

Report to:	CABINET
Report of:	Strategic Director for People
Date of Decision:	15th November 2016
SUBJECT:	SCHOOLS PRIVATE FINANCE INITIATIVE & BUILDING SCHOOLS FOR THE FUTURE SAVINGS REVIEW
Key Decision: Yes	Relevant Forward Plan Ref: 002655/2016
Relevant Cabinet Member(s) or Relevant Executive Member	Councillor Brigid Jones – Cabinet Member for Children, Families and Schools Councillor Majid Mahmood – Cabinet Member for Value for Money and Efficiency
Relevant O&S Chairman:	Cllr Susan Barnett, Schools , Children & Families Cllr Mohammed Aikhlaq – Corporate Resources and Governance
Wards affected:	All

1. Purpose of report:
<p>1.1 To advise members on the outcomes of recent Soft Services benchmarking exercises concluded on 3 of the Council's 4 Private Finance Initiative (PFI) and Building Schools for the Future (BSF) Facility Management (FM) contracts and the impact the results will have on the annual Unitary and FM Charges payable by the Council with effect from each contract review date. Soft Services cover caretaking, cleaning, grounds maintenance and security provision at the schools/academies included in the above contractual arrangements.</p> <p>1.2 To seek authority to vary aspects of the contractual and commercial documentation in place with Birmingham Lend Lease Partnership (BLLP) formally known as the Local Education Partnership (LEP), Transform Schools and Birmingham Schools Partnership Limited (BSPL) in order to continue to realise savings from PFI and BSF contracts.</p>

2. Decision(s) recommended:
<p>That Cabinet:-</p> <p>2.1 Notes the outcomes of Soft Services benchmarking exercises undertaken on the Council's second school's PFI contract (PPP2) with Transform Schools and the entire BSF programme, which reached financial close between 2009 and 2012. The latter contracts having been negotiated agreed and concluded with BLLP.</p> <p>2.2 Authorises the Strategic Director - Finance and Legal to accept the outcomes of the respective benchmarking exercises and instruct the necessary financial adjustments to bring into effect all associated savings.</p> <p>2.3 Authorises the Strategic Director - Finance and Legal, in consultation with the Strategic Director for People, to progress and agree further initiatives which give rise to net savings to the Council, thereby further reducing the current affordability gap.</p> <p>2.4 Authorises the Acting City Solicitor to execute and complete all necessary documents to give effect to the above arrangements.</p>

Lead Contact Officer(s):	Emma Leaman Assistant Director (Education & Skills Infrastructure) Mike Jones Head of Contracts Management (Education and Infrastructure)
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3. Consultation

3.1 Internal

The Leader has been consulted and is in agreement that the proposals go forward for an executive decision. Corporate Procurement Services, the Strategic Director - Finance and Legal have also been consulted and any outcomes have been noted in the report. Officers from City Finance and Legal Services have been involved in the preparation of this report.

3.2 External

PFI and BSF schools and academies (Appendix 1), BLLP, Amber Investments (on behalf of BSFi¹ LLP), Lend Lease and ENGIE Buildings Limited have all been consulted on all relevant matters and are supportive of the proposals.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

The proposals contribute towards the City Council's Business Plan and Budget 2016+ which sets out the annual budget and long term financial strategy of the City Council and plans for assets, capital investment and other resource issues to deliver the Council's priorities.

4.2 Financial Implications

The outcomes of the benchmarking exercises have mitigated a potential increase of £1m per annum on the BSF programme and secured annual cost reductions to the PPP2 unitary charge of £545k, which will contribute to achieving the savings target of £700k which is included in the City Council's Business Plan and Budget 2016+. The savings generated will be in place for the next 5 years at least, up until the next benchmarking interval in 2020/21. Total savings from the exercise are therefore £2.725m over a 5 year period.

Key to achieving a beneficial position for the Council was the ability of officers and its external technical support to challenge the rationale of early iterations of reports submitted by FM providers. This was done by firstly defining the scope of information to be provided and then, by undertaking a separate in-house analysis of costs by obtaining comparable data from the wider market.

4.3 Legal Implications

Sections 13, 14 & 16 of the Education Act 1996 which provides the powers under which PFI and the BSF Programme were established. The proposals will assist the Council to meet its statutory obligation to make arrangements and secure continuous improvement in the delivery of its functions (Best Value) under S.3 Local Government Act 1999.

4.4 Public Sector Equality Duty

An Initial Equality Analysis was undertaken in June 2014 (EA000233) and the outcome indicated that a Full Equality Analysis was not required.

¹ BSFi is the financial arm of the former Partnerships for Schools; the body set up to support the delivery of BSF on behalf of Central Government.

5. Relevant background/chronology of key events:

- 5.1 The City Council has 4 PFI/BSF packages servicing 36 schools/academies at an annual revenue cost of circa £36.7m. The PFI and BSF arrangements have supported £456.8m of capital investment in Birmingham schools and the long-term contracts in place which extend up to 30 years are envisaged to cost the Council in the region of £959m revenue in total over the respective contract terms. For a protracted period of time the City Council has faced a considerable revenue “affordability gap” on its 4 PFI and BSF FM Contracts.
- 5.2 The total annual revenue charge levied on the Council is made up of the PFI unitary charge (UC) and the FM service charge (BSF). The Government calculated PFI special grant allocation in support of the projects (derived from a PFI credit calculation), together with the schools’ share contribution provides some of the available funds to contribute towards payment of the UC and FM service charge.
- 5.3 The UC relating to all 4 PFI contracts repays the contractors original bank debt and meets the cost of all operational services to the respective buildings i.e. lifecycle, planned preventative maintenance, caretaking, cleaning and grounds maintenance etc. Where schools/academies are part of an FM contract (non-PFI) they receive similar services to PFI but only Broadway Academy benefits from a full lifecycle arrangement. The latter arrangement however is to end and was subject to a report to Cabinet in September 2016.
- 5.4 All amounts payable to the company managing the contract (Special Purpose Vehicle) (SPV) and the FM Provider are part indexed annually and elements of the contract, notably Soft Services i.e. caretaking, cleaning, grounds maintenance and security are subject to bench-marking / market testing arrangements every 5 years throughout the contract term. The benchmarking exercise offers up an opportunity to test the comparative costs of the current service provision against the wider market to ensure continued value for money. Whilst benchmarking guidance suggests that the process could include a re-scoping of services there have not been any changes to the services being delivered at schools and academies as part of this process. Re-scoping however does remain an option and cannot be ruled out into the future as increasing costs continue to place additional pressures on the Council’s revenue budget.
- 5.5 In light of the nationally recognised financial pressures associated with PFI arrangements, in January 2015 the Council agreed to support a “pilot study” being undertaken by Local Partnerships. The study sought to explore the potential for savings from PFI contracts and had the buy-in of HM Treasury, DfE, EFA and the Local Government Association.
- 5.6 Following the conclusion of the study a report was produced in April 2015. Council officers have continued to work to implement the identified initiatives and further provide a far more robust challenge to PFI Providers. That challenge has extended to overseeing, critically reviewing and validating benchmarking exercises on 3 of the 4 Council contracts, the outcomes of which will influence charges being applied from April and September 2016.

5.7 The benchmarking exercises were conducted by specialist benchmarking advisers appointed by the current FM Provider and as such it was absolutely essential that the information being provided was both transparent and robust. In order to both aid the exercise and ensure consistency with the wider PFI Sector, Council officers influenced the level of detail being provided and by undertaking a separate in-house exercise have subsequently negotiated a final position that compares favourably with other market comparators for the provision of caretaking, cleaning, grounds maintenance and security services. If Best Value is to be maintained it will become increasingly essential to invest the same oversight at future benchmarking intervals.

6. Evaluation of alternative option(s):

6.1 The benchmarking of Soft Services is a contractual provision. Once complete the exercise impacts on the ongoing UC and FM service charges payable by the Council to the PFI and FM Companies. Non acceptance of the benchmarking offer achieved after negotiation could lead to a market test scenario, however given that rates are in accordance with the wider market this option has not been pursued. A market test could have resulted in a higher cost to the Council and acceptance of the benchmarked offer represents a favourable commercial position for the Council and avoids any potential risk of UC uplift.

7. Reasons for Decision(s):

7.1 To secure a reduction in the current contractual charges which will contribute to achieving the savings target of £700k included in the Council's Business Plan and Budget 2016+.

Signatures

Date

Cabinet Member for Children,
Families & Schools
Councillor Brigid Jones

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Cabinet Member, Value for
Money & Efficiency
Councillor Majid Mahmood

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Strategic Director for People
Directorate
Peter Hay

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List of Background Documents used to compile this Report:

Report to Cabinet 07/11/11 - BSF and Academies Programme Update 2011 / 2012 and Local Education Partnership (BLLP) Delivery Arrangements.

Report to Cabinet 20/09/16 - Broadway Academy Building Schools for the Future Savings Review

List of Appendices accompanying this Report (if any):

1. Birmingham PFI and BSF Schools and Academies

Report Version	7	Dated	01.11.2016
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