

APPENDIX 61 – PFI Procurement Model Risk Allocation Matrix

This table must be read in conjunction with the narrative in chapters 7 and 12 of the OBC for completeness.

Risk Allocation Matrix

✓ PFI

1. Design Risks

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
1.1	Failure to design to brief	Failure to translate the requirements of the NHS Trust into the design		✓	
1.2	Continuing development of design	The detail of the design should be developed within an agreed framework and timetable. A failure to do so may lead to addition design and construction costs		✓	
1.3	Change in requirements of the NHS Trust	The NHS Trust may require changes to the design, leading to additional design and construction costs	✓		
1.4	Change in design required by operator ¹ (services)	This is the risk that the operator will require changes to the design, leading to additional design costs <i>The operator will be responsible for infrastructure hard FM and lifecycle only</i>		✓	
1.5	Change in design required due to external influences	There is a risk that the designs will need to change due to legislative or regulatory changes specific to the NHS	✓		

¹ The operator is the private sector body which receives payments from the procuring entity for providing the services

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
	specific to the NHS				
1.6	Failure to build to design	Misinterpretation of design or failure to build to specification during construction may lead to additional design and construction costs		✓	

2. Construction and Development Risks

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
2.1	Incorrect time estimate	The time taken to complete the construction phase may be different from the estimated time		✓	
2.2	Unforeseen ground/site conditions	Unforeseen ground/site conditions may lead to variations in the estimated cost		✓	
2.3	Unforeseen ground/site conditions under the footprint of existing facilities	Additional costs resulting from where the private sector is unable to carry out necessary surveys prior to commencing work because facilities are currently occupied	N/A	N/A	N/A
2.4	Delay in gaining access to the site	A delay in gaining access to the site may put back the entire project	✓		
2.5	Responsibility for maintaining on-site security	Theft and/or damage to equipment and material may lead to unforeseen costs in terms of replacing damaged items and delay		✓	
2.6	Responsibility for maintaining on-site safety	The Construction, Design and Management (CDM) regulations must be complied with		✓	
2.7	Third party claims	This risk refers to the costs associated with third party claims due			

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
		to loss of amenity and ground subsidence on adjacent properties		✓	
2.8	"Compensation Events"	An event of this kind may delay or impede the performance of the contract and cause additional expense	✓		
2.9	"Delay Events"	An event of this kind may delay or impede the performance of the contract and cause additional expense	✓		✓
2.10	Force Majeure	In the event of Force Majeure additional costs will be incurred. Facilities may also be unavailable			✓
2.11	Termination due to Force Majeure	There is a risk that an event of Force Majeure will mean the parties are no longer able to perform the contract			✓
2.12	Legislative/ regulatory change: NHS specific	A change in NHS specific legislation/regulations, leading to a change in the requirements and variations in costs	✓		
2.13	Legislative/ regulatory change: non-NHS specific	A change in non-NHS specific legislation/regulations taking effect during the construction phase, leading to a change in the requirements and variations in costs		✓	
2.14	Changes in taxation	Changes in taxation may affect the cost of the project		✓	
2.15	Changes in the rate of VAT	Changes in the rate of VAT may increase the costs of the project. VAT should generally be refundable to the NHS Trust	✓		
2.16	Other changes in VAT	Changes in VAT legislation other than changes in the rate of VAT payable	✓		
2.17	Contractor default	In the case of contractor default, additional costs may be incurred in appointing a replacement and may cause a delay		✓	

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
2.18	Poor project management	There is a risk that poor project management will lead to additional costs. For example, if sub-contractors are not well co-ordinated, one sub-contractor could be delayed because the work of another is incomplete		✓	
2.19	Contractor/sub-contractor industrial action	Industrial action may cause the construction to be delayed, as well as incurring additional management costs		✓	
2.20	Protester action	Protester action against the development may incur additional costs, such as security costs			✓
2.21	Incorrect time and cost estimates for decanting from existing buildings	The estimated cost of decanting from existing buildings may be incorrect, there may also be delays leading to further costs. Public sector risk unless delays and cost attributable to the private sector operator	N/A	N/A	N/A
2.22	Incorrect time and cost estimates for commissioning new building	The estimated cost of commissioning new buildings may be incorrect, there may also be delays leading to further costs		✓	

3. Performance Risks

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
3.1	Latent defects in new build	The estimated cost of commissioning new buildings may be incorrect, there may also be delays leading to further costs		✓	
3.2	Change in specification initiated by procuring entity	There is a chance that, during the operating phase of the project, the procuring entity of the services will require changes to the specification	✓		
3.3	Performance of sub-contractors	Poor management of sub-contractors can lead to poor co-ordination and under-performance by the contractors. This may create additional costs in the provision of services	N/A	✓	
3.4	Default by contractor or sub-contractor	In the case of default by a contractor or sub-contractor, there may be a need to make emergency provision, there may also be additional costs involved in finding a replacement	N/A	✓	
3.5	Industrial action	Industrial action by the staff involved in providing facilities services would lead to higher costs and/or performance failures	N/A	✓	
3.6	Failure to meet performance standards	There is a risk that those facilities management (FM) services provided by the private sector will not provide the required quality of services. This may be costly to correct and the operator may incur financial penalties		✓	
3.7	Availability of facilities	<p>There is a risk that some or all of the facility will not be available for the use to which it is intended. There may be costs involved in making the facility available.</p> <p><u>As the Trust will be carrying out soft FM and some hard FM</u></p>	N/A	✓	

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
		<u>services itself, and availability could be impacted should any of these services be inadequate, then the Trust would bear this risk.</u>			
3.8	"Relief Events"	An event of this kind may delay or impede the performance of the contract and cause additional expense	N/A		✓
3.9	Force Majeure	In the event of Force Majeure additional costs will be incurred. Facilities may also be unavailable	N/A		✓✓
3.10	Termination due to Force Majeure	There is a risk that an event of Force Majeure will mean the parties are no longer able to perform the contract	N/A		✓

4. Operating Cost Risks

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
4.1	Incorrect estimated cost of providing specific services under the contract within market testing periods	The cost of providing these services may be different to the expected, because of unexpected changes in the cost of equipment, labour, utilities and other supplies	N/A	✓	
4.2	Incorrect estimated cost of providing specific services under the contract at point of market testing	The cost of providing these services may be different to the expected, because of unexpected changes in the cost of equipment, labour, utilities and other supplies.	✓ N/A		
4.3	Legislative/regulatory change having capital cost consequences; NHS specific	NHS specific changes to legislation/regulations may lead to additional construction costs and higher building, maintenance, equipment or labour costs	✓ N/A		
4.4	Legislative/regulatory	Non-NHS specific changes to legislation/regulations may lead to			

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
	change; non-NHS specific	additional construction costs and higher maintenance, equipment or labour costs	N/A		✓
4.5	Changes in taxation	The scope and level of taxation will effect the cost of providing services	N/A	✓	
4.6	Changes in VAT	This may increase the cost of provision of services to the NHS Trust. However, changes in VAT are generally refundable to the NHS Trust	N/A	✓	
4.7	Incorrect estimated cost of providing clinical services	The cost of providing clinical services may be different to the expected. These costs include staff, recruitment, training, equipment and supplies	✓ N/A		
4.8	Incorrect estimated cost of maintenance	The cost of building and engineering maintenance may be different to the expected costs		✓	
4.9	Incorrect estimated cost of energy used	Failure to meet energy efficiency targets or to control energy costs	Link to Design in Construction phase	✓	
4.10	Patient infection caused by poor facilities management	<p>There is a risk that a patient infection could be traced directly to the actions of staff employed and managed by the facilities manager. This may include for example, food poisoning and wound infection from incorrectly sterilised dressings. This risk may lead to increased treatment costs and possibly legal costs if the patient takes legal action</p> <p><i>The FM provider is responsible for some Hard FM services and Lifecycle only.</i></p>	✓ N/A	N/A	✓ N/A
4.11	Patient infection – other	Patient infection caused by staff employed by and controlled by			

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
		the procuring body. This risk may lead to increased treatment costs and possibly legal costs	✓		
4.12	Estimated cost of transferring the employment of staff to new employer is incorrect	The estimated cost of the transfer of the employment of staff under TUPE may be incorrect. This includes the cost of any legal appeals. The NHS Trust may be asked to warrant information	N/A	N/A	N/A
4.13	Estimated cost of restructuring the workforce providing services under the contract is incorrect	The estimated cost of restructuring the private sector's workforce at any time during the operating phase, such as recruitment costs and redundancy payments may be incorrect	N/A	✓	

5. Variability of Revenue Risk

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
5.1	Non-performance of services	Payment will only be made by the NHS Trust for services received	N/A	✓	
5.2	Poor performance of services	The operator will incur deductions from the performance payment for the poor performance of services	N/A	✓	
5.3	Changes in the size of the allocation of resources for the provision of health care	There is a risk that the resources allocated to the area are reduced or increased. If such changes do occur, there may be a need to re-scale the provision of services	✓ N/A		
5.4	Changes in the volume of demand for patient services	There is a risk that the volume of demand for health care will change because of changes in the size of the catchment area. This may occur because there is for example, an unexpected increase in the size of the population, leading to an increase in demand; or the provision of a new alternative provider health care,	✓ N/A		

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
		leading to a reduction in demand			
5.5	Unexpected changes in medical technology	Unexpected changes in the medical technology may lead to a need to re-scale or reconfigure the provision of service. For example, if the increase in day surgery is greater than expected, the total number of required beds may fall	✓ N/A		
5.6	Unexpected changes in the epidemiology of the people in the catchment area	Unexpected changes to the epidemiology of the people in the catchment area may lead to a reconfiguration or re-scaling of the provision of services	✓ N/A		
5.7	Unexpected sudden increases in demand, due to major incident	There is a risk of large unexpected increases in demand (e.g. due to a major incident)	N/A ✓		
5.8	Estimated income from income generating schemes is incorrect	There is a risk that income generating schemes, such as car parking and retail outlets, generate less or more income than expected <i>This will be a Trust risk as the Car Parking and retail outlets will be managed by the Trust.</i>	✓✓ N/A		

6. Termination Risks

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
6.1	Termination due to default by the procuring entity	The risk that the procuring entity defaults leading to contract termination and compensation for the private sector	✓		

6.2	Default by the operator leading to step-in by financiers	The risk that the operator or individual service providers default and financiers step-in leading to higher costs than agreed in the contract	N/A	N/A	N/A
6.3	Termination due to fault by the operator	The risk that the operator defaults and step-in rights are exercised by financiers but that they are unsuccessful leading to contract termination		✓	

7. Technology and Obsolescence Risks

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
7.1	Technological change/asset obsolescence	Buildings, plant [and equipment] may become obsolete during the contract	N/A	✓	
7.2	Technological change	Technical changes may cause the NHS Trust to revise its output specifications	N/A ✓		

8. Control Risks

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
8.1	Control of clinical services	The NHS Trust retains control of clinical services which means that it retains significant control of the nature of the services provided by the operator	✓		
8.2	Control of services provided under the contract	The operator should retain control of these subject to 8.1 above		✓	

9. Residual Value Risks

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
9.1	Procuring entity no longer requires assets at end of contract	The risk that the procuring entity will wish to vacate the asset at the end of the contract period and that the operator may be faced with decommissioning costs	✓ N/A		

10. Other Project Risks

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
10.1	Incorrect cost estimates for planning approval	Estimated cost of receiving detailed planning permission is incorrect including the cost of satisfying unforeseen planning requirements		✓	
10.2	Delayed planning approval	A delay in receiving planning permission may have broader cost implications for the project as well as the loss of potential savings			✓
10.3	Land sale receipts	The estimated receipts from the sale of surplus land may be incorrect <i>The Trust retains responsibility for the land sale and the level of receipts</i>	N/A	N/A	N/A
10.4	Lifecycle risk	Sufficiency of funds to maintain infrastructure hospital in condition B.	N/A	✓	

No	Risk Heading	Definition	Allocation		
			Public Sector	Private Sector	Shared
10.5	<i>Design life of key components</i>	<i>Longevity of key components to be specified</i>		✓	
10.6	<i>Securing 93% capital funding</i>	<i>Trust to secure capital. Assurance mechanism to be agreed with DH and Treasury</i>	✓		
10.7	<i>Cost time control for minor new works</i>	<i>Mechanism to cap costs/set rates/ensure certainty on profit margin.</i>	N/A	✓	
10.8	<i>Performance Monitoring</i>	<i>Joint arrangements proposed to ensure effective performance and payment arrangements</i>		✓	
10.10	<i>Performance regime to be linked to Trust's own contractual performance regime set by Commissioners</i>		N/A	✓	
10.11	<i>Milestone payment arrangements</i>	<i>Fee EP and PFI milestone payments to be 'signed off' by independent tester. Last payment to be made during operational term when technology and energy efficiency proven.</i>	✓	✓	✓