

LIFT

Local Improvement Finance Trust

what you need to know and what you need to ask

A briefing for non-experts

C o n t e n t s

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The Local Improvement Finance Trust: a briefing for non-experts

The Local Improvement Finance Trust (LIFT) scheme is part of a wider trend across the NHS and the rest of the public services to involve the private sector in borrowing money to finance public buildings and services.

Like the Private Finance Initiative, LIFT involves private businesses taking over the ownership, financing and management of public sector infrastructure and services and tying the public sector into exclusive long-term contracts with private sector companies. LIFT is intended for smaller-scale projects than PFI schemes, yet it is has all the disadvantages of PFI schemes, plus a few new ones. LIFT is untried and untested but it is being rolled out across the country.

The LIFT scheme was announced in the NHS Plan in 2000 and is being widely promoted as the only game in town for Primary Care Trusts that need to invest in new premises. There

are also currently four local

pilot schemes for financing secondary schools infrastructure, based on a similar model being developed by the Department for Education and Skills. LIFT is also being talked of as a model for financing social housing.

This pamphlet highlights many of the shortcomings of LIFT and will raise alarm bells for those encountering LIFT for the first time. It deals with the issues facing those involved in LIFT projects, and after attempts for other forms of public financing have been exhausted.

The pamphlet has been sponsored by UNISON and written by the Democratic Health Network. It will assist non-specialists – union members, NHS non-executive directors of Primary Care Trusts, local authority councillors and officers, school governors and others – whose organisations may be involved in local projects financed through LIFT.

The pamphlet describes the stages in entering into LIFT contracts and looks at issues that lay representatives may wish to raise during discussions about setting up local LIFT projects. Although LIFT is legally and financially complex, it is important for lay people to keep seeking clear answers to commonsense questions on behalf of the people whose interests they represent.





What is LIFT?

The Local Improvement Finance Trust (LIFT) is a government scheme to involve the private sector in financing primary and social care and community infrastructure, for example, GPs' surgeries. Despite the fact that LIFT as a vehicle for borrowing is wholly untested in the NHS, it is also being piloted by the Department for Education and Skills as a model for refurbishing school premises. The health and social care version of the LIFT scheme was first introduced for inner-city areas of high deprivation but is rapidly being extended to other parts of the country. There are now (July 2003) 42 LIFT schemes at various stages of development in most areas of the country. (See page 12.) The description below refers largely to NHS primary care LIFT schemes, but similar issues will arise for any LIFT schemes in other parts of the public sector.

At the local level, individual LIFT schemes are introduced through Primary Care Trusts with the participation of local authorities. The basic idea is that health and social care premises will be built or refurbished and owned by new profit-making companies made up of public and private sector partners, the private sector having a controlling interest. These will then be leased back to NHS bodies, GPs, local authorities, possibly voluntary sector organisations and commercial organisations. In this way, NHS bodies will pay for premises by entering into binding agreements that will make demands on their revenue budgets for many years, instead of putting capital "up front" for building schemes.

Why is LIFT important and how does it differ from PFI?

Like PFI, LIFT is a form of public private partnership, but PFI does not involve the setting up of new companies in which the public sector holds shares. Under PFI schemes, public sector representatives are not required to become members of boards of directors of profit-making companies, as required under LIFT. The setting up of such companies is promoted by the Government as an opportunity for the public sector to have greater influence and oversight of how its money is spent than is the case with

How does LIFT work?

The national framework

At the national level, a new joint venture company (a company formed by two or more partners) has been set up to oversee local LIFT schemes. The new company, Partnerships for Health, is formed from a 50 percent stake from the Department of Health and a 50 percent stake from Partnerships UK (itself a public private partnership created to support the Private Finance Initiative). It is intended that Partnerships for Health will support local LIFT projects by providing resources for planning, giving advice, providing standardised documentation, assisting in selecting private sector partners, investing in local LIFT schemes and holding shares in local LIFT companies. The Department of Health and Partnerships UK will each have contributed £175m over the period 2000-2004 to support LIFT projects. The Government hopes to triple this amount to over £1bn. It intends to do this through local private sector partners borrowing on the private capital markets. This borrowing will be financed by revenue (in the form of rents) from local LIFT projects.

The Department for Education and Skills has developed a similar model at the national level, also involving Partnerships UK in a joint venture company with the Department.

The local framework

At the local level, each LIFT scheme is required to set up a LIFT company, usually known as Liftco. Public stakeholders (such as Primary Care Trusts and local authorities) hold 20 percent of the shares in their Liftco, the Department of Health and Partnerships for Health together hold 20 percent and the local private sector partner holds 60 percent. Each Liftco will be looking at opportunities to bring together different services within one location, including health, social and community services. For example, the same premises could contain a health centre, a children's nursery and a welfare benefits advice centre. Premises funded through a Liftco may also extend to including commercial or retail space which the Government hopes could help to ensure the financial viability of the schemes, particularly in areas of low land values. For example, premises could contain a pharmacy, other health-related or even non health-related businesses.

The premises financed and serviced by LIFT schemes will be owned by the local Liftco, whose board will reflect the shareholdings of the different partners. That is, 20 percent of board members will be from the public sector, 20 percent from Partnerships for Health (mixed public and private) and 60 percent from the private sector. GPs will also be able to invest in their local Liftco and, if they do, will, like the other shareholders, own a share in all the properties owned by the company, rather than owning the freehold of their own premises, as many do at present.

In relation to education, the lack of involvement of local education authorities in setting the specifications for LIFT schools projects in their areas has been particularly criticised.

traditional PFI schemes. However, the public sector will have only a minority of shares in the Liftcos (initially 20 percent at the local level, which can be sold), so it is questionable whether or for how long their activities will remain part of a wider public sector strategy for premises development.

Like PFI, the public sector partners in LIFT schemes will be entering into long-term legal obligations and will be putting extensive resources, both into the initial setting up of LIFT schemes and into leasing and maintenance contracts with the new Liftco companies. In participating in LIFT schemes, public sector partners are required to enter into an exclusivity agreement, under which the local Liftco will have the exclusive right to provide new facilities and/or services commissioned by the participants as part of the overall premises strategy. Under PFI schemes, the premises that are developed may revert to the public sector partner at the end of the contract. This is not the case with LIFT, where the premises are always owned by the local Liftco.

All this means that questions of affordability and value for money will arise. Given the majority shareholding of the private sector in Liftcos, there will also be questions of accountability and control. The involvement of public sector representatives both as purchasers of Liftco services, with a duty to keep costs down, and also as members of Liftco Boards, with a duty to maximise profits for shareholders, may give rise to conflicts of interest. Those who are involved in decisions to enter into LIFT schemes will need to be as fully informed as possible about these and other issues before a final decision is made.

Why else does it matter?

Primary care premises (mainly consisting of GPs' surgeries) have traditionally been owned by GPs themselves and operated as small businesses. In recent years, PCTs and their predecessors have developed some GP premises in conjunction with a range of third party developers on a scheme by scheme basis. In such cases, premises would be built or modernised by developers and leased back to PCTs. Under local LIFT schemes, public sector partners are encouraged to bring together a number of buildings development projects under one umbrella. This is intended to provide a means of creating a more strategic approach to primary and social care premises than the piecemeal approach that has operated in the past. But it is also intended to create projects of a sufficient size to attract large commercial companies as private sector partners.

For the first time, corporate and multinational enterprises will have the opportunity to become involved in primary care in this country. This could include, for example, insurance companies that provide private healthcare, pharmaceutical companies, overseas or multinational healthcare provider companies seeking new markets. LIFT may also attract other large companies that currently provide infrastructure, such as prisons, to other parts of the public sector (for example, Group 4 is one of the private sector partners in the first Liftco (East London and City)). They will not only have extensive control over the cost and maintenance of premises from which public sector services are delivered, but will also have the opportunity to promote, through the commercial side of Liftco premises, other parts of their own business. This could result in private healthcare insurance and services, privately purchased medical equipment, health and social care employment agencies, and so on, operating out of the same premises as NHS and social and community services.

At the moment, the only services being discussed under LIFT proposals are the building, refurbishment and maintenance of premises. However, in a response to a recent query a Department of Health official said that, "In principle there is no impediment to other services such as clinical services being provided by a Liftco (but additional services would clearly have to be part of a separate procurement)". There is obviously scope here for further privatisation.

The creation of the LIFT scheme also means that, for the first time, NHS and other public bodies will directly hold shares and directorships in companies that are operating for profit. This will bring a new and different commercial aspect to public services and a new set of responsibilities and liabilities and potential conflicts of interest for executive and non-executive directors, councillors and other public sector board or governing body members.

The premises owned by local Liftcos will also be maintained and serviced by them. This means that some staff who are currently employed by the NHS, by GPs or by local authorities and possibly schools or other public sector bodies may be transferred to Liftco. In addition, some new jobs, instead of being public sector posts, as they might have been in the past, will become part of the private sector.

One of the ways in which operators of PFI schemes and private providers of public services have tried to cut costs and increase profits is through worsening pay, terms of employment and career opportunities for new staff, creating a two-tier workforce. This will clearly be an issue for employees and trade unions in relation to LIFT, as will the question of trade union recognition.

In the past, local NHS primary care bodies have not had to participate in and manage such complex legal agreements or such large capital projects. There will be new issues of capacity and risk in being involved in local LIFT schemes. It is not clear how much risk will actually be transferred to the private sector. For example, under the terms laid down for the setting up of Liftcos, PCTs may have to take over leases, if a GP's lease expires without a successor being immediately available. So there may be risks for public sector bodies in contracting with Liftcos and there may also be risks in being shareholders, since Liftcos, like any other private companies, can fail.



Issues to raise and questions to ask before an initial commitment to LIFT is made

There are various milestones along the road towards a LIFT scheme at which options can be assessed.

- First of all, representatives of public sector partners and trade unions will want to ask questions to satisfy themselves beforehand that all the alternatives to LIFT have been properly explored and that a LIFT scheme is the best available (or only) option for the communities they serve and the staff they represent.
- Then, if a commitment is made to entering into the formal process of preparation for a LIFT scheme, there will be a need to ensure that the setting up process ensures the best possible outcomes for the public sector “partners”.
- Finally, during the life of a local Liftco, it will be necessary to monitor and review contractual and governance arrangements.

The sections below describe the milestones and suggest issues to raise and questions to ask at different points. Some of the issues and questions will apply to more than one stage in the process, but they are grouped together under different headings for ease of reference.

Alternatives to LIFT

Your public sector organisation may be promoting LIFT as the only show in town as it is the Government's preferred financial vehicle for health and social care premises development. But there may be alternatives and you have every right to ask for detailed consideration of these. For example, some primary care trusts have decided to carry out a scoping exercise looking at alternatives to LIFT before making a decision to invest resources in the expensive and time-consuming process of setting up a Liftco. It's better to look seriously at the alternatives to LIFT before entering the process rather than after you are half-way along the road to LIFT.

There is no reason why the alternatives to LIFT (and there may be others available to you, in addition to those suggested, depending on your local circumstances) should not be part of a strategic plan for health and social care infrastructure without tying you to the exclusivity agreement required by the LIFT process. Some alternatives to LIFT may allow greater flexibility in choice, in the future, to respond to new developments in health and social care and in communities' expectations. Some alternatives may be more

affordable (for example, if they do not involve a third party which is seeking to make a profit).

The national joint venture companies involving Partnerships UK are supposed to give independent advice to local LIFT projects. It is questionable how independent this advice will be, given that these companies will have a stake in the local LIFT projects and will hope to make a profit from them. It would obviously not be appropriate to use these advisers to consider alternatives to LIFT, so you will want to seek assurances that advice about financing options is being provided by a genuinely independent source.

- What advice beyond that provided through Partnerships UK is available to those making decisions locally about capital financing?
- Has independent advice been sought before recommending a LIFT project as the best option?
- Have alternatives to LIFT been considered as part of an options appraisal or scoping exercise?
- Could you fund investment in public services from land sales without borrowing through LIFT?
- Are there means of borrowing available to you other than through a LIFT scheme?
- Could you form a partnership with charitable/voluntary sector organisations, such as housing associations or other not-for-profit organisations?

The setting up process

Setting up a local LIFT scheme may take up to two years. This means that there will be opportunities for members of public sector bodies and trade union representatives to ask questions about the LIFT process and its outcomes and to assess, at each stage of the setting up process, whether the LIFT route is in the best interest of the communities and staff that they represent. The various stages of the setting up process are outlined below.

Stage 1: Agreeing a Strategic Services Development Plan

When local health and social care partners agree informally that they wish to begin the process of establishing a LIFT scheme, the stakeholders in the local health and social care community, such as primary care trusts, local authorities, medical and dental practitioners, voluntary sector groups etc, will be expected to sign up to a Strategic Partnering Agreement (SPA) and to establish a Strategic Partnering Board (SPB). This board will be expected to approve an annual Strategic Services Development Plan (SSDP) containing priorities for the local services and facilities to be provided by a Liftco. At this stage there is no final commitment to going ahead with a LIFT project.

Affordability

At this stage, financial directors of the public sector organisations involved should begin to prepare notional costings of the public sector share in the proposed projects included in the Strategic Service Development Plan. Questions of affordability will arise now and throughout the setting up process and the term of the Liftco. If taking a stake in a Liftco and entering into a contract with it, your public sector organisations must be able to:

- pay their share of the 20 percent local public sector stake in the Liftco, either by transferring land or property to the Liftco or in cash.
- pay the rent (which will include a component for maintenance and servicing) on all the premises it leases from the local Liftco and meet these costs for the whole of the lease period. You need to bear in mind that the Liftco will be paying interest on the capital it has borrowed to build or refurbish the premises it owns (as people who have a mortgage on their house have to pay interest on the money they have borrowed). It costs more for the private sector to borrow money than for the public sector to do so. The Liftco will also want to reduce the size of its debt by paying back the capital it has borrowed (as happens with a repayment mortgage when the borrower gradually pays back, not just interest, but some of the amount borrowed). The Liftco will also have to pay the costs of maintaining the buildings it owns. It will also want to make a return (profit) for its shareholders (including your own organisation, of course) on the money it has put into LIFT schemes. All of these costs will be reflected in the rental charges paid by public sector bodies to the Liftcos.

The costs of using the Private Finance Initiative for hospital and school buildings have tended to escalate during contract negotiations. The risks of such cost increases in LIFT will be borne by PCTs (and other public sector partners). A LIFT agreement is likely to make significant claims on the revenue budget of your organisation for many years, with consequences for other services.

Partnerships for Health say that it is unlikely that NHS partners' contribution to LIFT schemes will be on the balance sheet of the NHS partner. That is, it is unlikely that the assets of the Liftco will count as part of the value of the NHS estate. This is an important issue, because if Liftcos' borrowing is on balance sheet, the NHS partners will be required to pay capital charges to the Government (a percentage of the value of the assets that are on balance sheet) and this may seriously affect the affordability of the scheme. Whether a LIFT project counts as on or off balance sheet depends on how the financial arrangements are structured. As a clearer picture of the financial structure emerges, it will be important to keep checking with your financial advisers whether they believe that the local scheme will incur capital charges and, if so, it is still affordable.

Staffing issues

You will need to ascertain which staff will be affected by the LIFT scheme. The Liftco may provide services currently provided by existing staff or under existing contracts. In such circumstances, the provisions of TUPE (Transfer of Undertakings, Protection of Employment) regulations apply. You may need to seek independent advice about this and may also wish to ask questions about how much flexibility there is in deciding which staff remain in public sector employment.

NHS bodies and local authorities are the largest employers in many areas, so decisions that they make about employment matters will have a disproportionate effect. It should be possible to influence the evaluation criteria for selecting private sector partners so that they include questions around terms and conditions

for staff and recognition of trade unions. It should also be possible to introduce equalities considerations into the criteria. Public sector bodies employ very significant numbers of women and ethnic minority staff in lower paid jobs – the jobs that are most likely to transfer to Liftcos. It will, therefore, be very important to try to ensure that equalities issues form part of the selection criteria for private sector partners. Equality should mean reference to the equal pay legislation, alongside other equality areas. These considerations will apply not just to transferred staff but to new staff employed during the existence of the Liftco. You should also seek assurances about the application of race equality legislation to Liftcos (the Commission for Racial Equality has produced guidelines on race equality issues in public procurement).

There is now a Code of Practice on Workforce Matters in Local Authority Service Contracts that applies where a local authority transfers employees to a private partner as part of a contract to provide any local public service. Under the Code, new employees must be offered terms and conditions no less favourable than those of transferred employees. This Code does not currently apply to NHS transfers of employment, but it should apply where local authority employees transfer to Liftco employment and could provide a useful basis for negotiating terms and conditions of new Liftco employees on an equal basis with former public sector employees. In order to comply with statutory requirements under best value, if local authorities are entering into LIFT agreements, they must consult the appropriate trade unions and staff.

Those involved in schemes that may involve the transfer of local authority staff should also be covered by the Cabinet Office Statement of Practice on staff transfers and the clauses relating to staff transfers in the Local Government Bill 2003 (not yet enacted at the time of writing).

Affordability

- Can your organisation afford, both in the short and long term to pay your share in the proposed arrangements?
- What protection is there for the public sector if the costs escalate, or if it becomes unaffordable, either during the setting up process or during the course of the contract?
- Will debts to the Liftco take precedence over other claims on the budget, as they do in the case of PFI?
- What advice has been given at this stage about whether projects would be on or off balance sheet? If on balance sheet, what would capital charges be?

Staffing issues

- Are there any proposals at this stage to transfer staff to the Liftco ?
- What arrangements are there for consulting trade unions and staff throughout the creation of the Strategic Services Development Plan, the LIFT setting-up process and beyond?

Consultation

- Is there a proper strategy for public and service-user consultation during the development of a Strategic Services Development Plan, the assessment criteria for bids, the detailed design stage and throughout the life of the Liftco when new premises and services are being introduced?

The premises designed and serviced by Liftcos are intended to have sufficient flexibility and adaptability to cater for changes in health and social care needs, new technology and new forms of service delivery.

- Is the consultation process designed so that local people, service users and staff have an opportunity to consider future needs in imaginative ways?
- Will consultation ensure that the needs and wishes of different groups are taken into consideration, for example older people, children, minority ethnic groups, disabled people? Will consultation techniques be suitable to meet the communication needs of the different groups?

Stage 2: LIFT procurement – finding a private sector partner

The process of selecting a private sector company to be involved in a local Liftco is governed by European Communities public procurement regulations. This means that a notice requesting prospective private sector partners to express an interest in a local LIFT scheme must be placed in the Official Journal of the European Communities (OJEC). (This is often referred to as the OJEC notice). Three months must be given for prospective partners to respond to this notice. This stage ends with interviews at which the proposals of prospective partners are assessed (against a largely centrally-determined set of criteria), in order to arrive at a shortlist. There may be an opportunity for public sector partners to influence the criteria. The shortlisting process does not entail a commitment to going ahead with a LIFT scheme, although, of course, the further down the road towards a LIFT scheme the local public sector partners go, the more they will have invested in the setting up process and the more difficult it will be to pull out.

- Who will be involved in the short-listing process?
- The central standardised approach to the tendering process has been criticised by designers for leaving little time or opportunity for design priorities to be developed at a local level. How much opportunity will there be for the specification for individual LIFT projects to take account of local issues, for example, appropriate design for multi-ethnic and multi-faith communities?
- Will there be an opportunity to ask bidders to state how they would endeavour to reflect in their employment policies the ethnic diversity of the local population?
- What questions will bidders be asked about fair wages and terms and conditions of employment?
- Issues of building quality and environmental impact – how green the proposed buildings will be? – will they form part of the initial specifications?
- To what extent will it really be possible to involve local businesses, given that the private sector partners in Liftcos are likely to be very large conglomerates?

Stage 3: Invitation to negotiate (three months)

At the end of the original shortlisting stage, a shortlist of three is arrived at and an invitation to negotiate notice (ITN) is issued to these three bidders. They are given three months to prepare a detailed bid, indicating how they would implement the Strategic Services Development Plan.

Stage 4: Evaluation of shortlist (three months)

The evaluation by the public sector stakeholders of the bids from the shortlist is expected to take three months. This is the stage at which consultation with users and potential users of services is officially expected to take place. However, genuine consultation is unlikely unless it has been planned well in advance and unless there has been earlier involvement at the stage of developing the Strategic Services Development Plan.

Profit and Value for Money

You will want to know if the rate of return (profit) expected by private sector bidders is reasonable, not least because of the requirement for exclusivity – giving the exclusive right to the Liftco to provide new facilities and services commissioned under the Strategic Service Development Plan.

You can get a commonsense idea of what is a reasonable rate of return and what sort of risks you pay for, by thinking, for example, about the rate of interest you pay on your mortgage or when you borrow money from the bank. Usually, the fewer restrictions there are on your loan (for example, if there is no penalty to pay if you change to a different mortgage) the higher the interest. So, for agreeing to an exclusivity clause in your contract with Liftco, for example, you should expect some benefit. On a traditional third party scheme (where the NHS contracts with a developer to build new premises in a one-off contract), a profit of between eight percent and nine percent would be normal at the time of writing. If prospective private sector partners are expecting a great deal more than this without taking on additional risks, they may not provide a good deal.



These are different questions from the question of whether LIFT schemes provide value for money (VFM) in the technical sense. The Government uses a narrow technical definition of VFM. To try to assess whether individual bids will provide value for money, financial advisers for prospective LIFT schemes have been asked to construct a shadow financial model for a bid – a kind of ideal bid against which the real bids can be compared. These financial models make assumptions about such matters as how much risk is transferred to the private sector (this would include, for example, responsibility for maintaining and servicing premises and, the amount of money that has to be borrowed). The models will also include assumptions about the rate of return (profit) that the Liftco should expect on its investment and it will be well worth asking questions about these assumptions even if you are not a financial expert. However, the VFM assessment will not tell you how much more a LIFT scheme will cost than alternative sources of finance, because it does not compare the LIFT scheme with alternatives in the real world, but only with the ideal model. So even if a LIFT proposal is favourably assessed against the VFM model, you will also want to ask separate questions about how much more the LIFT proposal will cost than alternatives. Simply referring to the Value for Money Assessment will not provide an automatic answer to whether a LIFT scheme is preferable to any alternatives.

Profit and value for money

- What basic assumptions about financing and risk transfer are made in the shadow model drawn up by financial advisers?
- What assumptions are made about rates of return to the private sector in the shadow model?
- What assumptions are made about risk transfer and rates of return in the bids? (You may only be able to get answers to the above questions if you are a Board member or Councillor, as they are seen as commercially sensitive.)
- Has advice changed about whether LIFT projects will be on or off balance sheet?
- How do the bids compare to alternative sources of finance available at this stage?

Staffing issues

- What proposals or assumptions are made in the bids about transfer of staff?
- Is there any express commitment to TUPE provisions, to transfer on no less favourable conditions, to fair wages, equality issues or other employment conditions for both transferred and new staff?

Stage 5: Negotiation with preferred bidder and establishment of Liftco (three months)

Once a preferred bidder is chosen, further detailed negotiations on the design and planning of the first projects in the LIFT scheme will take place, ending in the setting up of the local Liftco. This is the stage at which the public sector partners must make a final commitment to the LIFT scheme. They must pay their 20 percent stake in the Liftco, either in the form of assets (by transferring land or property to the Liftco) or in cash.

Re-financing of LIFT schemes

Under the first wave of PFI schemes, after the initial high risk capital building stage, some of the private sector consortiums have gone back to the market and negotiated lower rates of interest without passing the benefits back to the NHS or local authority partner. The Government has now said that there has to be a public sector clawback on such re-financing packages in PFI schemes. It is not clear whether this will apply to LIFT schemes, or, if it does, whether it would be the local public sector partners or the national partners who would benefit, so you should ask your financial advisers about this.

- What provisions are there for public sector clawback on any re-financing packages? How will the local public sector partners benefit from any such clawback?
- Has advice changed since Stage four about whether LIFT projects will be on or off balance sheet?

Stage 6: Agreement between Liftco and local statutory bodies

Once the Liftco is set up it will enter into a 20 year Strategic Partnering Agreement (SPA) with the core statutory bodies in the local health and social care community to provide the facilities and services identified in the Strategic Services Development Plans. Liftcos are expected to provide serviced accommodation, suitable for use by health and social care professionals and practitioners. The accommodation may be provided from new, refurbished or existing premises. The Liftco is expected to enter a Lease Plus agreement with the occupants of the accommodation. A Lease Plus is like a conventional lease, but there is the additional requirement on the Liftco as landlord to take responsibility for the repair, maintenance and insurance of the premises throughout the term of the lease. The Government has said that flexibility of leases is an important objective (for example, to enable GPs to enter into 5 or 10 year leases, to expire on their retirement), but there are restrictions on the number of short-term leases that may be available. This may mean that public sector bodies, such as PCTs or local authorities, have to take on leases and sublet to practitioners.

- What are the provisions of the leases entered into with the Liftco?
- What are the public sector partner(s), responsibilities under these leases? For example, will a PCT have to take on a head lease and sublet to GPs? Will a PCT be responsible for paying rental of premises where there is a gap between one short let and another?

After LIFTCOs are set up and leases are signed

It is important that any LIFT scheme remains transparent and accountable in operation and continues to provide value for money. Governance arrangements will need to be clear and, because there is no precedent for the governance of companies such as Liftcos, will need to be monitored for any problems of accountability and conflicts of interest.

The exclusivity clauses in the Liftco contracts mean that the local Liftco will have the exclusive right to provide new facilities and/or services commissioned by the participants as part of the overall premises strategy. Public sector partners will need to ensure that only those services and facilities that are genuinely part of the Strategic Services Development Plan are included in contracts with Liftco.

Making public sector infrastructure subject to commercial business considerations will open up Liftcos and their contracts to all sorts of trade agreements, including perhaps the General Agreement on Trade in Services (GATS), and that will require extensive monitoring – more than is currently required in relation to premises management in the public sector.

What happens at the end of the LIFT contract?

The Liftcos will be assumed to retain the freehold ownership of property acquired by the companies and there is no presumption that ownership will return to the original landowner at the end of any rental-and-service agreements (“leaseplus” agreements). At the end of individual leaseplus agreements, there will be an option for the public sector partner to re-purchase sites. If your organisation envisages doing this, you will need to think about the likely value of the sites in 20/30 years and whether they will be affordable. If not, leaseplus agreements will have to be renewed with the accompanying commitment of resources.

Governance and monitoring issues

- What is the liability of Liftco board members, including any public sector partner board members?
- What mechanisms will there be to ensure that public sector board members are accountable to the bodies they represent?
- How much control will the original board composition have?
- How vulnerable would the Liftco be to takeover?
- The Liftco will be a profit-making company. Its directors, including public sector nominees to its board, will have a duty to maximise profit for their shareholders. Members of the boards of public sector bodies will have a duty to get the most value for money possible from the Liftco contract. Is this likely to produce conflicts of interest and, if so, how will they be dealt with?
- What mechanisms are in place to ensure compliance with the original contract with the Liftco and termination of the contract if it is breached?
- How will the public sector ensure that all and only those new facilities and/or services covered by the exclusivity agreement are provided by the Liftco?
- Does your organisation have the capacity to monitor the implications of and compliance of the Liftco with relevant trade agreements and other aspects of commercial practice?



LIFT schemes currently under way

Current NHS schemes

There are six first wave schemes at the stage of choosing the preferred private sector partner or beyond. They are: East London and City, Salford, Manchester and Trafford, Barnsley, Sandwell, North Tyneside and Camden and Islington. Their total capital value is £170.5m. There are 12 second wave schemes at various earlier stages: Liverpool and Sefton, North Staffordshire, East Lancashire, Bradford and Airedale, Kingston upon Hull, Birmingham and Solihull, Coventry, Leicester City, Medway, Redbridge and Waltham Forest, Cornwall and Isles of Scilly and Barking and Dagenham. There are a further 24 third wave schemes at earlier stages of development. The total capital value of all 42 schemes is well over £1bn for the first tranche of investment only.

Current education schemes

The four pilot schemes are based in Sheffield, Greenwich and Southwark, Bristol and Bradford schools. Their total initial capital value is over £290m.

Further information

UNISON has produced a wide range of publications about public private partnerships. It has also produced a *Best Value Code of Practice Guide*. For more information see the UNISON website: www.unison.org.uk

The Democratic Health Network has produced a range of publications explaining NHS and local government relationships in lay language. For more information see the DHN website: www.dhn.org.uk

Accuracy of information

Public private partnerships are a fast developing policy area. The information in this publication is as up to date as we can make it. If involved in proposals for a LIFT scheme, readers are advised to check details with their local advisers.

Democratic Health Network

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