

**Audit and Risk Management Committee**  
**10<sup>th</sup> March 2020**

<b>REPORT TITLE:</b>	<b>PFI Contracts</b>
<b>REPORT OF:</b>	<b>David Armstrong, Assistant Chief Executive</b>

**REPORT SUMMARY**

This report provides a brief background to PFI, detailing the current status of each of the PFI Schools, a breakdown of the financial aspects of the scheme, the financial liability following the closure of one of the PFI sites – Kingsway Academy, and future plans.

**RECOMMENDATION/S**

That the members of the Audit and Risk Management Committee note the report.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 To provide members of the Committee with assurance that the Council is managing its PFI contracts effectively

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The report was requested by the Chair of the Committee so no other options were considered.

### **3.0 BACKGROUND INFORMATION**

- 3.1 The nine schools Wirral Schools PFI project agreement, was developed in the 1990's and was signed by the Council, school governing bodies, and the PFI contractor in 2001 in respect of the rebuild / refurbishment and facilities management of the sites.

- 3.2 At the time of developing the scheme, the PFI procurement route was the only mechanism available nationally for large scale capital investment. The scheme replaced a very significant quantity of poor accommodation, including the removal of 120 classroom spaces in "temporary" mobile units, provided additional specialist accommodation, e.g. Sports halls, ICT and laboratories and general refurbishment and backlog maintenance. Two schools were completely rebuilt, as detailed below.

- Leasowe Primary – Community School - 238 pupils on roll (new build)
- Bebington High – (Co-op) Academy School – 1108 pupils on roll
- Birkenhead Park School – Academy School – 667 pupils on roll
- South Wirral High – Community School – 869 pupils on roll
- Weatherhead High – Academy School – 1593 pupils on roll (new build)
- Hilbre High – Academy School – 1124 pupils on roll
- Prenton High – Academy School – 775 pupils on roll
- Kingsway Academy – Former Academy (Currently closed)
- Wirral Grammar Girls – Academy – 1184 pupils on roll

The contract has over eleven years to run.

PFI numbers on roll from October 2019 Census (including sixth forms) as a percentage of total secondary schools in Wirral – 34%

- 3.3 The Project was split into two distinct phases: a Construction Phase (during which period the Schools were built or refurbished) and an Operational Phase during which time certain Facilities Management Services are performed by WSSL, through their FM Services contractor, currently SPIE and catering through WSSL's service provider, Chartwells. We are now fourteen years into the operational phase

#### **Facilities Management Services (FM Services)**

- 3.4 FM Services have been provided at Schools from completion and will continue until the end of the term (31 July 2031). These include:

- 24 Hour Helpdesk
- Cleaning
- Caretaking
- Grounds Maintenance
- Catering
- Security
- Planned Preventative Maintenance
- Reactive Maintenance
- Energy Management
- Minibuses

3.5 These Services must be provided in accordance with the specifications for Support Services as detailed in the Project Agreement, as well as industry standards and law. The specifications for Support Services are not prescriptive and it is up to WSSL to devise a programme of service delivery which achieves the Authority's Output Specifications. The success (or otherwise) of this is measured in the Payment Mechanism and deductions system, monitored by the Council

3.6 The contract also supports two former City Learning Centres. West Wirral Works CLC and The Learning Lighthouse CLC. The contract will expire in July 2031.

3.7 Over the lifetime of the contract to date, a number of the schools have become Academies or Trust schools. The contract remains however with the council and is managed by one member of staff.

#### **4.0 PFI FUNDING AND COSTS**

4.1 The budgeted PFI costs for the 9-school scheme in 2019-20 are:

	£m
Contract Payments of	14.6 (inc. School raised Variations & Utilities)
Funded by:	
PFI grant	5.5
Individual school contributions	7.9
Council Contribution	1.0
Ex CLC's	0.2
<b>Total</b>	<b>14.6</b>

#### **5.0 EX CITY LEARNING CENTRES**

5.1 City Learning Centres (CLC's) were a national initiative developed twenty years ago. Three were built in Wirral, the two detailed below, and Ridgeway CLC.

##### **5.1.1 West Wirral Works**

An agreement on costs and terms for use of this building was completed between the Council and Hilbre High Academy School in 2018. A lease was drawn up between the Council and the Academy, for the remaining duration of the PFI Agreement.

In addition, as part of the PFI Project Agreement, a Licence to Underlet was required from our PFI Provider, which is also completed. The Council's Home Education Team also occupy a small section of the building.

#### **5.1.2 Learning Lighthouse**

A short term agreement has been reached between Claremount School and the Council to allow Claremount Sixth Form to utilise the Learning Lighthouse CLC building attached to Kingsway Academy.

As Claremount is a maintained school, there is no need to amend the PFI documents, nor arrange a Licence to Underlet. Some minor redecoration works have been carried out by our PFI Provider.

### **6. KINGSWAY ACADEMY**

- 6.1 The DfE, in consultation with the Academy Group operating the school i.e. Northern Schools Trust, took the decision in Summer 2017 to close Kingsway Academy School, with effect from 31<sup>st</sup> August 2018.
- 6.2 At the earliest stage, the Council entered into dialogue with its PFI Provider Company, Wirral Schools Services Ltd., commissioning a study to investigate the costs/savings for various options for use of the building itself. The options requested as part of the development options appraisal, raised in August 2017, were:
1. For the building to stand empty (mothballed) for a period of at least 12 months
  2. Another secondary mainstream to re-locate to the site.
  3. Move a special school onto the site
  4. Split the building and locate two primary schools on the site
  5. Office use
  6. Split of use between office and school use
  7. Split use between school and "Education Specialists" for office use
  8. Knock building down/use land for housing i.e. termination of the PFI contract at this site
- 6.3 The above options were intended to cover all possible ways forward. This is against a background where the accommodation at Kingsway is of good quality, both in terms of its condition, its good specialist provision, extensive outdoor spaces and playing fields and co-joins Leasowe Primary School, the former City Learning Centre and the Leasowe Leisure Centre.
- 6.4 It is of a higher quality than school accommodation at some other non PFI sites which remain in use. It continues to be maintained to the contract standard and secured.
- 6.5 A meeting took place with the PFI Provider and the Council and all options listed above were discussed further. Ultimately, the study was narrowed down and carried out on options 2, 4, 7 and 8. The Council is committed through the PFI Agreement to pay for the building until 2031, regardless of whether it is occupied or empty. Discussions have been ongoing with the PFI Provider and the ESFA to look at alternative options for future use. The Council has been negotiating with the PFI Provider over savings to be made by mothballing the building in the short term.

- 6.6 Termination of the PFI contract at this one site was not seen by the PFI Provider as an easy option. Splitting a grouped PFI scheme had never been undertaken before and it was felt that the costs, to even establish a price, would be significant. The PFI Provider stated that undertaking a termination of one school on the project would be difficult to price up because the original loan amount had been calculated against all nine schools and was not split on a school by school basis. Therefore, any termination would affect the whole loan amount for the project and in effect, be similar to refinancing the whole project. As such, it was felt that this option would incur significant costs.
- 6.7 It was established that due to required Lender involvement/oversight and the terms of the contract itself, the most feasible use going forward would be for the building to continue to operate as a school (or a group of schools). It was appreciated that legal costs would be incurred for any change of use of the building, particularly those that would increase the risk profile, in addition to complying with the requirements of the Project Agreement.
- 6.8 Due to the annual and ongoing PFI cost commitment of the former Kingsway Academy site, currently £1.768m as at 2019/20 and indexed each April including a £140k Business Rates cost, a request was put forward to establish any savings that could be made for a short (two year) period, (subsequently increased to three years) whilst plans were drawn up to occupy the site from thereafter. Excluding this request, the amount to be found from Council Contingency in 2019/20 for Kingsway stands at £206k.
- 6.9 Initial costs and savings have now been proposed by the PFI Provider and the Council awaits the final revision of savings for a three-year period from September 2018 to August 2021. These savings are likely to be around -£150k per annum for this period but this has yet to be confirmed. Re-commissioning costs will be incurred when the school reopens in whatever form but have yet to be calculated by the PFI Provider. However, they are likely to be significant and will need to be factored in against those savings achieved above.
- 6.10 In addition, the Council engaged with the DfE at an early stage to establish how they could assist with the gap in the Council's budget, as a result of the DfE's decision to close the school. The DfE agreed to contribute over a short-term period. This contribution equates to £1.2m for the period September 2018 to August 2021. This is separate to the annual £5.471m grant secured at the outset of the scheme in 2001. As detailed above, this specific grant offsets costs across all nine sites and is understood to be unaffected by the one school's closure.

## **7.0 FINANCIAL IMPLICATIONS**

- 7.1 The financial implications are included in the main body of this report. However it should be noted that should the former Kingsway building remain unused, the council is still committed to pay the annual PFI costs associated with the Kingsway site. Using 2019/20 as an example, had the DfE's contribution (referenced above) not been available, then the amount needed from Council Contingency would have risen from £206k to £846k.

- 7.2 The DfE has also made overt reference to revisiting the promissory note from 23<sup>rd</sup> March 2001. This original letter from the start of the Wirral Schools' PFI Contract, set out confirmation of the award of notional credit from the DfE towards the cost of the scheme. Should that notional credit be removed in the case of the former Kingsway site, then the additional annual cost incurred by the council, using 2019/20 as an example, would amount to £922k.

## **8.0 LEGAL IMPLICATIONS**

- 8.1 As detailed above, the council is obliged to pay the full unitary charge and associated payments for Kingsway to the PFI provider for the life of the contract regardless of whether it is put to full use – this is in accordance with the legal terms as detailed in the PFI Project Agreement and its 26 associated schedules. (The current mothball savings are only for a period of three academic years, September 2018 – August 2021). Any further negotiations would require further lender approval and further cost. Any variation to the PFI Agreement to accommodate a change of use at Kingsway will require a variation to the PFI Agreement for which the council will be required to pay the legal costs to the PFI Provider.
- 8.2 Non payment by the council of the amount allocated to Kingsway would trigger a claim for compensation by the PFI Provider.

## **9.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 9.1 No specific implications

## **10.0 RELEVANT RISKS**

- 10.1 The decision to close the school was taken by the Schools Commissioner and Northern Schools Trust. Council officers started dialogue with the PFI provider and the DfE at the earliest possible stage to identify savings and mitigate financial risk, as detailed above. The Council has continued to work with the PFI provider to ensure appropriate measures are in place to secure the building in the short term whilst the Council investigates appropriate future use, in line with Lender approval, i.e. use going forward must be for "Education" Use.

There is an extensive lender approval process required once the council has decided on the long term use for the building, this is in addition to a lengthy process for any building adaptations that may be requested – this is a risk that will need to be factored into the Council's decision for future use, particularly as the current savings expire next year.

Currently, the lender costs to reinstate the building for its future use, although requested, are undetermined.

## **11.0 ENGAGEMENT/CONSULTATION**

- 11.1 Council Officers have consulted extensively with the PFI Provider company, Wirral Schools Services Ltd and its facilities management and catering providers, SPIE Ltd. and Chartwells.

## **12.0. EQUALITY IMPLICATIONS**

- 12.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.

Has the potential impact of your proposal(s) been reviewed with regard to equality?

(b) No impact on equality considerations at this time

## **13.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 13.1 Buildings have direct relevance to environmental and climate implications including supporting the Council's response to the environment and climate emergency. However, the content and/or recommendations contained within this report are expected to:

The building has been mothballed currently, utilising only minimal utilities services

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## **APPENDICES:**

None

**BACKGROUND PAPERS** *Original PFI Contract held by the PFI Manager*

**HISTORY** – *Various working papers held by the PFI Manager*