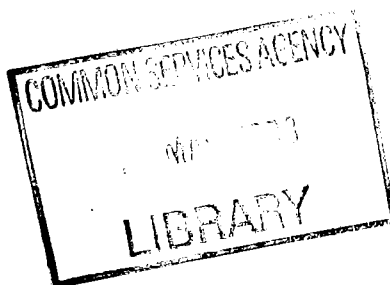




THE SCOTTISH OFFICE

Department of Health

NHS
MEL(1998)39



NHS Management Executive
St. Andrew's House
Edinburgh EH1 3DG

18th May 1998
Telephone 0131-244 3464
Fax 0131-244 3185

Dear Colleague

OPENNESS AND EMPLOYEE ISSUES

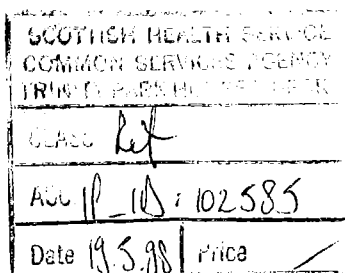
1. This Letter introduces the Government's new policies on openness and the protection of employees in PFI deals.

2. On 7 May, in reply to a Parliamentary Question on the Government's policies on openness and employee issues on PFI in the NHSiS, Sam Galbraith MP, The Scottish Office Health Minister made the following announcement:

"To improve openness and communication surrounding the PFI process, key PFI documents including Outline Business Cases (OBCs) and Full Business Cases (FBCs) will be made publicly available one month after they have been approved.

Furthermore:

- after financial close, an addendum to the FBC setting out changes between FBC approval and financial close and summarising the commercial contract in plain English should be prepared;
- in view of the commercial nature of negotiations and the PFI principle of securing value for money, Trusts (or Health Boards) and their private sector partners must be given the right to exclude or delete text on the grounds of commercial confidentiality;
- publicly available means placing a copy of the documents (OBC, FBC and FBC addendum) with the local authority; on view at the Trust (or Health Board) for staff and patients; with the local Health Council; at the local main public library (for schemes requiring Management Executive, Treasury or Ministerial approval); and the House of Commons Library (for schemes in excess of £10m);



Addressees

For action:

Chief Executives,
NHS Trusts

General Managers,
Health Boards

Chief Executive,
Common Services Agency

General Manager,
Health Education Board for Scotland

General Manager,
State Hospitals Board for Scotland

For information:

Executive Director,
Scottish Council for Postgraduate
Medical & Dental Education

Enquiries to:

PFI

Ross Scott
Private Finance & Capital Unit
Room 371
St Andrew's House
EDINBURGH EH1 3DG

Tel: 0131-244 2076
Fax: 0131-244 3993

EMPLOYEE ISSUES

Gerry Selkirk
Directorate of Human Resources
Room 73
St Andrew's House
EDINBURGH EH1 3DG

Tel: 0131-244 2474
Fax: 0131-244 2837



- further copies would be provided, on request, by the Trust (or Health Board) but Trusts (or Health Boards) would be able to charge for photocopying and postage;
- the new policy would apply both to future PFI schemes and retrospectively; and
- the documents for publicly funded schemes would also be made publicly available.

With regard to employee issues, in future:

- Trusts (or Health Boards) will have to assess potential PFI partners, to whom NHS staff would transfer, on the basis of their record on employment policies such as equal opportunities; wages and conditions; pensions; and trade union recognition; and
- Staff representatives will be invited to assist management in the evaluation of how major PFI partners measure up as fair employers through membership of joint evaluation panels.”

What does this mean for Trusts and Health Boards? - Openness

3. The policy on openness applies retrospectively as well as to future PFI deals and also applies to publicly funded projects (in excess of £4m). Three key documents are involved, namely the approved OBC, the approved FBC and, for PFI projects, the addendum to the FBC which is prepared after financial close. The FBC addendum should summarise any changes between FBC approval and financial close and include a summary of the commercial contract in plain English.

4. OBCs and FBCs may be edited to exclude text of a commercially sensitive nature. This is particularly important for documents which were prepared under the ‘old policy’ and include, for example, details relating to unsuccessful bidders which should not be placed in the public domain. Only text of a commercially sensitive nature should be deleted. Any documents which contain references to suppliers must be cleared with the appropriate supplier(s) before publication.

5. When preparing such documents in future, Trusts/Health Boards should be mindful of the expectation that they will be published and avoid the unnecessary inclusion of commercially sensitive information which may later need to be edited and consider grouping as much of the commercially sensitive information together to make the editing task easier. For all schemes with a capital value in excess of £10m, the ME will have seen and approved the OBC and FBC. However before publication, particularly where the approved version has been edited, the key documents should be cleared with the Private Finance & Capital Unit. (At least until we have measured public reaction and assessed how the publication process is operating, Trusts/Health Boards should clear all key documents, irrespective of capital value, with the PFCU prior to publication.)

6. Each of the key documents should be placed in the public domain one month after approval or financial close (or one month from the date of this Letter). This means placing

documents on view within the Trust/Health Board Office, the local Health Council, the office of the local authority and for larger schemes (ie those needing ME approval) at the local main public library.

7. For schemes with a capital value in excess of £10m, to let the general public know that documents are available for perusal, an advert should be placed in the local press detailing their placement in the local library and the date from which the document can be viewed. Separate adverts are required for OBCs and FBCs. The advert for the PFI FBC should state the expected date for financial close and the date when it is expected that the addendum will be added to the the FBC in the library. No further advert need be placed for the FBC addendum.

8. Also for schemes with a capital value in excess of £10m, a copy of the key documents should be placed in the Library of the House of Commons. To achieve this, five copies of the document agreed with the ME should be sent to Parliamentary Office, Room 1/1, Dover House, Whitehall, London SW1A 2AU.

9. Furthermore, for PFI schemes, a copy of the FBC and FBC addendum should be placed in the PFI Library of the Treasury Taskforce once the scheme has reached financial close. Copies should be addressed to HM Treasury Taskforce, 1 Parliament Street, London SW1P 3AG

10. Each document should clearly show a contact name, address and telephone number within the Trust/Health Board for enquiries specific to the project. Each document should also state that general enquiries on PFI should be addressed to Ross Scott, Private Finance & Capital Unit, St Andrew's House, Edinburgh EH1 3DG (Telephone 0131 244 2076; Fax 0131 244 3993).

11. Any requests from members of the public for retention copies of the documents should be met. Trusts/Health Boards should however charge for the cost of copying and, if applicable, postage in such instances.

What does this mean for Trusts and Health Boards? - Employee Issues

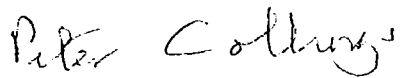
12. The Government's policies on partnership and involvement with employees outlined in the Human Resources Strategy "Towards a New Way of Working" call for good employment practices for NHS staff wherever they work. Trusts should therefore now assess PFI partners on the basis of their record on employment policies such as equal opportunities; wages and conditions; pension arrangements; and trade union recognition. This additional assessment of prospective partners will help to ensure NHS staff are treated fairly and consistently regardless of organisational arrangements.

13. Although value for money is a key consideration in procurement decisions, staff representatives should be invited to be involved jointly with managers in the evaluation of major PFI partners with regard to employment issues. This involvement will enable staff representatives to work together with management to bring forward a specification for the future service provision.

14. These new arrangements should also be seen in the context of the requirement for NHS Trusts and Health Boards in Scotland to develop local partnership agreements with staff and their representatives.

15. Best Practice Guidance issued on 29 April 1998 as MEL(1998)32 covers separate arrangements for involvement of staff representatives in consideration of support services provision.

Yours sincerely

A handwritten signature in cursive script that reads "Peter Collings".

Dr Peter Collings
Director of Finance