



## Audit and Standards Committee Report

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**Report of:** David Phillips, Head of Strategic Finance

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**Date:** 19 December 2019

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**Subject:** PFI Objection

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**Author of Report:** David Phillips

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**Summary:**

This report summarises the findings of the external auditor's (KPMG) review of an objection at the 16/17 accounts into the Council's Private Finance Initiative (PFI) Schemes. The auditor's actual Final View is also attached.

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**Recommendations:**

The Committee should note this report, and the contents of the auditor's Final View, including his positive conclusions in respect of the objection.

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**Background Papers:** KPMG Final View letter of 8<sup>th</sup> October 2019

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**Category of Report:** Open

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\* Delete as appropriate

## Statutory and Council Policy Checklist

<b>Financial Implications</b>
No Cleared by: David Phillips
<b>Legal Implications</b>
NO Cleared by Steve Eccleston:
<b>Equality of Opportunity Implications</b>
NO Cleared by Michelle Hawley:
<b>Tackling Health Inequalities Implications</b>
NO
<b>Human rights Implications</b>
NO:
<b>Environmental and Sustainability implications</b>
NO
<b>Economic impact</b>
NO
<b>Community safety implications</b>
NO
<b>Human resources implications</b>
NO
<b>Property implications</b>
NO
<b>Area(s) affected</b>
Corporate
<b>Relevant Scrutiny Committee if decision called in</b>
Not applicable
<b>Is the item a matter which is reserved for approval by the City Council?</b>
NO
<b>Press release</b>
NO

## REPORT TO SHEFFIELD CITY COUNCIL AUDIT AND STANDARDS COMMITTEE 19 December 2019

### Private Finance Initiative (PFI) Schemes - Objection

#### Purpose of the Report

1. The purpose of this report is to summarise the work and conclusion of the Council's external auditor (which was KPMG for 2016/17) into an objection received in July 2017, in respect of the Council's 2016/17 accounts. The auditor's detailed Final View letter of 8<sup>th</sup> October 2019 is also presented to the Committee. This Final View is redacted, but only to remove the name and address of the objector (at the auditor's request).

#### Summary of the report

2. In July 2017 an objection was received asking KPMG, in relation to its seven PFI schemes (five for schools, one for Howden House and one for Highways) to:
  - make an application to the Court for a declaration that the related items of account are contrary to law under section 28 of the Local Audit and Accountability Act 2014; and
  - issue a public interest report under section 24 of the Local Audit and Accountability Act 2014.
3. To address this objection KPMG considered the information available, including information related to the PFI procurement framework that Councils were required to comply with when these contracts were entered into, and the applicable statutory guidance.
4. KPMG submitted their Provisional View to the objector on 6<sup>th</sup> August 2019 and gave them the opportunity to make further representations. No such further representations were received.
5. KPMG concluded in their Final View (page references are to this View):
  - the Council had the legal powers to enter into the PFI contracts that are the subject of this objection (page 5)
  - the Council did not act unreasonably or irrationally in the exercise of its powers (page 6)
  - we [KPMG] do not accept your [the objector's] assertion that the Council's advisers were conflicted when acting on behalf of the Council (page 6)
  - the Council did not act unreasonably, in Wednesbury terms, in using the PFI to procure these schemes and in doing so, that it acted

within existing Treasury guidelines in the decision-making process (page 7)

- When the costs of termination are combined with the costs of replacing the services provided we [KPMG] are satisfied that the Council has acted reasonably in not seeking to exit its PFI contracts (page 7)
- For the areas considered, our [KPMG] view is that we do not accept your [the objector's] assertion that the Council did not have sufficiently robust governance arrangements in place during the construction phase of the six projects [relating to buildings] nor are they in place now to ensure that the buildings are safe (page 8)
- We [KPMG] did not identify any evidence to suggest performance deductions were inconsistent with the performance of the service providers in delivering the contracted services (pages 9 and 10)
- We [KPMG] are satisfied that there is no information to suggest that the PFI contracts were entered into unlawfully such that there are no related items of account contrary to law (page 10)
- We [KPMG] will not issue a public interest report (page 11).

6. Further detail is contained in the auditor's Final View, attached for the Committee's information. The Final View does not contain any recommendations for action by the Council.

### **FINANCIAL IMPLICATIONS**

7. There are no direct financial implications arising from the report.

### **LEGAL IMPLICATIONS**

8. The legal implications are contained within paragraph 5 of this report.

### **EQUAL OPPORTUNITIES IMPLICATIONS**

9. There are no equal opportunities implications arising from the report.

### **RECOMMENDATION**

10. The Audit and Standards Committee notes this report, and the contents of the auditor's Final View, including his positive conclusions in respect of the objection.