
Appendix A

PFI - The Way Forward

1. Before the PFI

In the late 1990s, central government funding for highway maintenance reduced and as a result many councils had to resort to a do minimum "patch and mend" approach. This meant many roads were in a poor state with cracks and potholes. Further, the "patch and mend" approach led to repeated failures and of course, short term repairs proved to be a more expensive option in the long run.

Portsmouth City Council carried out a review of its highway maintenance strategy and decided that repeated "patch and mend" based on an annual funding cycle did not offer good value for money. A long term funding approach based on more substantive (and deeper) renewal treatments was considered to be a much better policy.

In 2000, 48% of Portsmouth's principal roads were in a failed or critical condition. This was over three times the national average for local authority roads at that time. Along with the need to maintain 67 structures, around 16,000 street lights and 455km of carriageways, PCC devised a whole life strategy for maintaining its highway network.

Further, the need to step-up the standard of highways maintenance in Portsmouth formed part of a wider strategy to regenerate the City, harbour and the historic naval base and vital for attracting inward investment to the City. Hence, the Council entered into discussions with the Department for Transport to secure additional funding.

Portsmouth City Council worked in partnership with the DfT and associated partners to develop a Highways Maintenance contract that embodied the principles of "whole-life maintenance". This became the DfT's first "pathfinder" for highways maintenance PFI projects.

The Department for Transport (DfT) was one of the leading sponsor departments that promoted Private Finance Initiative (PFI) deals. It sponsored a series of Design Build Finance and Operate (DBFO) initiatives for new construction of trunk roads and motorway widening schemes using the PFI model. The model was then extended to cover the local authority street lighting schemes and following their success, to the local authority highway maintenance schemes.

The DfT sponsored the Portsmouth Highways PFI project by providing a PFI Grant to the Council. The Council committed further funds to enable it to enter into a twenty-five year long PFI highways maintenance contract. Since then, using the Portsmouth contract as a model, local authorities in Birmingham, Sheffield, Hounslow and Isle of Wight have developed their own versions of highways maintenance PFI contracts.

2. Ensign and Colas

Ensign Highways Ltd is the Special Purpose Vehicle (SPV) through which Colas are appointed. Ensign sub-contracted 100% of the service delivery to Colas Ltd, under a "Sub-Contract" agreement.

In theory, Ensign could sub-contract the works to a company other than Colas but in practice, Ensign is very much part of Colas and they are one and the same. In fact, Ensign are owned by Colas SA and Colas Ltd.

Colas' main tasks include reactive and proactive maintenance, network management, life cycle replacement, tree and landscaping management.

Under the contract, Ensign is known as the "Principal Contractor" with key responsibilities of contract management, contract finance and legal. The Managing Director is tasked with mainly the legal and contractual matters.

Colas is known as the "Highways Manger" and is tasked with all technical aspects of the contract, network condition and functioning and day to day problem solving.

3. Portsmouth City Council's Responsibilities

A significant part of the highway maintenance activity on local authority roads is based upon statutory duties and powers contained in the Highways Act 1980 and precedents developed over years as a result of claims and legal proceedings. In addition to a general duty of care, there is specific legislation which provides the basis for powers and duties relating to highway maintenance.

The overarching duty is set out in Section 41 of the Highways Act 1980 and the duty to maintain highways which are maintainable at public expense.

Section 58 of the Act provides the Council with a statutory defence against claims by the public/highway users.

The PFI contract has to conform to the legal framework within which a council can deliver and manage delivery of services to meet its obligations as the Highway Authority.

4. The Contract

Principles

The PFI contract was drafted around the core principle of up-front capital rehabilitation of the carriageways to save a lifetime of repeated "patch and mend". This approach means that we could deal with the underlying causes of carriageway and footway deterioration (ie bring the road up to an "acceptable" standard as defined in the contract) and then keep them well maintained through a light touch approach for rest of the life of the contract.

This is a significant shift from the traditional local authority maintenance approach of "patch and mend" and adopts a "whole life maintenance" approach instead. It is a similar principle to buying a brand-new car, leading to less trips to the garage than buying an old second hand one.

What Colas are required to do under the contract

The contract adopts a "fence to fence" approach; meaning that the maintenance, upgrade and management of all highway assets from the back of the footway on one side of the highway to the back of footway on the other side, are all included.

The contract is made up of a project agreement and 24 Schedules. These set out the requirements for the services to be delivered and the standards of service delivery.

The PFI contract is a "prescribed standard contract" (AKA "performance based"). This means that rather than detailing precisely what Colas need to do in terms of maintenance (ie dig up and replace 1000m² of road), it describes a level of standard to which the highways network must be maintained. This includes the condition of the roads, the amount of litter and weeds present,

condition of footways, lighting columns, traffic signals, highway structures road street furniture and more.

The standard by which Colas maintain the roads is assessed through different methods of measurement. This may be measuring the wet surface skid resistance on the approach to traffic lights using a SCRIM (Sideway-force Coefficient Routine Investigation Machine) or checking the cleanliness of streets against predefined pictures that show what "good" looks like.

5. Key Dates

Key dates that follow the signing of the contract on 30 July 2004 are as follows:

<u>Item</u>	<u>Start</u>	<u>End</u>
Mobilisation (6 months)	1 Aug 2004	31 Jan 2005
Core Investment Period (4 years and 6 months)	1 Feb 2005	31 July 2009
LCR (20 years and 8 months)	1 Aug 2009	31 March 2030

6. Core Investment Period

Including an initial 6-month mobilisation period (Q3 and Q4 of 2004/05), the contract required Colas to upgrade the highway assets to a pre-defined standard during the first five years. This was known as the Core Investment Period (CIP).

The CIP upgrade was a key component of the overall Highways PFI Contract delivery. The standard of the CIP upgrade had an impact on service life, the Life Cycle Replacement (LCR) treatment strategy and the ultimate hand back condition of the highway network. It also determined the levels of investment needed and how the Council will manage the Project Network post Contract.

During the CIP, the principal, secondary and tertiary road network along with associated footways, structures and street lighting, were all brought up to a standard/condition as defined in the contract.

7. Life Cycle Replacement

Background

Following the core investment period, Colas then had to maintain the roads to the upgraded standard over the remaining 20 years and importantly, hand them back at a defined condition at the end of the contract.

A road is categorised as Principal, Secondary or Tertiary depending upon on the degree of usage and the roads importance to the City of Portsmouth residents.

The condition of these roads (carriageways) is measured using a Network Condition Index (NCI). Colas achieved the contractually required NCI Value for all the roads at the end of CIP. The condition of the roads is maintained at or above this level during the next 20 years.

There are a total of 455km of roads within the city of Portsmouth of which 65km are Principal roads, 95km are Secondary roads and 295km are Tertiary roads. These roads were subsequently divided into smaller sections; termed Road Section Lengths (RSLs).

The condition of the roads (carriageways) is measured for each RSL. This condition measure is then aggregated to give an NCI Value for each category of road (Principal, Secondary and Tertiary). This can lead to a single road having different treatments along its length.

Prioritisation of LCR Works

The prioritisation of the Carriageway schemes for the annual programme of maintenance is based on the individual condition indices, accident data and overall site condition validation information.

Defects in bridges and other highways structures, such as retaining walls, are highlighted through technical inspections (General Inspections and Principal Inspections).

The need for traffic signal improvements under the LCR programme is based upon surveys and recommendations provided by Colas' ITS department.

The approach for selection of schemes for the annual maintenance programme has remained the same as the previous years and is affected by financial constraints, technical requirements, safety and local issues and public perception.

Timing of LCR Works

When considering the timing of road works, consideration is given to events such as special events (such as the football matches, street parties, music festivals, Christmas shopping and other works such as utility diversions).

A programme of works is submitted to PCC for auditing and quality assurance purposes. This is distributed within different teams in Regeneration for comments, identifying potential clashes with other projects. The comments are sent to Ensign for consideration and then a final programme is formally submitted to PCC for approval.

Colas and PCC collaborate to combine planned works (such as LTP4) to minimise disruption to road users.

8. Operation and Maintenance

In addition to repair of the highway, Colas is required to "Operate and Maintain" (O&M) the network. This includes a wide spectrum of services, from grass cutting, street cleansing through to maintenance of streetlights, traffic signals, road markings and winter maintenance.

9. Handback (last 5 years)

It is important to note that in terms of the contract, "Handback" refers to the condition of the highway assets rather than to a transfer of responsibility and ownership from Colas to PCC. Contractually, Colas will remain responsible for the assets until 2030 unless PCC and Colas agreed to change the contract through a "Deed of Variation".

The condition of assets at the end of the contract will determine the legacy and the "value for money" obtained from the previous 25 years.

10. How the PFI contract is funded

The Council pays a Service Payment (also known as Unitary Charge or UC) to Colas. 80% of this is indexed linked to a combined Retail Price Index (RPI) and Civil Engineering Formula (CEF) (50% RPI and 50% CEF).

The estimated value of the total Contract was £587M in July 2004.

The price was fixed for the defined network and services for the entire period of the contract except for an agreed indexation to compensate for inflation.

The Contract is funded through a DfT PFI Revenue Grant (£254m), DfT LTP Maintenance Grant £41m and from the council's own contributions.

11. Contract Management

The PFI Contract Management Team (made up of Council employees) has had a significant role to play in managing the service delivery effectively through scrutinising and agreeing planned delivery.

The annual priorities take account of a number of related factors including network occupation, new developments, utility activities, the council's future transport plan and the management strategy adopted.

This requires both close working partnership with Colas and an effective challenge function to ensure efficient and appropriate measures are being applied so that the Project Network operates efficiently, emerging political requirements can be met and safety of the travelling public is continually being met and can be demonstrated to provide the required Section 58 defence; protection against claims.

12. Going forward

Business As Usual

The contracted functions of Life Cycle Replacement and Operations and Maintenance continue through to the end of the contract. This is "Business-As-Usual".

Handback

In terms of the contract, "Handback" is simply the period during which inspections of the network (carriageways, footways, structures, lamp columns, etc) are carried out with both the PCC contract management team and Colas to ensure it is to the required standard prior to end of contract.

The network, or elements of the network do not have to be "handed back" (in the true sense of the word) to PCC during this time unless it is agreed by both parties under a Deed of Variation to the original contract. When a particular asset, part of the network or function etc is removed from the contract, the PCC contract management team would have to ensure alternative arrangements are made.

The handback process commences approximately seven years from the end of the contract. The first two of these comprise technical inspections and contract negotiation. It is vital that PCC's contract management team has a good understanding of the strategic issues of the Contract for effective handback and to ensure value for money is achieved from the investment in the PFI Contract in partnership with the Service Provider.

The process also needs to demonstrate value for money for the public in a transparent manner and remains auditable. Hence the next phase of Contract Management is likely to be crucial for the Council and its key stakeholder, the Department for Transport.

Post-PFI

There is an important piece of work that relates to the arrangements for highways maintenance that will follow the end of the PFI in 2030. A lead officer (project manager) with support from a team and

external experts will need to be assigned to deliver this workstream and funding will be needed that is in addition to that currently available for the usual business of delivering the PFI contract.

This PM will also have duties around the impact of inflation on the PFI and changes to the contract over the next seven years through contractual deeds of variation.

Workshops

Workshops will be set up to establish the needs of hand back and post PFI arrangements. There will be a steering group that would lead these with a PM responsible for managing this workstream going forward. The workshops will include a focus on strategy as well as identifying tasks, resources, engagement, workstreams, stakeholders etc.

Governance

Governance will be agreed with the cabinet member for Traffic and Transportation. It is likely that there will be an executive board on which will sit the cabinet member for Traffic and Transportation as well as the cabinet member for Environment.

An officer project board that includes the council's S151 officer and the Director for Regeneration will manage the day-to-day quality, programme and budget aspects of this workstream.

13. Partnering with DfT and Other Authorities

Officers are currently working with the DfT who are be able to provide support in the way of partnering, engagement (on Teams and in-person) and the provision of technical and managerial guidance.

Provision is made through the DfT's "PFI Expiry" team. This team leads on networking and collaboration for key parties and stakeholders including Local Authorities, the Infrastructure Projects Authority (IPA), Local Partnerships and National Highways. There are regular PFI Expiry meetings and networking events that officers are linked into and play an active part.

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End