



European PPP Expertise Centre • European PPP Expertise Centre

# United Kingdom - England

## PPP Units and Related Institutional Framework





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June 2012

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## Table of Contents

1.	Introduction - United Kingdom .....	5
2.	Introduction - England .....	7
2.1.	Background.....	7
2.2.	Early PPP History .....	8
2.3.	Changes in 1997 .....	8
2.4.	Current Situation.....	9
3.	PPP Market.....	10
3.1.	PPP Activity by Size and Value.....	10
3.2.	PPP Activity by Sector.....	10
3.3.	PPP Pipeline.....	11
4.	Central PPP Unit.....	13
4.1.	History .....	13
4.2.	Location .....	14
4.3.	Governance and Accountability.....	14
4.4.	Senior Management and Staffing.....	15
4.5.	Structure .....	15
4.6.	Tasks .....	15
4.7.	Coverage .....	16
4.8.	Role of the Central PPP Unit in the Project Cycle.....	17
4.9.	Staffing .....	17
4.10.	Funding.....	17
5.	Key entities in the PPP framework .....	18
5.1.	Line Ministries.....	18
5.2.	Local Private Finance Units.....	19
5.3.	Local Partnerships.....	20
5.4.	Efficiency and Reform Group and Major Projects Authority – Cabinet Office.....	21
5.5.	National Audit Office.....	21
5.6.	Office of National Statistics .....	22
5.7.	Office of Budget Responsibility .....	22
6.	Legal and Policy Framework .....	23
6.1.	PPP-Specific Legislation .....	23
6.2.	Procurement Law .....	23
6.3.	Contractual Forms .....	24
6.4.	Financial Structure .....	24
7.	Overview of the Project Cycle .....	26
7.1.	Background .....	26
7.2.	Project Cycle .....	27
	ANNEX 1 - PPP Units Overview.....	33
	ANNEX 2 - Assurance and Approvals Process for Major Projects.....	35
	ANNEX 3 - Partnerships UK.....	36

ANNEX 4 - Funding and Approvals pre-2010 ..... 38

ANNEX 5 - Macroeconomic Indicators ..... 40

## 1. Introduction - United Kingdom

The United Kingdom has historically been one of the largest markets for PPPs worldwide. However, within the United Kingdom, PPPs have been used in very different ways and at different levels of intensity.

The first PPP projects were started in the early 1990s and, despite changes of government, there was a steady increase in their use throughout that decade, with most activity being branded under the Private Finance Initiative (PFI). In addition to PFI, the UK also makes significant use of other types of PPP, such as joint ventures, concessions and information and communication technology (ICT) PPPs. Consequently, the number and value of closed PPP projects remains high by international standards.

Post-1997 much of government policy was devolved, to varying degrees, to Scotland, Wales and Northern Ireland. Therefore, although HM Treasury (which, for comparison purposes, in fact serves as both a ministry of finance and ministry of the economy) retains overall control over tax and spending levels, the choice over how most of the money is spent within the devolved areas, and the procurement route chosen, is a matter for the relevant devolved administrations. This has led to significant differences in approach within the UK and also in how PPPs are used.

The EPEC “PPP Unit” reports for the UK are therefore structured to reflect these key differences:<sup>1</sup>

- for **England** and areas of spending that are not devolved (defence and some aspects of energy policy), the report illustrates the role of the PPP unit within Infrastructure UK (IUK), which is part of HM Treasury, in coordinating PPP policy for those areas for which it is responsible and its relationship with other key entities during the project cycle. It also sets out the history of the PFI prior to devolution;
- for **Scotland**, the report focuses on the work of the Scottish Futures Trust and its relationship with other key entities within Scotland and, where appropriate, the relationship with IUK and HM Treasury; and
- for **Northern Ireland**, the report focuses on the work of the Strategic Investment Board and its relationship with other key entities within Northern Ireland and, where appropriate, the relationship with IUK and HM Treasury.

It should be noted that in all areas of the UK there has been significant devolution to local/municipal level. This means that local authorities play a key role in the procurement of PPPs.

This report deals with England and has the following structure:

- Section 2 provides a brief history of PPPs conducted in England to date;
- Section 3 describes the role and structure of the central PPP unit;
- Section 4 presents the role of other key public sector entities in PPPs;

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<sup>1</sup> For **Wales**, a report on the work of the Welsh Assembly Government and its relationship with other key entities within Wales and, where appropriate, the relationship with IUK and HM Treasury, has not been produced.

- Section 5 sets out the policy and legal framework for PPPs; and
- Section 6 sets out examples of the project cycle in England and the role of the central PPP unit.

The report contains five annexes:

- Annex 1 provides an overview of the role and responsibilities of the central PPP unit in a template format;
- Annex 2 sets out an example of the project cycle in England;
- Annex 3 sets out the history and role of Partnerships UK prior to the founding of IUK;
- Annex 4 outlines the funding and approvals regime that existed prior to 2010; and
- Annex 5 contains an overview of key macroeconomic indicators for the UK.

### Glossary of Key Terms for the UK PPP Unit Reports

**Private Finance Initiative (PFI)** – PFI is the most common type of PPP used in the UK since the early 1990s. These are long-term contracts (typically 20-35 years) where the private sector constructs the project's assets (for example a building) and raises the required funding, usually on a project finance basis (i.e. where contractual payments from the public sector represent the primary security for funders).

**Revenue Expenditure (also called Resource) and Capital Expenditure** – government spending in the UK is often divided into revenue and capital as an accounting and budgeting tool. Revenue relates to spending on items that are consumed in the process of providing public services i.e. recurring spending, whilst capital relates to expenditure on fixed capital assets, capital grants and the acquisition of certain financial assets.

**Standardisation of PFI Contract (SOPC)** – SOPC is the standard contract on which most PFI contracts are based. SOPC is used, to varying degrees, as the basis for PPP contracts across the UK.

**Green Book** – This is the standard guidance document for evaluating projects issued by HM Treasury.

**OGC (Office of Government Commerce) Gateway Review** – a standardised review process based around the Green Book.

**SOC/OBC/FBC (Strategic Outline Case, Outline Business Case, Final Business Case)** – Stages of business case development largely standardised across the UK with some local/departmental variations. Business cases present the different options available and eventually the characteristics of a chosen project. This information is used to justify a project going ahead and consequently the successful presentation of these business cases is often linked to the approval process.

## 2. Introduction - England

### 2.1. Background

The UK has been at the forefront of the PPP market since the concept was introduced in the 1990s. In many respects the UK is one of the most mature markets for PPPs worldwide, having proactively promoted a PPP programme and refined its effectiveness through guidance and experience to the situation we have today, where PPPs have effectively been mainstreamed within the wider infrastructure programme.

**Figure 1 - History of PPPs in England**

1989	Government begins to actively promote private finance in public services
1990	First PPP-style project reaches financial close
1992	Private Finance Initiative (PFI) launched First and only toll-road concession reaches financial close
1993	Private Finance Panel established
1995	List of priority projects produced and procurement begins
1997	New government elected: continues and increases use of PFI
2009	HM Treasury establishes an Infrastructure Finance Unit (TIFU) to support PFI's impacted by the credit crisis
2010	New government elected: continues to manage existing pipeline
2011	Government announces its intention to reform PFI

## 2.2. Early PPP History<sup>2</sup>

Prior to 1989, UK governments were constrained in their ability to use private capital in the financing of public sector projects. This was set out in formal rules that set out strict conditions under which private finance could be used. In 1989, these rules were withdrawn and the private sector was encouraged to bring forward schemes for privately financed roads.

In 1992, the then Chancellor announced that HM Treasury was examining ways to increase the scope for private financing of capital projects in general. This would be done through joint ventures and leasing agreements with the private sector where risk was clearly transferred and was branded as the Private Finance Initiative (PFI).

To provide greater impetus, in 1993 the Private Finance Panel (PFP), staffed by senior personnel (mainly private sector), was created, whose role was to:

- encourage greater participation in PFI by both the public and private sector;
- stimulate new ideas;
- identify new areas of public sector activity where the private sector could get involved; and
- seek solutions to problems that might impede progress.

The PFP was backed by an executive (again staffed mainly from the private sector) which supported and encouraged individual projects. In addition, there was a new rule by which HM Treasury would not approve capital projects unless private finance options had been explored (the universal test). It was clearly stated that no target rates of return or profit caps existed or would be introduced. In 1995, further impetus was added with the announcement of a list of “priority” projects, which led to a pipeline of projects going into procurement.

## 2.3. Changes in 1997

With the change of government in 1997, a review of the PFI process (the first “Bates review”) was carried out to increase its effectiveness.

Although universal testing for private finance potential had come to an end, the review made 27 recommendations to the government to streamline and improve the delivery of PFI projects. One consequence was the creation of a PFI Taskforce inside HM Treasury, with some expertise drawn from the public and private sector, to help foster PFI expertise in government. A second review of PFI (the second “Bates review”) was published in 1999 to keep up the momentum for PFI. Among other things the report recommended that a permanent organisation, Partnerships UK (PUK), be formed to replace the PFI Taskforce. These factors, along with the pipeline already put in place by the previous Government, delivered a steady increase in the use of PFI in the UK. This was reinforced with a series of policy documents from HM Treasury – such as “*PFI: meeting the investment challenge*”, “*PFI: strengthening long-term partnerships*” and “*Infrastructure procurement: delivering long-term value*”

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<sup>2</sup> [www.parliament.uk/documents/commons/lib/research/rp2001/rp01-117.pdf](http://www.parliament.uk/documents/commons/lib/research/rp2001/rp01-117.pdf)

– which aimed to encourage the development of the market and provide information on key PFI issues.<sup>3</sup>

The PFI market grew significantly during the post-1997 period (see Section 3). To support this level of activity a considerable amount of guidance and experience was gathered and contracts were standardised to reinforce the Government's approach. This support was coordinated by PUK and HM Treasury.

The UK recognised some time ago that the PFI structure was not suitable for all circumstances in which the public sector wished to engage with the private sector in providing public services. Other structures for PPPs have therefore developed across the UK alongside PFI. This has occurred in a wide range of policy areas such as information and communications technology,<sup>4</sup> schools (through the "Building Schools for the Future" programme<sup>5</sup>), waste, health (through Local Improvement Finance Trusts, or LIFT<sup>6</sup>) and housing/regeneration at local authority level (through joint ventures, often called "Local Asset-Backed Vehicles"<sup>7</sup>). Power projects throughout the UK (of all types, including renewable energy) and water projects in England are also not included in the PFI programme, as the UK had privatised most of its utilities in the late 1980s. The public sector's role in these sectors is limited to issues such as regulation and licensing. All in all this means that PPP activity as a whole in the UK tends to be understated, as data is only collected for the narrower PFI definition of PPPs.

## 2.4. Current Situation

Today, over 550 PFI projects worth over GBP 46 billion (EUR 56 billion<sup>8</sup>) have been signed in England and successful operational projects operate in a wide range of sectors. The Government elected in 2010 has continued to sign PFI projects that were already in procurement where they have continued to represent value for money. However, the pipeline for PFI in its current form is not as large as it has been in the past. The Government is currently undertaking a review of how PFI can be reformed in order to create a new model for delivering public assets and services that takes advantage of private sector expertise, but at a lower cost to the taxpayer.<sup>9</sup> Indeed, one focus of the current Government has been on making savings in its operational PFI contracts.

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<sup>3</sup> Archived at:  
[http://webarchive.nationalarchives.gov.uk/20100909025916/webarchive.nationalarchives.gov.uk/+http://www.hm-treasury.gov.uk/media/5/c/bud08\\_procurement\\_533.pdf](http://webarchive.nationalarchives.gov.uk/20100909025916/webarchive.nationalarchives.gov.uk/+http://www.hm-treasury.gov.uk/media/5/c/bud08_procurement_533.pdf)

<sup>4</sup> [www.affinix.com/lppp/](http://www.affinix.com/lppp/) (registration required).

<sup>5</sup> Since replaced by the "Priority Schools Building Programme".

<sup>6</sup> [http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Managingyourorganisation/NHS\\_procurement/Publicprivatepartnership/NHSLIFT/index.htm](http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Managingyourorganisation/NHS_procurement/Publicprivatepartnership/NHSLIFT/index.htm)

<sup>7</sup> [http://hm-treasury.gov.uk/d/joint\\_venture\\_guidance.pdf](http://hm-treasury.gov.uk/d/joint_venture_guidance.pdf)

<sup>8</sup> As of April 2012.

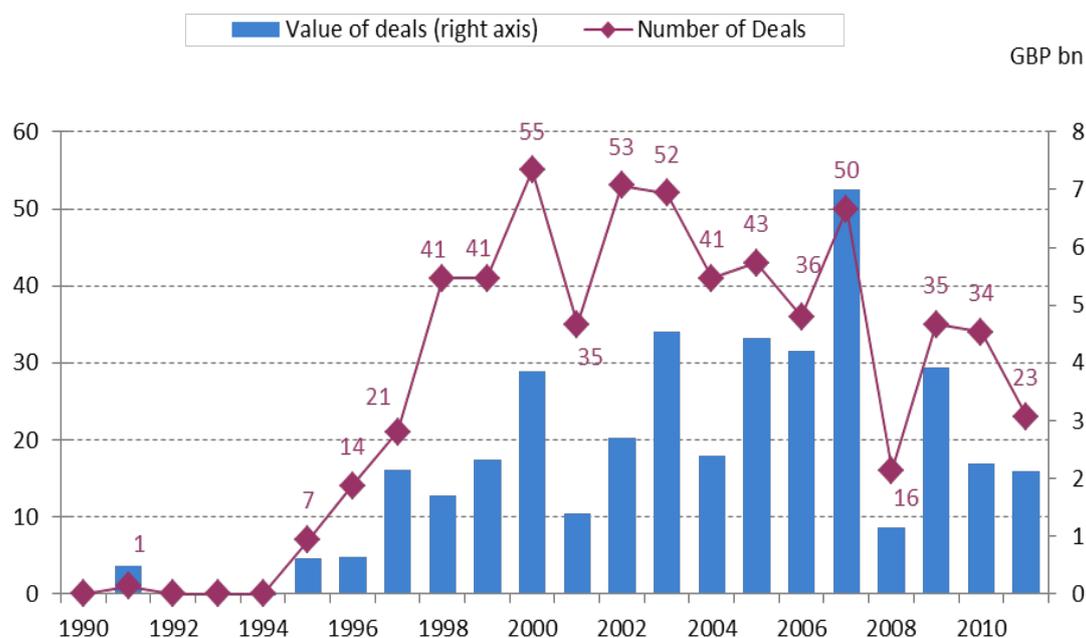
<sup>9</sup> [www.hm-treasury.gov.uk/iuk\\_pfi\\_reform\\_call\\_for\\_evidence.htm](http://www.hm-treasury.gov.uk/iuk_pfi_reform_call_for_evidence.htm)

### 3. PPP Market

#### 3.1. PPP Activity by Size and Value

Data on signed PFI projects and the current pipeline is readily available and annually updated by HM Treasury, as illustrated in Figure 2.<sup>10</sup> Whilst there is considerable data on PFI activity, data on PPPs as a whole is not collected on a systematic basis (e.g. some local/regional level PPPs and other sectors that use other types of PPP structure, such as information and communications technology and energy). However, the PFI market (the definition of what constitutes a PFI is detailed in Box 2) was small in the early 1990s. It increased significantly toward the end of the 1990s and peaked, in terms of capital value, in 2007. The current Government is now managing a decreasing pipeline for PFIs.

**Figure 2 - Number and value of PFI projects in England, by financial year**

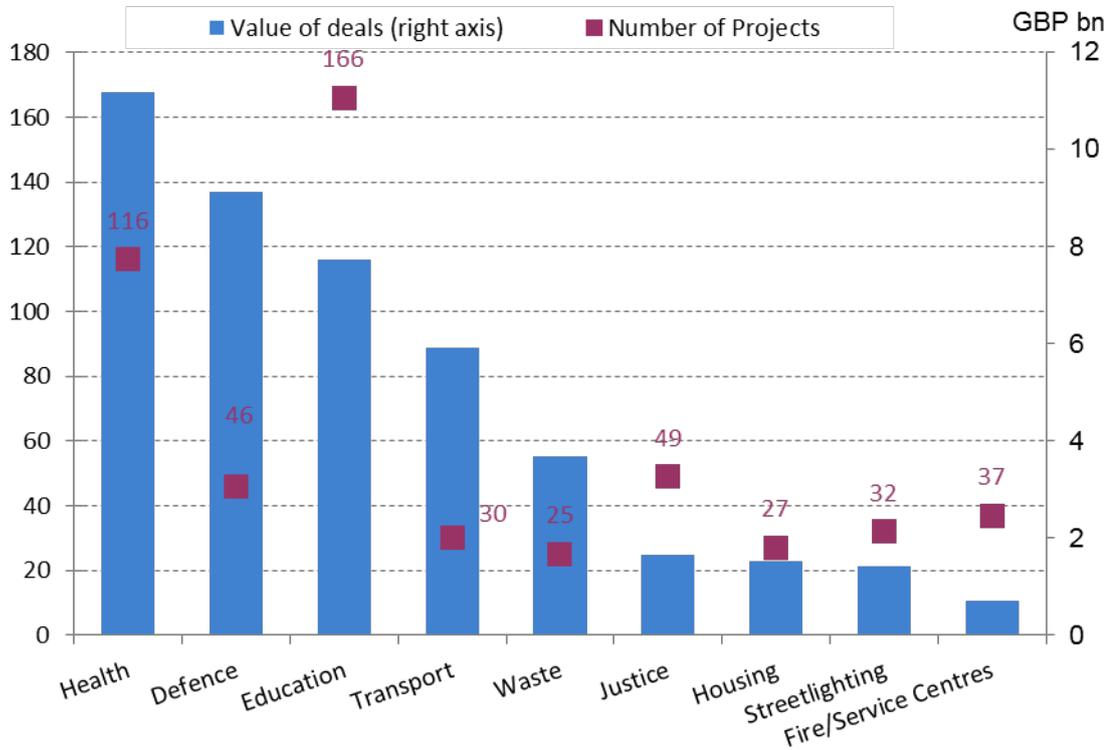


#### 3.2. PPP Activity by Sector

The majority of PFI projects in the UK have been in the health, defence (which, it should be noted, is not devolved), education and transport sectors, with defence and transport projects being typified by their large contract size (see Figure 3). However, PFI has also been used for street lighting, waste management, prisons, libraries and fire stations.

<sup>10</sup> Source: HM Treasury, [www.hm-treasury.gov.uk/ppp\\_pfi\\_stats.htm](http://www.hm-treasury.gov.uk/ppp_pfi_stats.htm) (March 2012). Includes only PFI contracts and some non-devolved spending (e.g. defence).

**Figure 3 - England PFI projects, by sector**



### 3.3. PPP Pipeline

There are currently 36 PFI projects in procurement in England with a combined capital value of around GBP 4.7 billion. All of these projects are expected to reach financial close within the next three years.

### **Box 1 - What is a PFI?**

HM Treasury defines PFI projects as PPPs where the private sector constructs the project's assets (for example a building) and raises the required funding, usually on a project finance basis (i.e. where contractual payments represent the primary security for funders). PFIs have been procured by a range of procuring authorities, including central government departments and their executive agencies, local government and hospital trusts.

Central to PFI procurement is the use of private capital. Furthermore, these are long-term contracts (typically 20-35 years) where government departments and authorised agencies permit the delivery of infrastructure by private companies on behalf of the public sector. By contracting in this way, the aim is to ensure that whole-life costs associated with such assets are minimised and required associated services are provided competitively. Wherever possible, contracts specify the outputs rather than the inputs associated with a particular project.

Under PFI, a private sector firm creates and/or maintains the asset at its own cost. The public sector counterpart agrees to cover these costs over time, including the cost of capital, which is typically higher than if the public sector had funded the project itself. As long as the higher cost of capital is offset by greater efficiencies elsewhere, such projects still offer value for money for the public sector.

The use of the PFI model has attracted significant private sector involvement. Key features have been relatively highly geared projects (80-90% funded by bank debt) and project revenues, mostly in the form of availability payments from the procuring authority, that start only when a facility is complete. Combined, these features provide incentives for timely delivery to the authority's output specifications and within budget.

## 4. Central PPP Unit

### 4.1. History

Infrastructure UK (IUK) was officially set up in 2009 as a unit within HM Treasury, with Partnerships UK (PUK) being formally absorbed within it in 2010 (Annex 3 contains more detail on PUK, which was itself a PPP between HM Treasury and the private sector to deliver support to procuring authorities on PPPs). IUK's current remit is to focus on the UK's long-term infrastructure priorities and facilitate private sector investment over the longer term, whether it is procured through PPPs or not. Although this represents a much smaller part of its work, IUK still plays a central role in government in managing policy issues that arise in connection with PPPs, disseminating best practice and enforcing guidance (e.g. the standard PFI contracts). The evolution of the main institutional structures and the key milestones for PPPs are set out in Figure 4.

**Figure 4 - Evolving institutional structures and key milestones<sup>11</sup>**

1993	Private Finance Panel created
1997	Treasury Taskforce set up as the focal point for all PFI activity across government, with both policy and project arms
1999	First standard PFI contract launched
2000	Partnerships UK launched
2001	PUK established as a PPP, raising capital from the private sector Partnerships for Health launched
2003	"PFI: meeting the investment challenge" published
2004	Projects database launched Partnerships for Schools launched, the delivery vehicle for Building Schools for the Future

<sup>11</sup> <http://www.partnershipsuk.org.uk/index.aspx>

2006	Operational Taskforce established to increase support for clients across the 600 projects up and running Building Schools for the Future investment fund set up “PFI: strengthening long-term partnerships” published
2008	“Infrastructure procurement: delivering long-term value” published
2009	PUK joins with 4Ps to create a new joint venture – Local Partnerships to support local PPPs New focus on operational projects and international business
2010	Process begins to wind down PUK and integrate operations into HM Treasury
2011	Infrastructure UK fully operational within HM Treasury as the successor to PUK

## 4.2. Location

IUK has been set up as a separate unit based within HM Treasury, providing advice to the Commercial Secretary to HM Treasury, who leads on infrastructure issues and who in turn reports to the Chancellor of the Exchequer. It is 100% owned by the public sector.

As set out in Figure 5, IUK is part of the Enterprise and Growth Unit (EGU) within HM Treasury, which is responsible for growth-related policy and expenditure. IUK has responsibility for infrastructure issues within EGU. Besides IUK, EGU comprises a range of teams (known as “spending teams”) with responsibility for policy in areas such as transport, energy and the environment, as well as a team which leads on infrastructure strategy.

## 4.3. Governance and Accountability

IUK itself is led by a Chief Executive appointed by HM Treasury. The Chief Executive is supported by a Non-Executive Chair, who presides over IUK’s Advisory Council. The Advisory Council is a group made up of Permanent Secretaries from the key infrastructure departments as well as senior representatives from the private sector.

The Chief Executive reports to the Permanent Secretary of HM Treasury, who is officially the “Accounting Officer” for IUK and is accountable to Parliament for the day-to-day activities of IUK. At a political level, one of the Treasury Ministers, the Commercial Secretary, and the Chancellor of the Exchequer are accountable to Parliament and its sub-committees. These include HM Treasury’s own Select Committee (which scrutinises the work of HM Treasury as an organisation) and the Public Accounts Committee (which looks at public spending as a whole and whose work is supported by the National Audit Office).

#### 4.4. Senior Management and Staffing

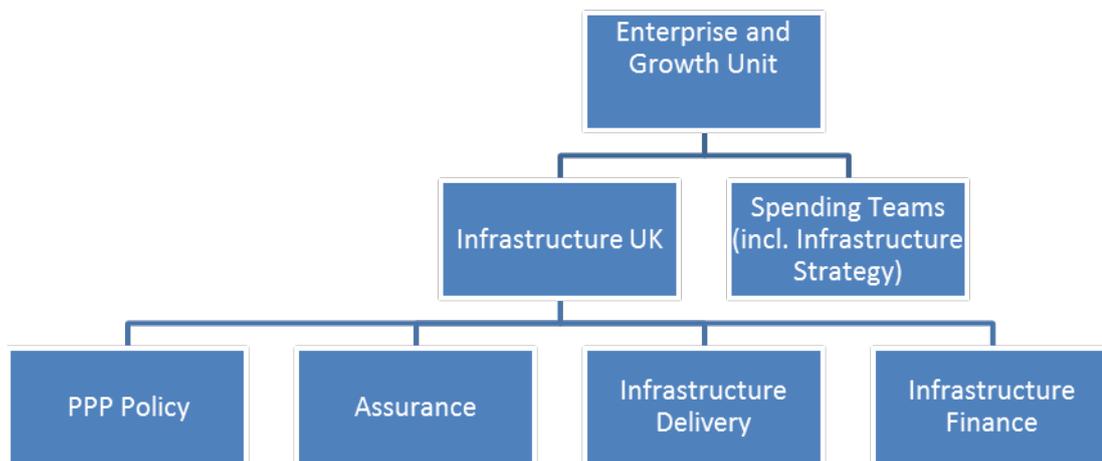
The Chief Executive is supported by a senior management team comprised of senior civil servants and commercial experts.

#### 4.5. Structure

IUK is split into four teams, only parts of which have day-to-day contact with PPP issues:

- PPP Policy;
- Assurance;
- Infrastructure Delivery; and
- Infrastructure Financing.

**Figure 5 - Organisational structure for IUK within HM Treasury**



#### 4.6. Tasks

##### PPP Policy

The PPP Policy team oversees the strategic direction of PPP policy and provides advice to Ministers in this context and on specific PFI and PPP policy issues. As part of this remit, the team is leading work on the reform of PFI. The team is also responsible for drafting and publishing key policy documents and guidance on PFI and for collecting and publishing data on PFI projects.

## Assurance

The Assurance team leads IUK's work in ensuring that infrastructure projects across a range of sectors have the appropriate level of commercial assurance (i.e. that deals are well structured commercially). The team also works closely with the PPP Policy team on PPP/PFI matters and is responsible for the assurance of PFI contracts, such as managing any requests for derogations sought from the standard contracts established for PFI (see Section 6).

The international unit in IUK, within the Assurance team, shares UK experience on PPP policy and programme delivery with overseas governments and helps to ensure that IUK is in line with international best practice on infrastructure long-term planning, prioritisation, financing and delivery.

The Assurance team also incorporates an "operational savings programme" team, which focuses on the coordination and delivery of activities to support the identification and realisation of savings from the operational elements of PFI contracts across the public sector. This work has a strong emphasis on serviced accommodation-based projects. However, it covers all areas and sectors where there is the potential to deliver cost reductions from long-term service requirements and provision. The team does not look at asset ownership or the financing of the deals themselves.

## Infrastructure Delivery

The Infrastructure Delivery team is charged with supporting the planning, prioritisation, enabling and effective delivery of infrastructure across sectors in the UK, whether involving PPPs or not. It has also led a major study on the relative costs of delivering UK infrastructure.<sup>12</sup>

## Infrastructure Finance

This area of IUK was originally established during the credit crisis to provide support for PFI projects which had struggled to reach financial close. It provided finance for the Manchester Waste project in 2009, enabling it to close, and its overall impact was widely acknowledged as a significant factor in reenergising the PPP market at the time. It no longer has the capability to lend to projects but now looks at sector-specific issues, not just in the PPP context.

## **4.7. Coverage**

As PFI policy, along with most public spending decisions, is devolved, IUK's remit is only for England. However, IUK endeavours to coordinate activities with the devolved administrations in areas that have not yet been devolved (e.g. energy).

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<sup>12</sup> [www.hm-treasury.gov.uk/iuk\\_cost\\_review\\_index.htm](http://www.hm-treasury.gov.uk/iuk_cost_review_index.htm)

#### **4.8. Role of the Central PPP Unit in the project cycle**

As the approvals process for projects is managed through HM Treasury, the Assurance team within IUK also provides commercial support to “spending teams”, who manage and lead the approval process on individual projects.

#### **4.9. Staffing**

For PPP issues IUK has around 10 full-time equivalents (FTEs) overall, with six FTEs in the PPP Policy team and the rest distributed across IUK. IUK itself has resources of around 45 professionals from a range of public and private sector backgrounds.

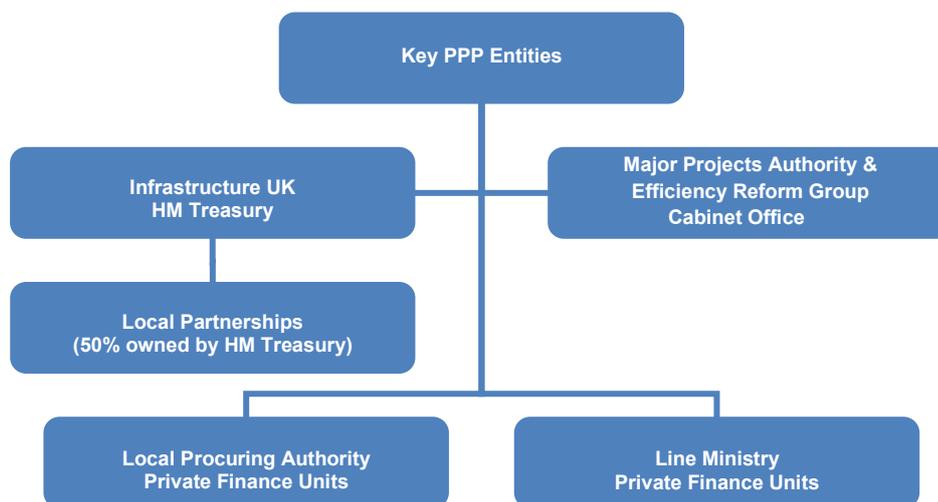
#### **4.10. Funding**

IUK is now funded from a centrally determined administration budget.

## 5. Key Entities in the PPP Framework

Institutional responsibilities for PPPs in England are shared between different bodies, reflecting the maturity of the market and the level of devolution that exists. The most significant of these entities are summarised in Figure 6.

**Figure 6 - Key entities in the PPP framework**



### 5.1. Line Ministries

At central government level, departments are given a great deal of responsibility for initiating, procuring, delivering and operating PPP projects. In larger departments there is often a private finance unit (PFU), which provides advice to the department on PPP/PFI often alongside other commercial, non-PFI-specific issues. The case study below sets out how the Department for Transport organises its PFU and tackles PPP issues.

### **Box 2 - Case study on the Department for Transport (DfT)**<sup>13</sup>

Within the DfT, each PFI programme and project is owned by a sponsoring division or agency, which defines its policy objectives and project requirements. Project development and procurement delivery is managed by the contracting authority (which could be one of the departmental agencies or a local authority).

The Department's Corporate Finance Team of around 15 members of staff (civil servants from public and private sector backgrounds) provides oversight on the implementation of overall PPP and PFI policy, coordinating the activity on PPP and PFI projects and other complex procurements. It works closely with each procuring authority, from project design through to the operational phase.

It coordinates its activity on PPP and PFI projects together with other complex procurements. This enables it to take a more holistic approach when sharing its commercial skills and expertise with policy team colleagues, helping them to consider the different procurement and financing options available.

## **5.2. Local Private Finance Units**

Local authorities are also given a great deal of responsibility for initiating, procuring, delivering and operating PPP projects at the local level. In areas where there is significant PPP activity, such as in major cities, local authorities have established local PFUs to coordinate expertise and transact projects, a case study for which is outlined below.

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<sup>13</sup> From [www.hm-treasury.gov.uk/d/ppp\\_managing\\_complex\\_capital\\_investment\\_programmes.pdf](http://www.hm-treasury.gov.uk/d/ppp_managing_complex_capital_investment_programmes.pdf)

### **Box 3 - Case study on the Leeds Private Finance Unit<sup>1</sup>**

The focus of the Public Private Partnerships Unit (PPPU) in Leeds is to take a strategic lead with regard to partnership opportunities with the private sector and to provide guidance and support to individual departments on projects they wish to promote. The PPPU advises on the appropriateness, or otherwise, of seeking third party capital for a project.

The role encompasses coordinating individual projects, considering cross-cutting opportunities, disseminating best practice, and seeking to ensure consistency of approach across projects. The PPPU is organised into three teams under a Chief Operating Officer, project and technical management, commercial management and a business team. In total it has around 70 members of staff dedicated to supporting PPP projects in the area.

The PPPU provides guidance and support throughout the life cycle of the project (from inception to service commencement). This involves providing advice on setting realistic timetables and budgets, together with guidance on key financial, legal, project management and technical issues involved in PFI/PPP projects such as:

- risk transfer;
- the payment mechanism;
- procurement through competitive dialogue; and
- construction.

The PPPU also ensures that other important decision-making bodies in the Authority are advised of progress on a regular basis.

Projects include schools, waste, leisure centres, streetlighting and housing. Leeds regularly achieves commercial and financial close faster than the national average and has been identified as a model of best practice in delivery by the National Audit Office.

### **5.3. Local Partnerships<sup>14</sup>**

Local Partnerships (LP) is a 50-50 joint venture between the Local Government Association and HM Treasury. LP provides a single source of commercial expertise and know-how for all local public bodies in England, including local authorities, health and social care agencies, police and fire authorities. Previously, LP was known as the 4Ps (the Public Private Partnerships Programme) and was wholly-owned by the Local Government Association. In 2009, it was absorbed into a joint venture with Partnerships UK. The latter's stake, upon its dissolution into HM Treasury as IUK, was devolved to HM Treasury.

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<sup>14</sup> [www.localpartnerships.org.uk/](http://www.localpartnerships.org.uk/)

LP's mission is to work at a local municipal level and 'shoulder-to-shoulder' with public bodies to develop and deliver innovative solutions to new and emerging problems. This is done by working alongside local public bodies to improve their sourcing and commissioning skills, programme and project management capabilities, procurement, negotiating and contract management capacity, and their delivery, funding and partnering abilities. It now has around 30 people from a range of public and private sector backgrounds.

Their key services, in particular in schools, waste and housing, include:

- project advisory and transactor support;
- Gateway Reviews (see Box 4);
- training and skills development; and
- publications, guidance and know-how.

LP packages these core service programmes so that they provide intensive support to programmes in priority sectors, such as "The Priority Schools Building Programme" (the successor to the previous schools building programme "Building Schools for the Future") and the Department for Environment, Food and Rural Affairs' Waste Improvement Programme.

In the last four years, LP has conducted 536 project reviews, 1 059 training events and in the last year has worked with 135 local authorities (about a third of the total number) in England.

#### **5.4. Efficiency and Reform Group and Major Projects Authority – Cabinet Office**<sup>15</sup>

The Efficiency and Reform Group (ERG) was formed in 2010 and performs a number of roles of relevance to PFI. In particular, it incorporates what was previously the Office of Government Commerce, which had responsibility for procurement policy overall. It leads on issues such as EU procurement directives and broad guidance on effective procurement policy, in particular the Gateway Review process, which most government projects follow (see Box 4).

The ERG also contains the Major Projects Authority (MPA), which is a new form of collaboration between the Cabinet Office, HM Treasury and departments. It looks after the government's major projects portfolio in collaboration with departments, with regular reporting to Ministers, and has the aim of significantly improving the delivery success rate of major projects across central government.

#### **5.5. National Audit Office**<sup>16</sup>

The National Audit Office, which is responsible for scrutinising public spending on behalf of Parliament, has a specific private finance division that has produced over 80 reports (since 1997) assessing activities including PFIs and PPPs, privatisations

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<sup>15</sup> [www.cabinetoffice.gov.uk/unit/efficiency-and-reform-group](http://www.cabinetoffice.gov.uk/unit/efficiency-and-reform-group)

<sup>16</sup> [www.nao.org.uk/our\\_work\\_by\\_sector/private\\_finance1.aspx](http://www.nao.org.uk/our_work_by_sector/private_finance1.aspx)

and acquisitions. The reports cover individual deals and programmes and thematic issues such as financing and tendering.

### **5.6. Office of National Statistics**<sup>17</sup>

The main responsibilities of the Office for National Statistics are the collection, compilation, analysis and dissemination of a range of economic, social and demographic statistics relating to the United Kingdom.

It collects data on the balance sheet impact of PPP contracts in the UK and uses this data for compiling national accounts which feeds Eurostat calculations of public debt and the Office of Budget Responsibility's estimates of fiscal sustainability.

### **5.7. Office of Budget Responsibility**<sup>18</sup>

The Office of Budget Responsibility is an independent body which examines and reports on the sustainability of the public finances to Parliament. Among its other responsibilities it sets out long-term projections for different categories of spending and revenue, analyses the public sector's balance sheet and reports on different indicators of long-term sustainability. Its 2011 "Fiscal Sustainability Report" contained an estimate of capital liabilities arising from PFI contracts. This estimate was drawn from an assessment of PFI liabilities contained within the unaudited "Whole of Government Accounts", which were published for the first time in July 2011.

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<sup>17</sup> [www.statistics.gov.uk/hub/index.html](http://www.statistics.gov.uk/hub/index.html)

<sup>18</sup> <http://budgetresponsibility.independent.gov.uk/> and <http://budgetresponsibility.independent.gov.uk/fiscal-sustainability-report/>

## **6. Legal and Policy Framework**

### **6.1. PPP-Specific Legislation**

The UK, as a whole, has a common law system, which means that legislation and case law influence all commercial transactions and the principles underpinning the allocation of risk. Under the common law system, interpretation of legislation (where its meaning is unclear) is also based on judicial precedent. This framework provides clarity, consistency and flexibility, which are important to investors.

Therefore, England does not have a specific law which applies to all PPPs – there is no “PPP law” as such. However, there is sufficient flexibility and certainty within the statutory and common law framework to recognise and permit PPPs.

Given the absence of a PPP-specific law, there is no general overarching provision in law which gives all public bodies the power to enter into PPP arrangements. Powers tend to be derived from a public body's constitutional documents or from specific legislation.

Local authorities are given the power to enter into contracts with private entities by the Local Government (Contracts) Act 1997. A local authority is permitted to enter into a contract with another person for the provision of assets or services, or both, for the purposes of, or in connection with, the discharge of the function by the local authority. For example, a local authority has the power to enter into a contract to both build a school and procure the non-educational services required.

Where necessary, the Government is prepared to use secondary regulations to ensure that PFI is not adversely affected by general changes in the law, as in the case, for example, of the recent “pay when certified” law, which attempted to ensure that subcontractors were paid promptly across the economy. The secondary regulations exempted PFI contracts, as it was argued that the existing PFI standard contracts were already designed to offer significant protection to subcontractors without recourse to legislation. To have done otherwise would have risked bankrupting a project-financed special purpose vehicle (SPV) and therefore undermined the PFI model. It should also be noted that through secondary regulations VAT can be recovered for long-term leases associated with the provision of government offices or other buildings, such as in PFI. Legislation was also used to establish Partnerships UK, the predecessor to Infrastructure UK (see Annex 3).

### **6.2. Procurement Law**

The UK has transposed the Public Sector Directive (2004/18/EC which applies to public works contracts, public supply contracts and public service contracts) and the Utilities Directive (2004/17/EC for entities operating in the water, energy, transport and postal services sectors) into national legislation through the Public Contracts Regulations (SI 2006/5) and the Utilities Contracts Regulations (SI 2006/6). Provided the project value is above specified thresholds, procurement must comply with these regulations.

PPP/PFI procurement procedures are regulated and standardised, ensuring that the key principles of fairness, transparency and competition are preserved. Procuring authorities are now generally familiar with the processes involved in the procurement of major infrastructure and they, and the bidders, usually have ready access to experienced advisers in the technical, legal and financial aspects of a particular project. Tender notices must be published in the Official Journal of the European Union (OJEU) and follow the standard form required by EU law. Procurement processes are structured with clear stages. All bidders are notified of the timetable and provided with the same information. Evaluation criteria must be published. The process for challenging any aspect of the tendering process is clearly defined. For example, a procuring authority is prevented from entering into the contract during the standstill period, which starts when it announces its intention to award the contract to the successful bidder.

The regulations specify four procurement procedures: the open procedure; the restricted procedure; the negotiated procedure; and the competitive dialogue procedure. The open procedure is not used for PFI projects in England and, until 2006, the negotiated procedure was used more widely. Since 2006, it has been government policy that PFIs should usually be procured under the competitive dialogue procedure.

### **6.3. Contractual Forms**

The PPP contracts used in PFI projects in England is based on the Standardisation of PFI Contract (SoPC) – a standard form contract developed by Partnerships UK and HM Treasury. The current version (version 4) was issued in March 2007 and provides standard wording to be used by public sector bodies when drafting PFI contracts. Application of SoPC4 has been mandatory for all PFI projects in England and Wales since May 2007. Derogations from SoPC4, or approved sector-specific contracts (e.g. health, education), are only made in exceptional circumstances on project-specific grounds and must be approved, either by a sector-specific body or by IUK's Assurance team. SoPC4 also includes guidance on the key issues that arise in PFI projects, in order to promote the achievement of commercially balanced contracts and deliver best value for money (VfM). Standardisation has generally been considered to provide a major benefit by allowing for a wide dissemination of information on permitted risk allocations, based on familiarity and market acceptance. The rigour of the derogation regime has had the effect that PFI projects procured to date in England have been based on relatively uniform PPP contracts.

### **6.4. Financial Structure**

As previously stated in Box 1, some of the key features of the UK PFI market have been relatively highly geared projects (80-90% funded by bank debt) and project revenues starting only when the facility is complete. Combined, these features provide incentives for timely delivery to the authorities' output specifications and within budget.

Project sponsors receive a "unitary payment", which is calculated to include both the cost of construction, associated funding and services provision. The public authority generally pays for availability, with deductions being made where performance falls below the required standard.

Only a small number of PFI projects have involved private sector sponsors taking external market demand risk. These projects are generally road projects, where a notional usage charge is scaled according to usage (referred to as “shadow tolls”). The payment mechanisms are designed to ensure that financial risk is correctly apportioned between the parties and that the project remains financially attractive to the private sector.

A wide range of debt and equity funders are active in the PFI market. UK PFI projects are almost always funded on a project finance basis. A wide-range of UK and other European-based banks have developed considerable expertise in specialist PFI lending. A limited number of projects have been funded in the capital markets using bond finance. However, in most cases this funding solution required a special guarantee from a monoline insurance provider, which enabled the bonds to trade with a AAA rating. This is no longer available due to the credit downgrading of monolines since the financial crisis of 2007. Equity for PFI projects was originally only provided by the project sponsors. With the expansion of PFI, a number of specialised infrastructure equity funds have emerged that inject funding into project companies and provide additional liquidity to the equity market for PFIs.

As well as PFI, different PPP models have emerged. In particular local authorities and regions have explored alternatives to PFI in recent years through “Local Asset Backed Vehicles” (LABVs). These projects are usually based on a 50/50 joint venture company established between the local/regional authority and the private sector partner. These structures aim to regenerate major sites within the authority’s portfolio and often incorporate the development of sustainable community strategies and create practical strategic service partnerships. They also enable the local authority to enter into profit-sharing arrangements, which are of particular value in difficult economic circumstances.

## 7. Overview of the Project Cycle

### 7.1. Background

#### Approvals

The overall approvals process that all major projects<sup>19</sup> must follow is run by the Major Projects Authority on behalf of HM Treasury and outlined in the flow diagram (Annex 2). This process operates alongside the assessment process outlined below, which examines projects at key points in the project cycle.

The approvals process in the UK underwent a major revision in 2011. This saw the process for PPPs at central government level aligned with that for other major projects, which was itself strengthened as part of a programme to improve spending control.<sup>20</sup> In understanding the process outlined in this section it is important to note that:

- local authority PPP projects which receive no central government funding follow their own internal approval process and have no formal interaction with central government;
- as well as following the process outlined below, individual departments will also have their own additional, complementary, internal assessment and approval processes; and
- HM Treasury, and the relevant government department, can, on request, assist procuring authorities with a range of issues during the project cycle.

#### Assurance

All new major projects, at all levels of government, should be subject to a comprehensive but proportionate assurance process that strives to ensure that projects provide value for money (VfM). Wherever practicable, this judgement is based on the techniques and issues set out in HM Treasury's Green Book.<sup>21</sup> Broadly speaking, the Green Book aims to:

- identify other possible approaches/projects which may achieve similar results;
- wherever feasible, attribute monetary values to all impacts of any proposed policy, project or programme; and
- perform an assessment of the costs and benefits for relevant options (cost-benefit analysis).

Departments and agencies will consider how this assessment integrates with decision-making processes and governance structures and therefore there can

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<sup>19</sup> A major project is defined as “a central government-funded project or programme that requires HM Treasury approval during its life”, in other words, it is of sufficient size or complexity, but also incorporates any project deemed novel or contentious which would not otherwise require approval by HM Treasury (e.g. creates an expensive precedent or has significant long-term funding implications). PPPs are therefore captured under this process.

<sup>20</sup> Prior to this time PPP projects were approved by HM Treasury, advised by the Major Projects Review Group in the case of projects of significant size or complexity or by the Project Review Group (see Annex 4) for local authority projects seeking central funding through “PFI credits”.

<sup>21</sup> [www.hm-treasury.gov.uk/data\\_greenbook\\_index.htm](http://www.hm-treasury.gov.uk/data_greenbook_index.htm)

sometimes be differences in the approach to assurance across procuring authorities. In addition procuring authorities are supported by a central “Gateway” process, which examines policies and projects at critical stages in their lifecycle to provide assurance that they can progress successfully to the next stage (see Box 4). Compliance with the Green Book principles is incorporated into the first and second Gateways.

#### **Box 4 - Gateway reviews**<sup>22</sup>

The Office of Government Commerce’s Gateway Reviews deliver a “peer review” in which independent practitioners from outside the programme/project use their experience and expertise to examine the progress and likelihood of successful delivery of the programme or project. The reviews use a series of interviews, documentation reviews and the project team’s experience to provide a valuable additional perspective on the issues facing the team and an external challenge to the robustness of plans and processes.

**Gateway 0: Strategic assessment** - A programme-only review that investigates the direction and planned outcomes of the programme, together with the progress of its constituent projects. It is repeated over the life of the programme at key decision points.

**Gateway 1: Business justification** - comes after the “Strategic Outline Case” has been prepared. It focuses on the project’s business justification prior to the key decision on approval for development proposal.

**Gateway 2: Delivery strategy** - investigates the “Outline Business Case” and the delivery strategy before any formal approaches are made to prospective suppliers or delivery partners. The review may be repeated in long or complex procurement situations.

**Gateway 3: Investment decision** - examines the “Full Business Case” and the governance arrangements for the investment decision. The review takes place before a work order is placed with a supplier and funding and resources are committed.

**Gateway 4: Readiness for service** - focuses on the readiness of the organisation to go live with the necessary business changes, and the arrangements for management of the operational services.

**Gateway 5: Operations review and benefits realisation** - confirms that the desired benefits of the project are being achieved, and the business changes are operating smoothly. The review is repeated at regular intervals during the lifetime of the new service/facility.

## **7.2. Project Cycle**

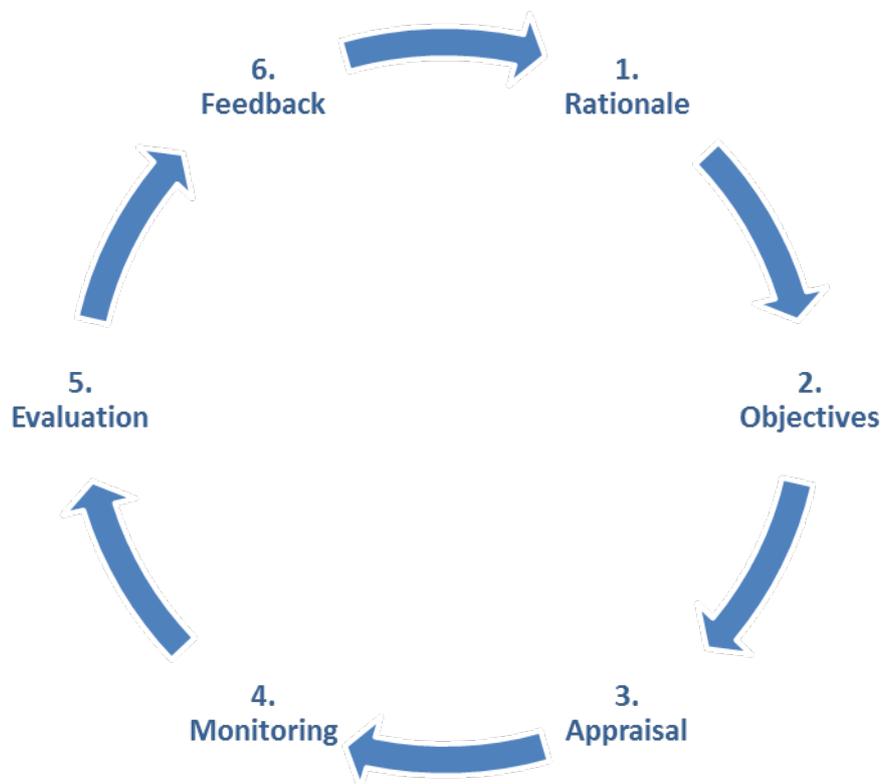
The project cycle is best illustrated by an outline policy cycle contained within the Green Book (see Figure 7). This process is not designed to be purely sequential;

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<sup>22</sup> Taken from [http://webarchive.nationalarchives.gov.uk/20110822131357/http://www.ogc.gov.uk/what\\_is\\_ogc\\_gateway\\_review.asp](http://webarchive.nationalarchives.gov.uk/20110822131357/http://www.ogc.gov.uk/what_is_ogc_gateway_review.asp)

there are often a number of iterations before a project is implemented in full. In particular, as options are developed and more detail comes to light, the analysis is revised. As indicated above there will be variations in approach across procuring authorities.

**Figure 7 - Project assessment cycle**



#### Needs analysis and project selection

The relevant procuring authority (the Authority) is responsible for determining its own investment needs and requirements. It prepares business case which provides the information required to justify a project going ahead and therefore for it to receive the necessary approvals. This business case evolves throughout the project cycle and follows guidance based on the Green Book of economic appraisal. The Green Book sets out the range of issues the business case will be expected to cover at various stages (see Box 5). Authorities are expected to use this method in presenting their business case regardless of the approvals process being used. In the case of PPPs, they will also need to demonstrate that the choice of a private finance route provides VfM.

In the early steps of identifying and appraising options only summary data is normally required. Later on, before significant funds are committed, the level of detail required to give confidence will increase as project preparation progresses:

- the first step is to carry out an overview to ensure that two prerequisites are met: firstly, that there is a clearly identified need and secondly, that any proposed intervention is likely to be worth the cost;
- the second step is to set out clearly the desired outcomes and objectives of an intervention in order to identify the full range of options that may be available to deliver them; and

- the third step is to carry out an option appraisal. This is often the most significant part of the analysis. Initially a wide range of options should be created and reviewed. This helps to set the parameters of an appropriate solution. A shortlist may then be created to keep the process manageable.

Each option is then appraised by establishing a “base case”, which is the best estimate of its costs and benefits. These estimates can then be adjusted by considering different scenarios, or the option’s sensitivity to changes can be modelled by modifying key variables.

Following option appraisal, decision criteria and judgment should be used to select the best option or options, which should then be refined into a solution. Consultation with key stakeholders and consideration of procurement routes will also be considered at this stage. Most importantly the role of the private sector will also be considered at this stage, including whether a PPP route would be appropriate/offer VfM.

### **Box 5 - Content of the business case**

Based on the Green Book analysis set out above, there are five main areas of business case development, called the five-case model, which are prioritised as part of the approval and assurance process. These are the:

- **Strategic case** - new proposals can be said to have strategic impacts on organisations if they significantly affect the whole or major part of an organisation over the medium to long term. Proposals should therefore be considered in terms of their potential scale of impact, and how they fit in with the strategy of the organisation(s) they affect;
- **Economic case (including option appraisal)** - proposals need to be underpinned by sound economic analysis, which should be provided by a cost-benefit analysis in an option appraisal;
- **Financial case** - proposals need to be affordable, and an affordable financial plan needs to be developed;
- **Commercial case** - proposals need to take account of commercial, partnering and procurement arrangements: what can be delivered in the market; how costs and benefits can be guaranteed through commercial arrangements; how contracts will be managed through to completion; and
- **Programme/project management case** - all proposals should be assessed for their achievability, and recognised programme and project management arrangements set up as necessary.

In addition, a complete business case should also consider the following additional elements:

- **Regulatory impact assessment** - the impacts of new proposals on businesses, the voluntary sector and charities should be assessed;
- **Health impact assessment** - the impacts of proposals on health should be considered and an evaluation made of the impact on health of poverty, deprivation and unemployment, as well as poor housing or workplace conditions;
- **Environmental appraisal** - the effects on the environment should be considered, including air and water quality, land use, noise pollution, and waste production, recycling and disposal;

- **Health and safety impact appraisal** - the health and safety of people at work or arising from work activity may need to be safeguarded. This is of particular concern in construction;
- **Consumer impact assessment** - assessments may need to involve consideration of the cost and quality of goods and services, as well as access to, choice of, and information about them;
- **Integrated policy appraisal** - this is a policy tool that attempts to cover all aspects of an appraisal. It provides a checklist of questions on issues such as climate change, air quality, landscape, land use, waste, water, biodiversity and noise;
- **Legislation** - consideration should be given to legislation specific to the case in hand, as well as statutes that affect many proposals, such as the Human Rights Act, or the Data Protection and Freedom of Information Acts.
- **Information management and control** – the information requirements of proposals, including the data needed for later evaluation of the project, and the supporting IT that may be required to do this;
- **Rural issues** - this element tries to ensure that all policies take account of specific rural circumstances. Appraisers should assess whether proposals are likely to have a different impact in rural areas from elsewhere;
- **Equality** - impacts on various groups in society should be considered as part of an appraisal.
- **European Union** - it will often be important to take account of proposals and activities in other European Union countries, as well as specific legislation and regulations. State aid rules are particularly important to consider, as these prescribe the extent to which government can intervene;
- **Design quality** - the design quality of facilities can be important in ensuring that objectives are successfully achieved; and
- **Evaluation and audit reports** - an assessment of how the effectiveness of the project will be evaluated and audited.

### Project approval process and supporting documentation

HM Treasury approval is required for major projects at three key business stages – the Strategic Outline Case, the Outline Business Case and the Full Business Case (the differences are set out in Figure 8). The recently formed Major Projects Authority (MPA) is responsible for the assurance of centrally funded major projects. IUK provides commercial support for HM Treasury’s approval processes and the MPA in relation to projects in the infrastructure sector, which includes PPPs.

All major projects are approved through one of the following processes, depending on project cost and risk and the department’s track record for managing project spending (in declining order of importance):

- the Major Projects Review Group (chaired by HM Treasury and made up of senior commercial experts from around government);
- the HM Treasury Approval Point with panel meeting (chaired by HM Treasury and made up of civil servants); and

- the HM Treasury Approval Point without panel meeting (approval given by officials within HM Treasury).

**Figure 8 - Summary of HM Treasury approvals<sup>23</sup>**

Treasury Approval Point	Scope and timing	How does the approval point relate to MPA Assurance?
Strategic Outline Case Project initiation stage	All new Major Projects to ensure strategic fit, value for money and deliverability.  Approval required before any public commitment is made.	Preceded by at least one of the following:  Starting Gate  OGC Gateway Review 1  Project Assessment Review (PAR)
Outline Business Case Pre-market stage	All Major Projects to assess all options in detail.  Approval required before going to the market/issuing Official Journal of European Union (OJEU) notice.	Preceded by at least one of the following:  OGC Gateway Review 2  PAR
Full Business Case Pre-final negotiation stage	All Major Projects pre - spending commitments  Approval required before finalising commercial contracts.  For projects using competitive dialogue as a procurement route, approval required before close of dialogue.	Preceded by at least one of the following:  OGC Gateway Review 3  PAR

Major projects require an “Integrated Assurance and Approval Plan” (IAAP) for validation by both the MPA and HM Treasury at key points in the project cycle (set out in Figure 8). IAAPs should cover both assurance and approvals requirements, and should be proportionate to the nature and stage of each project. The department, MPA and HM Treasury work together in developing and reviewing draft IAAPs throughout the project cycle.

### Project preparation

Project preparation is managed by the Authority but it must continue to provide HM Treasury and the MPA with details of major projects after Full Business Case approval and until the major project is operational. The Authority will normally appoint a “senior responsible officer” who “is the individual responsible for ensuring that a programme of change or a project meets its objectives and delivers the projected benefits.”<sup>24</sup>

### Procurement and selection of the preferred bidder

This responsibility rests with the Authority. The process follows EU Directives, supported by interpretive guidance issued by HM Treasury and the Efficiency and

<sup>23</sup> [www.hm-treasury.gov.uk/d/major\\_projects\\_approvals\\_assurance\\_guidance.PDF](http://www.hm-treasury.gov.uk/d/major_projects_approvals_assurance_guidance.PDF)

<sup>24</sup> [http://webarchive.nationalarchives.gov.uk/20110822131357/http://www.ogc.gov.uk/documents/NEW\\_BOOK\\_4\\_APRIL.pdf](http://webarchive.nationalarchives.gov.uk/20110822131357/http://www.ogc.gov.uk/documents/NEW_BOOK_4_APRIL.pdf)

Reform Group.<sup>25</sup> Project-specific advice on procurement can be sought from the Efficiency and Reform Group within the Cabinet Office if necessary.

#### Approval of final contract terms

The Authority must seek HM Treasury approval for any deviation from standard contract terms. HM Treasury considers whether any deviation is appropriate (particularly in not changing the risk balance/VfM of the project) and project-specific (i.e. does not set a market precedent).

#### Signature

The PPP contract is signed by the Authority and the private partner.

#### Contract management

Responsibility for contract management and monitoring will primarily rest with the Authority. In some sectors support is available from the relevant government department or from Local Partnerships. In addition private sector consultants are sometimes used by Authorities in managing issues with their operational contracts.

#### Ex post analysis

Gateway 5 (see Box 4) can be carried out to assess benefits realisation of projects. While there has been a lower usage of Gateway 5 in comparison to other assurance tools, the MPA is working across government to encourage the use of this assurance tool.

#### Renegotiation and dispute resolution

Responsibility for renegotiation and dispute resolution rests with the Authority and is based on standard UK case law. As with contract management, the relevant government department or Local Partnerships may be available to help the Authority.

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<sup>25</sup> For example, on the competitive dialogue procedure, see [www.hm-treasury.gov.uk/ppp\\_general\\_guidance.htm](http://www.hm-treasury.gov.uk/ppp_general_guidance.htm).

## **ANNEX 1 - PPP Units Overview**

### **1. General Structure of the Central PPP Unit**

Location within government	Within Infrastructure UK
Reporting and accountability	Ministry of Finance (HM Treasury)
Part of general procurement unit	No
Sectors	All
Coverage	Policy - National and subnational projects - National
Funding	Central budget
User fees	No
Success-based fees	No
Staffing	10 full-time equivalents (FTEs)
Secondments	Yes
Public-private mix	Yes
Difficulties in attracting staff with PPP expertise	No
Difficulties in retaining staff	No

## 2. Operational Framework for the Central PPP Unit

Business planning	
Involvement in identification/planning	Support
Develop business case/feasibility study	No
Assess feasibility	Support
Approve/qualify as PPP	Yes (national)
If so, is this binding?	Yes (national)
Provide recommendations to approval bodies	Yes (national)
Assist in finding advisers	No
Sit on steering/oversight committee for the project	No
Sit on project team/group*	No

\* If project manager

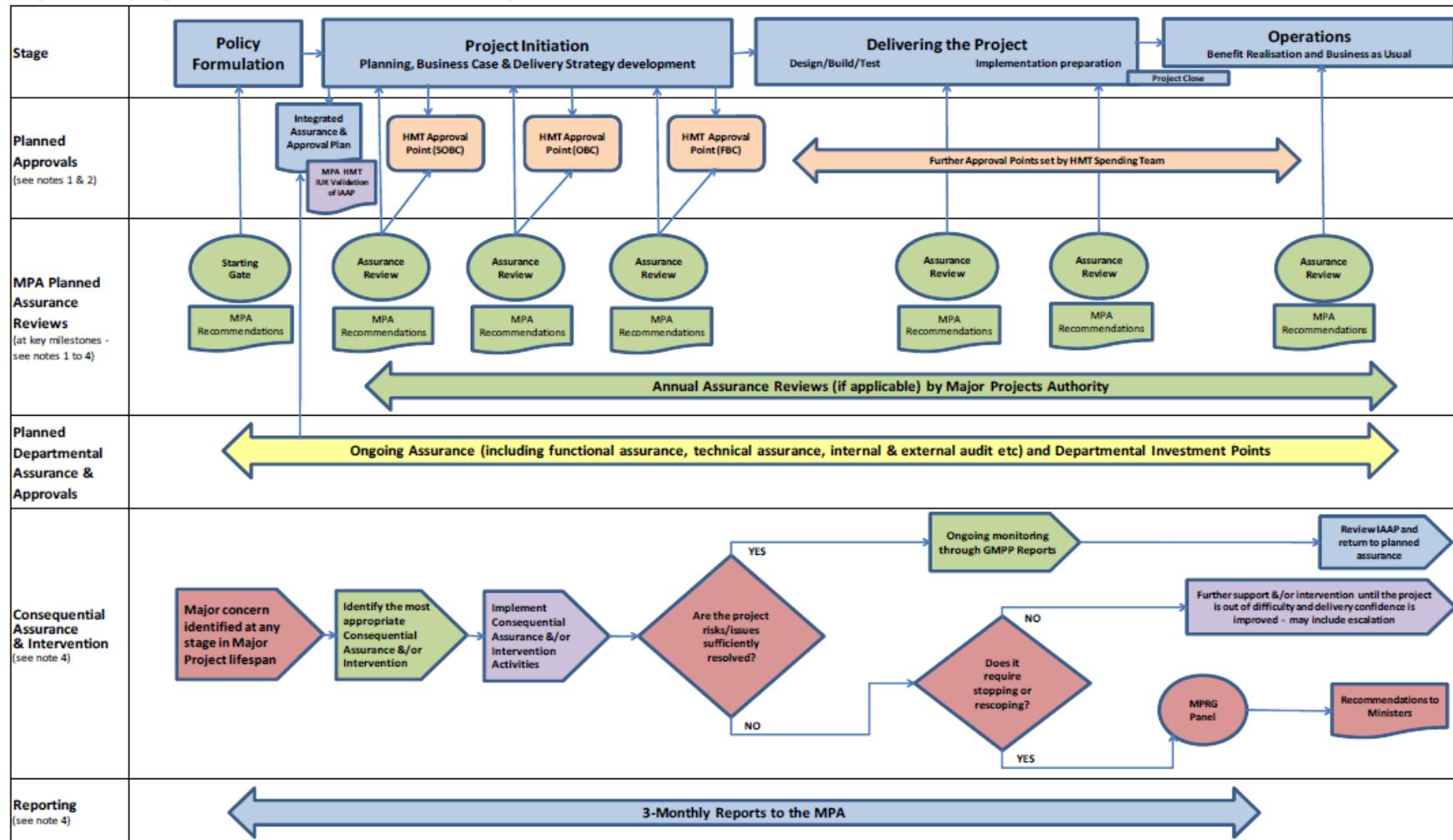
Procurement process	
Act as procuring authority for the project	No
Approve tender documentation	No
Sit on steering/oversight committee for the project	No
Sit on project team/group	No
Involvement in contract negotiation	No
Bid evaluation	No
Bid approval	No
Involvement in post-preferred bidder negotiations	No
Involvement in financial closing (e.g. closure of the swap)	Yes (national)
Approve final contract	Yes (national)
Sign final contract	No
Approve the financing documentation	No

\* If project manager

Project implementation	
Approve renegotiation during construction	No
Approve renegotiation during operation	No
Payment oversight	No
Contract management	No
Monitor implementation	No

Market development	
Determine and share best practice (e.g. guidance, lessons learned)	Yes
Develop PPP policy	Yes
Develop standard documentation (e.g. RFP, contracts)	Yes
Promotion of PPPs (e.g. market awareness)	Yes
Training	No
Database development and management	Yes

## ANNEX 2 - Assurance and Approvals Process for Major Projects



**Key**  
 Project Activity  
 MPA Activity  
 HMT Activity  
 Joint Activity at the Centre  
 Escalation Activity  
 Departmental Activity

**NOTES**  
 1. For more information on how to plan for integrated assurance and approvals, see MPA guidance on Integrated Assurance and Strategy and IAAPs  
 2. The Integrated Assurance & Approvals Plan (IAAP) is periodically updated (after assurance reviews, scope or risk changes) and re-validated by MPA, HMT & IUK (where appropriate)  
 3. Assurance Reviews provided will be relevant to the specific approval point or other requirement - either OGC Gateway Review or a Project Assessment Review (PAR)  
 4. For more information on the components of this process see MPA guidance documents on Planned Assurance & Approvals or Consequential Assurance & Intervention  
 For the latest versions of MPA guidance please contact your organisation's PPM Centre of Excellence/Portfolio Office (or equivalent), or email [MPA-info@cabinet-office.gsi.gov.uk](mailto:MPA-info@cabinet-office.gsi.gov.uk)

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## **ANNEX 3 - Partnerships UK**

The predecessor of Partnerships UK (PUK), the Treasury Taskforce (which itself evolved from the Private Finance Panel) was set up in 1997 and designed to be the central focal point for all PFI activities across government. The Taskforce focused on a number of significant projects, helping departments to set priorities from the outset while trying to ease negotiations and obtain value for money. The Government published, through the Taskforce, a series of guidance documents, policy statements, technical notes and case studies.

To put the Taskforce on a more sustainable footing, PUK was formed in 2000. Legal provision for this was made by the Government Resources and Accounts Act 2000. Its board comprised members from both the private and public sectors. In March 2001, PUK became a PPP in its own right following the sale to private investors of a 51% stake, the remaining 49% being retained by the public sector. PUK was established on a commercial but non-profit-maximising basis. The public's interest was represented through an advisory council, consisting of the main public sector stakeholders in PUK.

PUK was designed to work with both public and private bodies on specific PPP transactions to improve the process of planning, negotiating and completing PPPs. Public sector bodies could decide to access PUK's expertise on a fee-paid basis and indeed PUK was reliant on this income to fund its activities. PUK also enjoyed a special right under European Procurement Regulations to enter into Development Partnership Agreements (DPAs) with any public sector organisation to support individual procurements without the role having to be competitively tendered. PUK also had a pre-competed framework agreement in place with most government departments and other public sector bodies.

PUK worked with the public sector in five main areas: supporting complex procurement projects, developing procurement and investment policies, supporting individual infrastructure projects, developing public service commissioning models and investing in projects and companies.

PUK set up specialist arms for PFI projects in specific sectors. This includes Partnerships for Schools (PFS, now absorbed back within the Department of Education), which oversaw the Building Schools for the Future programme and Partnerships for Health (now Community Health Partnerships), which developed long-term PPP vehicles at a local level under NHS LIFT (Local Improvement Finance Trust). Each of these initiatives was supported by a government-funded body (see Section 5) to promote good practice and approve individual transactions.

The decision to establish PUK (which remains the case with IUK) reflected the desire to: have a central consulting service for public sector clients in all PPP sectors; further develop and harmonise PPP processes; recruit individuals from both the private and public sectors in the advisory process; and provide access to public service-driven project advice. PUK took the lead role in promoting PFI and other PPP variants within government and supporting key projects throughout their life.

PUK was staffed by private sector procurement specialists such as corporate lawyers, investment bankers and consultants, as well as some public sector procurement specialists. At its peak it employed over 80 staff, had over GBP 20 million of equity investments and was involved in virtually all the Government's PPP projects at one level or another.

IUK (which has taken over from PUK) was developed to accommodate a wider remit and coordinate infrastructure planning as a whole more effectively and not focus solely on PFI. HM Treasury believed that in order to carry out this role it needed to be wholly owned by government; therefore PUK's private sector stakeholders were bought out and PUK's responsibilities largely transferred over to IUK.

## **ANNEX 4 - Funding and Approvals pre-2010**

### **1. PFI Credits**

PFI credits were used as a mechanism to give long-term funding support for local authorities to pursue PFI projects. This was in recognition of both the complexity of PFI but also the difficulties within local authorities in approving or funding a long-term funding commitment. The level of PFI credits available was announced every few years alongside the Government's overall spending plans and was allocated by sector. The credits themselves were a measure of the private sector investment supported by central government sponsoring departments, effectively a promise that the local authority could claim the cost of paying back the upfront capital once the project was operational.

Projects wishing to access PFI credits had to meet certain conditions, such as compliance with the standard form and a requirement that the project be off-balance sheet. Any deviation from the standard contract needed the approval of HM Treasury's PPP Policy unit (which was assisted in this process by Partnerships UK).

PFI credits were discontinued in 2010.

### **2. Project Review Group (PRG)**

The PRG oversaw the approval process for local authority PFI projects that received government support through the PFI credit system outlined above. PRG oversight consisted of a two-stage process but there was also a more extensive parallel process of assessment by the authorities themselves and the sponsoring departments. The programme of scrutiny was designed to provide comfort to the private sector about the quality and maturity of projects being brought to market, to reassure local authorities that there was fair and equal treatment across sectors and to provide confirmation that the project would attract funding from central government before a commitment was made to the major expense involved in PFI procurement for both public and private sector parties.

A first-stage review process was mandatory and took place at the Outline Business Case stage (OBC). This involved a full technical and financial appraisal of the OBC (e.g. VfM, affordability, technical feasibility and quality of the project team). A report, prepared by experienced practitioners within Partnerships UK, was submitted to a PRG meeting for consideration. Should a project fail at this first stage it could reapply for approval if it subsequently met conditions set out by the PRG. A second-stage review could also be required, prior to the selection of preferred bidder, if the project was deemed significant or had been chosen, as part of a sample, to test whether assumptions regarding VfM made at the OBC stage, and therefore on which PRG decisions were made, remained valid.

The PRG meetings were chaired by HM Treasury and involved permanent representatives from the Ministry responsible for local government and the predecessor of Local Partnerships (the 4Ps, see Section 5). Additional appointments were made to the panel for a period of 12 months. Individuals were selected on the basis of their knowledge and experience of PFI rather than on the basis of specific departmental representation.

PRG meetings were held monthly. However, as the volume of applications for PFI credits increased, reforms were made to streamline the system so that “cookie cutter” projects, those which were highly replicable and deemed low risk (such as streetlighting projects), could be approved by HM Treasury officials without the need for a formal meeting.

With the abolition of PFI credits in 2010, no further meetings of the PRG were necessary. The approvals process for PFIs has been merged into the wider approval process for any major project, as set out in Section 7.

## ANNEX 5 - Macroeconomic Indicators – United Kingdom

The UK is classified as a high-income OECD member by the World Bank. The IMF estimates that its GDP in 2011 was USD 2 480 billion, with GDP per capita amounting to USD 39 604. Chart 1 shows GDP per capita expressed as a percentage of the average value for the EU27 group. As shown, since 2004 UK GDP per capita has been following a slightly downward trend. Nonetheless, it remains above both the EU27 and the EU15 (EU member countries which joined before 2004) average.

As shown in Chart 2, UK GDP growth follows very closely the EU15 trend. The UK's economy was growing at between 2 and 3% before the international financial crisis, when GDP growth dropped to zero in 2008 and to -4.8% in 2009. The recovery has been in line with the EU average (the UK's GDP rose by 1.3% in 2010 and 1.1% in 2011) and IMF forecasts predict that the UK's growth rate will return to pre-crisis levels as from 2013.

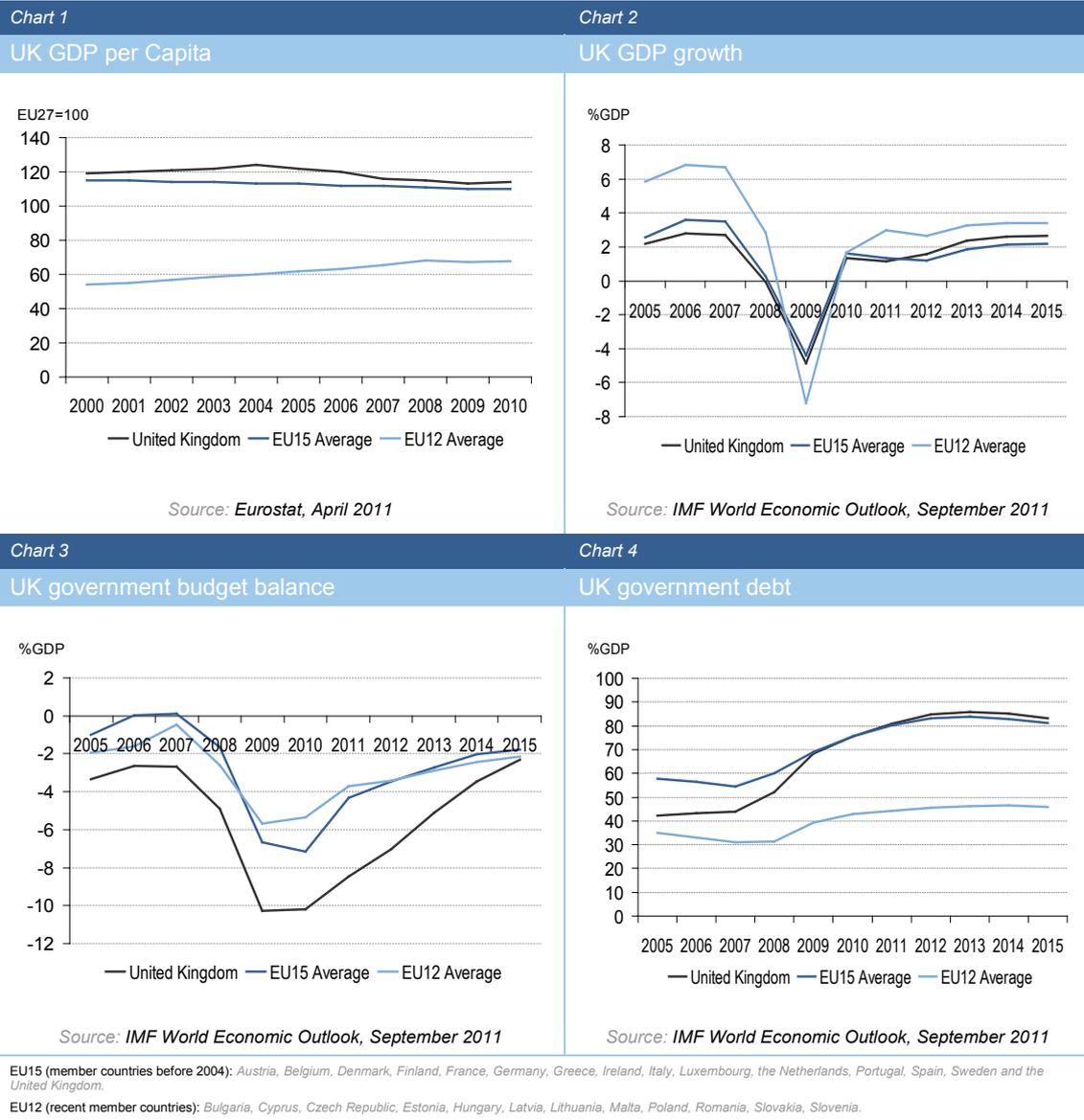
Chart 3 shows the UK government budget balance compared with the EU15 and EU12 average. As shown, the UK has been running a significantly higher deficit than both the EU15 and EU12 averages, both prior to and during the crisis. IMF forecasts expect the deficit to gradually decrease in the following years but to remain consistently higher than the EU averages until 2015.

The UK's debt stock has consequently been influenced by the high level of deficit spending. As shown in Chart 4, debt increased sharply between 2007 and 2009 (from 44% of GDP in 2007 to 69% in 2009) and now matches the EU15 average. IMF forecasts expect UK debt to peak in 2013 (85%) and then decline.

UK sovereign debt currently enjoys triple-A ratings from Fitch, Moody's and S&P. Moody's placed UK's rating on negative outlook in February, following concerns about the impact of the eurozone crisis on the growth prospects of the UK economy.

The World Economic Forum (WEF) ranks the UK economy 10th in terms of competitiveness (6th in terms of infrastructure). The 2012 World Bank *Doing Business* report ranks the UK as 29th in terms of business regulation.

United Kingdom	
<i>United Kingdom of Great Britain and Northern Ireland</i>	
	<b>Capital:</b> London <b>Population:</b> 62,262m <b>- growth:</b> 0.5% <b>- density:</b> 255/km <sup>2</sup>
Macroeconomic and fiscal indicators	
<b>GDP:</b>	(2011, Nominal, 09/2011, IMF estimate)
- total:	USD 2 480.98 billion
- per capita:	USD 39 604
<b>Real GDP growth:</b>	<b>+1.13 %</b>
<b>Government budget (% of GDP, 2011)</b>	(02/2012, EIU estimate)
- revenue:	40.9
- expenditure:	49.5
- balance:	<b>-8.6</b>
<b>Public debt:</b>	81.9
Long-term sovereign debt ratings (updated 21/02/2012)	
<b>Fitch:</b>	<b>AAA (Stable)</b>
<b>Moody's:</b>	<b>Aaa (Negative)</b>
<b>Standard &amp; Poor's:</b>	<b>AAA (Stable)</b>
Rankings	
<b>WB Doing Business 2012 rank:</b>	<b>7</b>
- change in rank since 2010:	<b>-1</b>
<b>WEF Global Competitiveness 2011 rank:</b>	<b>10</b>
- Infrastructure subindex rank:	6









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