



CABINET

19 DECEMBER 2017

GROUP COMMERCIAL DIRECTOR: ANDREW QUINCEY

**CABINET MEMBER WITH RESPONSIBILITY FOR CHILDREN’S SERVICES AND
EDUCATION: COUNCILLOR MATT GOLBY**

Subject:	Authorisation of further variations to the Schools PFI contract for the purpose of delivering savings
Recommendations:	<p>Cabinet is asked to:</p> <ol style="list-style-type: none"> 1. Note activity since the previous Cabinet decision to approve variations and give approval to enter into further variations to the PFI contract for the purpose of delivering savings to the Council’s budgets (as detailed in the report). 2. Authorise delegated Authority to the Group Commercial Director to (i) sign documents as required to enter into variations for the delivery of savings, (ii) enter into any further variation of the contract that has been approved by the contracted parties to deliver further savings. 3. Authorise the signing of any necessary certificates under the Local Government (Contracts) Act 1997 in relation to any of the documents required to facilitate variations, again to achieve the savings set out in this report.

1. Purpose of report

1.1 The purpose of the report is to seek approval of the recommendation so that the Group Commercial Director has the delegated authority to enter into variations of the contract as the authorised signatory. Secondly, to make provision for the Group Commercial Director to approve further variations in consultation with the Cabinet member for Children’s Services and Education, where such variations are for the purpose of achieving cost savings.

1.2 In addition to entering into deeds of variation, PFI contract variations attract a requirement for certificates under the Local Government (Contracts) Act 1997 which will be entered into by the Group Commercial Director.

2. How this decision contributes to the Council plan

The Council’s vision is to make Northamptonshire a great place to live and work. This is achieved through increasing the wellbeing of your county’s communities and/or safeguarding the county’s communities.

This initiative specifically delivers increased wellbeing by ensuring that:
<ul style="list-style-type: none"> • Resources are utilised effectively and efficiently, in coordination with partners and providers.

3. Background

- 3.1 The Schools PFI contract provides for delivery of services to 43 schools and has 22 years left to run. The contractual arrangements provide for a turn-key services solution whereby the contractor receives a unitary charge for delivery of the service and provision of requirements such as insurance.
- 3.2 Affordability concerns led to an independent specialist review of the contract that has subsequently progressed to a detailed consideration working jointly with the contractor of the different cost aspects of the Unitary Charge with the objective of securing considerable savings without adversely impacting on services.

4. Update on Previous Savings Initiatives

- 4.1 The Northampton Schools PFI Contract has been under review for two years to identify savings. The team previously identified a number of opportunities which sought to achieve a £2m saving within the 2016/17 financial year. These opportunities included one off payments and some sustainable revenue reductions:
- a) Qualifying Change in law – transfer of risk from the contractor to the Council if Qualifying Changes in Law lead to increase service costs. This produced a one-off payment of £120k.
 - b) Lifecycle replacement – defers a number of lifecycle elements, such as tarmac and suspended ceilings, and transfers the financial risk of failure to the Council until the next replacement period. This produced a one off saving of £995k but no ongoing revenue reduction.
 - c) Contractors share of insurance risk change – the pain/gain sharing ratios have been altered which provides a one-off payment of £35k and on-going saving of £100k.

The above opportunities have been captured in two variations signed off in February and March 2017 and have been delivered.

- 4.2 A further variation to remove services from contractor responsibility is still in process awaiting lender consent. It is expected to be completed by December 2017. This variation seeks to; (a) reduced the budgeted amount for Authority Related Damage; and (b) remove from contractor responsibility replacement of blinds, curtains, pin boards and white boards. The damage pot budget will be reduced by £127k to £50k, which will produce an ongoing revenue reduction as long as the actual cost of damage is managed within the reduced level. Removal of blinds, curtains, etc. will produce a one-off payment of c£80k and an ongoing revenue reduction which will vary in accordance with the lifecycle model, estimated at £63k. The Council will then be responsible for replacing those elements that are removed when they fail.
- 4.3 To date the Council has received £1.15m in one-off payments. A further variation is in progress that will increase the received one-off payments to £1.315m and achieve £290k revenue savings.

4.4 Summary table:

Saving Initiative:	Status:	One-off / in-year saving:	Ongoing saving:
Life cycle deferral	Delivered 2016/17	£995k	Nil
Qualifying change in Law removal	Delivered 2016/17	£120k	Nil
Sub-total		£1,150k	Nil
Contractors share of insurance risk	In progress	£35k	£100k
Damage pot	In progress	£50k	£127k
Blinds, curtains, etc.	In progress	£80k	£63k
Sub-total		£165k	£290k
Grand total		£1,315k	£290k

5. New Savings Initiatives and Recommendation

- 5.1 There is also an undelivered budget proposal of £2.346m, a potential damage fund pressure of £127k and a £250k cost of transformation, (specialist PFI consultants and legal advice). Therefore, the outstanding income/savings required to balance the budget in this financial year is £2.723m.
- 5.2 The PFI project team have engaged with the contractor to seek further sustainable revenue savings to the contract. Opportunities have been risk assessed against the following criteria: (a) impact in terms of PFI credits/accounting practices; (b) success of achieving lender approval; (c) approval of contractor and sub-contractor; and (d) impact on services received by schools.
- 5.3 In undertaking the analysis we have engaged with Education & Skills Funding Agency, Local partnerships PFI Team, Northampton Schools Limited Partnership (NSLP) and Amey. The outcome of the discussions has led to the following recommendations for Cabinet approval:
- That the Council to be responsible for facilities management, maintenance and lifecycle replacement of Wave 1 and 2 buildings. These buildings are extensions to the original PFI contract.
 - That the Council to take on responsibility for all exterior areas and landscaping services.
 - That the Council to provide waste management services.
 - That Schools will take responsibility for all catering facilities and service delivery currently provided by the Contractor.
 - That the Council to provide decoration of schools when required.

- f) As described in paragraph 5.4 below, that schools will be able to opt out of the contractor providing energy management and the contractor will be released from achieving energy targets.
- g) That the redline boundaries at Eastfield and Kingsheath Primary Schools will be varied to allow for new nurse provision and reduce facilities management costs.

5.4 Officers are also in discussion with the Contractor regarding opportunities for further savings from contract provisions including: how building element lifecycle replacement occurs; how this could be provided more efficiently; whether there is scope for variations to lifecycle management and end of contract hand back provisions to achieve further savings. It is recommended that Cabinet approve delegated authority to the Group Commercial Director to enter into further negotiations for variations regarding lifecycle and handback management provisions and/or changes to services to produce further savings to the contract.

5.5 It is expected that schools will receive the same service level whilst achieving efficiencies in the provision of services. Schools' communication regarding the changes will include utilising existing opportunities; service review meetings, schools PFI forums etc. and in writing by the Director for Children, Families and Education.

5.6 The obligation of the contractor to ensure that PFI schools meet a set of availability criteria means that the schools' management teams have less influence over their energy consumption and will theoretically incur higher energy costs than non-PFI schools. To compensate, those schools receive an energy subsidy of £821,364 from the Council to fund the additional expense. This subsidy is outside of the Schools PFI contract unitary charge and is provided to individual schools by Children's Families and Education (CFE) budgets. Over the past three years the PFI team have been engaging with the contractor to reduce energy use and this strategy will be maintained and supported by allowing the schools to instruct local site staff in plant operation, therefore allowing them the same controls as other non-PFI schools. It is recommended that the subsidy will be removed for the 2018/19 financial year and any underspend of the subsidy within the 2017/2018 financial year will be recovered

5.7 Summary table:

Saving Initiative:	Status:	Current costs:
Take back Wave 1 & 2	Recommended	£900,329
Take back exterior areas	Recommended	£339,451
Take back waste management	Recommended	£250,419
Take back catering	Recommended	-£200,000
Eastfield & Kingsheath boundaries	Recommended	£unknown
Sub total		£1,290,199
Removal of energy subsidy	Recommended	£821,364
Sub total		£821,364
Grand total		£2,111,563

5.8 Savings associated with Wave 1 & 2, exterior areas and waste will all need to be re-provided by the Council but are expected to be at much reduced cost. The cost of re-provision is unknown until the procurement exercise has completed.

6. Consultation and Scrutiny

6.1 The elements contained within the proposed variations have been discussed with Local Partnerships and the Education Funding Agency. This has enabled the Council to determine the viability of those elements.

6.2 A series of meetings have taken place with the Contactor and their sub-contractor regarding the elements contained within the variations which has led to Council proceeding with the items included in the first variation.

6.3 Schools will be communicated with via the existing Schools PFI forums.

7. Equality Screening

Reason that no EqlA is required	✓ as appropriate
The paper is for information only	
The proposal/activity/decision has no impact on customers or the service they receive	√
The proposal impacts upon staff but the proposed staffing changes will not affect the service that customers receive*	
Other (Please explain further)	

*Where a proposal affects staff, the appropriate HR processes will be followed, which have already been subject to the EqlA process and will be compliant with HR legislation

8. Alternative Options Considered

8.1 The business case has reviewed the options of doing nothing and undertaking the variations. Doing nothing would lead to existing pressure being exacerbated and the Council needing to increase its revenue subsidy of the contract costs. Therefore, the Council would need to seek further savings elsewhere to keep within its overall budget.

9. Financial Implications

9.1 The undelivered budget proposal for 2017/18 is £2.723m (see section 5.1). This recommendation seeks to mitigate circa £1.455m of this pressure from the Schools PFI contract (see section 5.6) and a further £821k of this pressure from the wider CFE budget in future years.

9.2 Summary table:

Saving Initiative:	Status:	One-off / in-year saving:	Ongoing saving:
Previous savings initiatives	In progress	£165k	£290k
New savings initiatives	In progress	£1,290k	£1,290k
Sub total		£1,455k	£1,580k

Removal of energy subsidy	In progress	Nil	£821k
Sub-total		Nil	£821k
Grand-total		£1,455k	£2,401k

What benefits will the proposal deliver?	<ul style="list-style-type: none"> • Reduction in costs of the contract c£1.455m • Future savings to CFE budgets of £821k per annum • Ability to control spend • Improved value for money • Cost effectiveness
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10. Risk and Business Continuity Management

10.1 Should the recommendation not be approved the risk to the Council is an increased pressure on an existing in year pressure to balance the accounts.

10.2 Risk(s) associated with the proposal

Risk	Mitigation	Residual Risk
Contractor, sub-contractor fail to agree with proposals	Early engagement with contractor and sub-contractor on proposals	Amber
Lender approval not been given for the variations.	Early engagement with contractor and sub-contractor on proposals to ensure that proposals do not impact viability of continued service provision or viability of contractor/sub-contractor as businesses.	Amber
Re-procurement of alternative services.	Use of existing frameworks.	Amber
Delay to process of gaining lender consent	Contractor engaging with funder	Amber

1. Risk(s) associated with not undertaking the proposal

Risk	Risk Rating
Council has increased in-year pressure of c£1.455m	Red

11. List of Appendices

None

Author:	Name: Colin Barrett Team: Property Services
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Background Papers:	None
Does the report propose a key decision is taken?	YES
If yes, is the decision in the Forward Plan?	YES
Will further decisions be required? If so please outline the timetable here	Not expected
Does the report include delegated decisions? If so, please outline the timetable here	Delegated decision expected to be applied in last quarter of this financial year. Further delegated decisions expected in 18/19 financial year.
Is this report proposing an amendment to the budget and/or policy framework?	NO
Have the financial implications been cleared by the Strategic Finance Manager (SFM)? Have any capital spend implications been cleared by the Capital Investment Board (CIB)	YES Name of SFM: Richard Loj YES/NO: N/A
Has the report been cleared by the relevant Director?	YES Name of Director: Andrew Quincy
Has the relevant Cabinet Member been consulted?	YES Cabinet Member: Matt Golby
Has the relevant scrutiny committee been consulted?	NO
Has the report been cleared by Legal Services?	YES Name of solicitor: Susan Zeiss
Have any communications issues been cleared by Communications and Marketing?	YES Name of officer: Joni Ager
Have any property Issues been cleared by Property and Asset Management?	YES Name of officer: Ian Boll

Procurement/ Contractual Implications: <ul style="list-style-type: none"> • Have you evidenced compliance with the Council's Contract Procedures Rules? • Have you identified where you are seeking Cabinet to approve an exemption from the Contract Procedure Rules and detailed the risks and mitigations? • Have you identified any EU or UK legislative risks associated with the exemption process such as non-compliance with the Public Contract Regulations Act 2015, transparency and open competition? • Have you identified the procurement or contractual risks associated with a contract? • Has the contract/procurement been subjected to the Council's Commercial Board? 	N/A
Are there any community safety implications?	NO
<i>Are there any environmental implications:</i>	NO
Are there any Health and Safety Implications:	NO
Are there any Human Resources Implications:	Unknown at this time
Are there any human rights implications:	NO
Constituency Interest:	None specific