you should make most forcefully.

CHECKLIST ARGUMENTS AGAINST PFI

COSTS

- The real cost of PFI arising from the “buy now pay later” financing of PFI projects.
- The Authority does not have to find the money up front to meet the initial capital costs, in the short term any PFI deal may be more affordable than conventional procurement, but in the long term costs are higher than in conventionally financed equivalent projects – interest free credit does not apply here.
- The high setting up costs of a PFI contract.
- The lengthy negotiations with private sector consortia on the PFI bid involving solicitors and consultants.
- The bidding process for contractors is extremely lengthy and costly.
- The private sector borrows at much higher rates than the public sector, so the cost of funding the project is costly.
- PFI consortia usually want an excessive rate of return on their investment, e.g. the rate of return for Sky Bridge was over 20%.
-
- Refinancing PFI deals can give rise to excessive returns to the private sector

LOSS OF FLEXIBILITY AND ACCOUNTABILITY

- PFI contracts can be anything up to thirty-five . This commits the public sector to paying for services for long periods of time and limits the ability of public bodies to switch resources in the future. This means that where there is a need to cut spending the PFI contract payment will be protected and non PFI expenditure may have to carry proportionally deeper cuts.
- How will a public Authority know what type of hospital, School, Health Centre or other facility it will need in 30 to 60 years time? Will the facility still be of use or value to the local authority? Will it still be necessary or appropriate at the end of the contract?
- PFI and the duty of Best Value are incompatible, the statutory requirement to make continuous improvements and meet any Best Value performance indicators creates potential conflict with PFI contracts.

IMPACT ON EMPLOYEES

- Cuts in terms and conditions for staff. Please also refer to Local Government in PFI Newsletter number 8, which contains a report of a survey carried out on the impact of PFI, which contains evidence of two-tier workforce and cuts in terms and conditions.
- The development of a two-tier workforce
- Most of those affected by facilities management within PFI projects are likely to be women in manual jobs - cleaners, catering staff and other ancillary workers. There are also men carrying out jobs such as caretakers and grounds and buildings maintenance staff, who have been transferred to PFI projects.

UNISON continues to campaign for fair employment and fair wages legislation to apply to all staff whether they work directly for local authorities or for local authority contracts including PFI. The proposals in the Best Value and Performance Improvement Circular, is a small step in the right direction, however falls short of mandatory fair wages and fair employment legislation in local authority contracting. The proposals include

- A new Code of Practice covering transferred staff and new staff. The Code is to be supported in statutory guidance and written into individual contracts between local authorities and contractors
- For staff transferred from a local authority to a service provider (contractor) there will be new legislation making statutory within local government the provisions in the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector and the annex to it, A Fair Deal for Staff Pensions.
- Under the Code private contractors and other service providers who employ new staff to work on local authority contracts alongside transferred staff will be required to offer employment on “fair and reasonable terms and conditions which are overall broadly comparable to those of transferred employees, “
- Under the Code the service provider will be required to offer new recruits :
 - Membership of the local government pension scheme or;
 - Membership of a good quality employer pension scheme. For a defined contribution scheme the employer must match employee contributions up to 6% wished or;
 - A stakeholder pension scheme under which the employer will match employee contributions up to 6%.

Some UNISON branches have negotiated far better contractual clauses for transferred and new staff to tackle the two-tier workforce and protect the terms and conditions of transferred staff through “TUPE plus” contractual clauses. .

- Demoralisation, demotivation of staff.
- Reductions in quality of services.

NATIONAL AND POLITICAL ARGUMENTS AGAINST PFI

- UK's public finances are in a very healthy state. In 2001 the public sector net cash requirement (PSNCR) formerly known as the Public Sector Borrowing Requirement (PSBR) recorded a surplus of £7.4 billion. This means the Government can afford to significantly increase public borrowing directly to finance much needed investment in our public services without adversely affecting the PSNCR.
- Public spending by the Government is at its lowest for 40 years and the Government has cleared £32 billion of public debt. This is a key indication of continued under investment in public services.

CHECKLIST

BEST VALUE AND PFI

Under section 3 of the Local Government Act 1999, from April 2000 all local authorities in England and Wales were required to ensure the continuous improvement in all their services having regard to a combination of economy, efficiency and effectiveness under the best value framework. This means that all PFI projects are subject to the Best Value legislation. All forms of procurement, and contracting out should be subject to: the Best Value regime in England, the Welsh Improvement Plan in Wales and forthcoming Best Value legislation in Scotland.

The draft circular on Best Value and Performance Improvement, lists PFI as one of the service delivery options which is the outcome of Best Value.

All PFI proposals/projects must be part of the council's Best Value fundamental performance review of all its services

- Any Best Value review of any service must justify the decision for providing the service through the PFI, during the options appraisal stage.
- All PFI projects should be subject to independent audit and inspection by the District Auditor and the Best Value Inspectors.
- The Best Value local performance plan should report on whether any achievements, targets and standards have been met by the PFI set.
- Branches should ask their councils how PFI would meet the requirement for continuous improvement of all services under Best Value. Once the PFI contract is agreed and signed there is likely to be little room for variation in how the service is provided and therefore it is difficult to see how the service provided under the PFI can be constantly improved.
- Proposals for PFI projects and existing PFI projects should be identified in the best value local performance plan, which is published each year.
- Councils must undertake genuine consultation with the local community including service users, council tax payers on what services the council provides and how they should provide them,.
- Local authorities should provide information to and undertake genuine consultation with the local community on all aspects of PFI projects throughout the process.
- Under the draft Best Value and Performance Improvement Circular produced by the Office of the Deputy Prime Minister (ODPM), local authorities must consult with staff and recognised trade unions when conducting Best Value Reviews
- the mechanisms for involving staff and trade unions should be set out clearly, including how the views of staff will be taken into account in decision making processes
- The draft Best Value and Performance Improvement Circular makes it clear "that procurement decisions by Best Value authorities should take into account workforce issues stating that " Staff and trade unions should be involved in the option appraisal

stage, and where there is a decision to outsource staff and unions should be involved in the selection process and in the subsequent detailed work around the transfer.”

- With regard to the draft circular’s advice on the EU Public Procurement Directives, UNISON recommends that the approach that should be taken by the Government, local authorities and UNISON branches is that set out in the joint UNISON/ LGIU document “Making the Workforce Matter: Best Value and Procurement”.
- Branches should ensure that any PFI projects involving employees should meet UNISON’s Best Value Best Employment code (Appendix 3).
- The PFI project should meet national performance indicators and, meet corporate objectives, and should be capable of being benchmarked against other services. This includes ensuring there is a public sector comparator for the PFI.
- The question is one of whether- and how- PFI monopolies can be incentivised to continuously improve services over extended contract periods without the need to renegotiate the contract. The DETR/4Ps/Treasury Taskforce Standardisation of PFI Contracts guidance, puts forward two approaches which could both be adopted:
 1. To bring the contractors directly into the Best Value regime by imposing the duty on them through the contract.
 2. To introduce contract terms which, without actually imposing the Best Value duty, would lead to continuous improvements in service quality in any case.

But the Performance Indicators have been changed and the numbers reduced since the introduction of Best Value. And Councils could therefore find themselves subjected to a new performance regime *after* they have contracted the services in question out for 30 years.. Many NPIs cannot be incorporated into contracts.

ACTIVITY 6 DEVELOPING A LOCAL CAMPAIGN PLAN ON PFI

Aims:

- To develop a local campaign plan against PFI
- To use the “twin-track” approach in a campaign strategy
- To do a SWOT analysis of your campaign

Tasks:

Now that you have done some preparatory work it's time to develop a local campaign plan to be put in place over the next 3 months. The aims of your campaign are to:

- Discourage the employer from using PFI
- Raise awareness of the arguments around PFI among members; service users; the general public and interested bodies
- If necessary, negotiate a PFI agreement

Task 1

You will be divided into three small groups again. Using the information available to you develop a 3 month campaign plan in relation to the key campaign group allocated to you.

- UNISON members/other employees
- The council/local councillors
- Service users, the general public and bodies such as school governors and tenants associations, political representatives such as MPs.

You may have to have discussions with other groups to ensure that your plans and timetables do not conflict!

Keep the “twin-track” strategy and Best Value in mind when you are developing your campaign strategy. You may be trying to negotiate with the employer to defend your members' interests at the same time as you are campaigning against the employer's PFI proposal.

In any campaign you will need to

1. Decide your Goal and how to achieve it

- ◆ What your aims are
- ◆ The concrete steps that you will need to take to achieve them
- ◆ Who will do what
- ◆ How you would involve members in the campaign
- ◆ What events, activities and publicity you would need to organise in order to ensure that your campaign has maximum impact

2. Try to identify

Your direct targets – who you are aiming at

Your indirect targets – people or organisations that may not agree with you completely but can help you put pressure on your direct targets.

Allies – Other individuals or groups that share your views and can assist you.

In each case think about

- ◆ Who they are
- ◆ What do you want from them
- ◆ What arguments can you use to persuade them to agree with you or assist you
- ◆ How you will get access to them or publicise your case to them

Task 2

Please write your plan up on a flip chart using the format on the following page. You can use the page in the Coursebook for your own notes.

Task 3

The tutor will help you to draw up a branch team campaign plan that incorporates all the activities identified by groups.

Task 4

Once your branch campaign plan is completed, working as a whole group, carry out a SWOT (Strengths, Weaknesses, Opportunities, and Threats) analysis on your campaign plan. Your tutor will explain how to do this and guide you through the process.

THREE MONTH CAMPAIGN PLAN

OVERALL TARGET GROUP (e.g. Council, members or public).....

Target Groups *	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12

* List the name of the target sub-groups e.g. Parent Teachers Assoc, Governors, Tenants' Assoc etc.

ACTIVITY 7 PFI CHECKLIST FOR ACTION

Aims: To draw together what you have learned in the course
To decide on an action plan for your branch.

Preamble

Whether or not your employer has already started the PFI process or there is currently no PFI proposal, there are still things you can do to protect members and the public services in which they work.

Tasks:

Some of the key tasks for unions in dealing with PFI are to

- ◆ Negotiate a PFI Agreement with the employer to ensure early warning of any proposals and union involvement in the process.
- ◆ Raise awareness among members and involve them in campaigning.
- ◆ Obtain information about potential bidders and other PFI contracts.
- ◆ Plan in advance for a branch PFI team.

This forward planning could be crucial in the union's success in challenging PFI proposals.

Working in pairs, make a checklist of the action you can take in your branches to prepare for a potential PFI proposal or combat an existing one.

COURSE REVIEW

Aims:

- To review whether you feel the course has achieved the aims set
- To complete individual evaluation forms

Tasks:

1. Working in pairs or groups of three, look at the aims in the Coursebook and on the flip chart completed in the Introductory Activity and decide whether you feel the course aims have been met.

Please be prepared to report back.

The tutor will give you an evaluation form. Working individually, please complete the form and hand it back to the tutor before you leave.

Useful Publications:

Available from UNISON Communications:

Stock No.	Title
1763	Challenging the Private Finance Initiative – A Guide for UNISON Branches and Activists
1439	PFI in Local Government - A briefing for Activists
1658	PFI: Negotiating Guide for Branches
1967	Understanding the Private Finance Initiative – The School Governors Essential Guide to PFI
1704	The Only Game in Town? A Report by UNISON Northern Region on the Cumberland Infirmary Carlisle Scheme
1858	Public Services – Private Finance
1952	Making the Workforce Matter – Best Value and Procurement

Useful Websites:

UNISON Website at www.unison.co.uk which has links to

Local Government Service Group
Website <http://www.unison.org.uk/localgov/index.asp>
e-mail: localgovernment@unison.co.uk

The Positively Public campaign Website

There is also useful information at

- LGIU (www.lgiu.gov.uk)
- APSE (www.apse.org.uk)
- Treasury Taskforce PFI website (www.treasury-projects.taskforce.gov.uk)
- Scottish Executive (Government website holding general information on PFI as well as the list of PFI schemes in Scotland) (www.scotland.gov.uk/pfi)
- The Public Private Partnership Programme known as the 4Ps (<http://www.4ps.co.uk/>)

The National Assembly for Wales Private Finance Unit:
www.pfu.wales.gov.uk

Links are regularly updated on the UNISON website.

Useful Contacts:

In addition to contacting your Regional Office and the Service Group at Head Office you may also find it useful to contact:

UNISON Bargaining Support Unit

UNISON
1 Mabledon Place
London
WC1H 9AJ

Tel: 0171 5511 267

Positively Public campaign Unit

UNISON
1 Mabledon Place
London
WC1H 9AJ

Tel: 0171 5511 267

In campaigning against PFI reports have been produced such as those on the Durham and Carlisle hospital PFI schemes. If you think this would be an appropriate course of action on a PFI proposal in your area you should contact the Regional Office for advice.

NOTES:

Learning and Organising Services
UNISON
1 Mabledon Place
LONDON
WC1H 9AJ

Draft 07/08/02