2004-01-01

Public private partnerships and sustainability principles guiding legislation and current practice

Brenda Ryan
Technological University Dublin, brenda.ryan@tudublin.ie

Title

Public Private Partnerships and Sustainability Principles
Guiding Legislation and Current Practice

Research Question

What is the Current Status of Sustainable Development Considerations in Public Private Partnerships?

The Futures Academy, Department of the Built Environment, Bolton Street
Dublin Institute of Technology.

Researcher: Brenda Ryan

Director of Futures Academy: Dr. John Ratcliffe

December 2004

Context

2004 has seen 10 new eastern European countries join the EU. Through the provision of Regional funds, the EU will promote rapid development of public services in the new Member States. If such funds are to be absorbed effectively by the accession countries, EU grants must be met with member state finance. However, new Member States have low funds for governmental spending, therefore it is proposed that future development of public services can be met using the public private partnerships (PPP) vehicle. At present, organisations such as Price Waterhouse Coopers and KPMG are providing consultancy services on public private ventures in Europe and indeed world-wide. Although the results have been mixed, the reality is that for most European countries in the future, some form of PPP is likely to emerge as the principle means of providing public services in the absence of adequate public sector funding. The incorporation of sustainability principles into public private partnerships would therefore greatly boost the Pan- European sustainable development agenda. Throughout Europe, public sector expenditure consistently accounts for 38-43% of GDP. This gives procurement agencies leverage over the social and environmental impacts of a significant proportion of the economy. This 'leverage capital' could be used to transform markets in favour of systems and products that further the aims of sustainable development.
However, to realise this goal, the current status of sustainability criteria and public private partnerships must first be established.

Scope

The report aims to assess the current situation regarding the inclusion of sustainability principles in public private partnerships. What is the relevant guiding legislation? What is the current practice? And what is the position of the key players in the process?
To provide a good overview and understanding of the current status, the topic is assessed on varied levels; from the global, EU, to member state level. Part 1 of the report outlines the guiding legislation at these levels. The main focus of the study is on a European scale. What is the current legislation? How is the EU influencing Europe? The UK is then chosen as a case study to represent a prime example of European current practice in the PPP market. The UK is the leading global exponent of public private partnerships, principally for the provision of public services. Part 2 of the report details an analysis of the key players in the UK PPP market, namely the public and private sector, as well as the leading financial advisors. This analysis includes opinions and comments from relevant key PPP practitioners, assessed during interviews and questionnaires for this report. The opinion of relevant NGOs are also incorporated throughout, to provide an holistic and inclusive evaluation of the current status of sustainability and public private partnerships.

Refer to Figure 1: Overview of the PPP Process and it's Outside Influences

"The incorporation of sustainability principles into public private partnerships would greatly boost the Pan- European sustainable development agenda."

Figure 1: Overview of the PPP Process and it's Outside Influences

Key questions: Where is driving forces for inclusion of sustainable development? What is the current status of legislation, policies and practice? Who are the players instrumental in driving sustainability in PPPs?

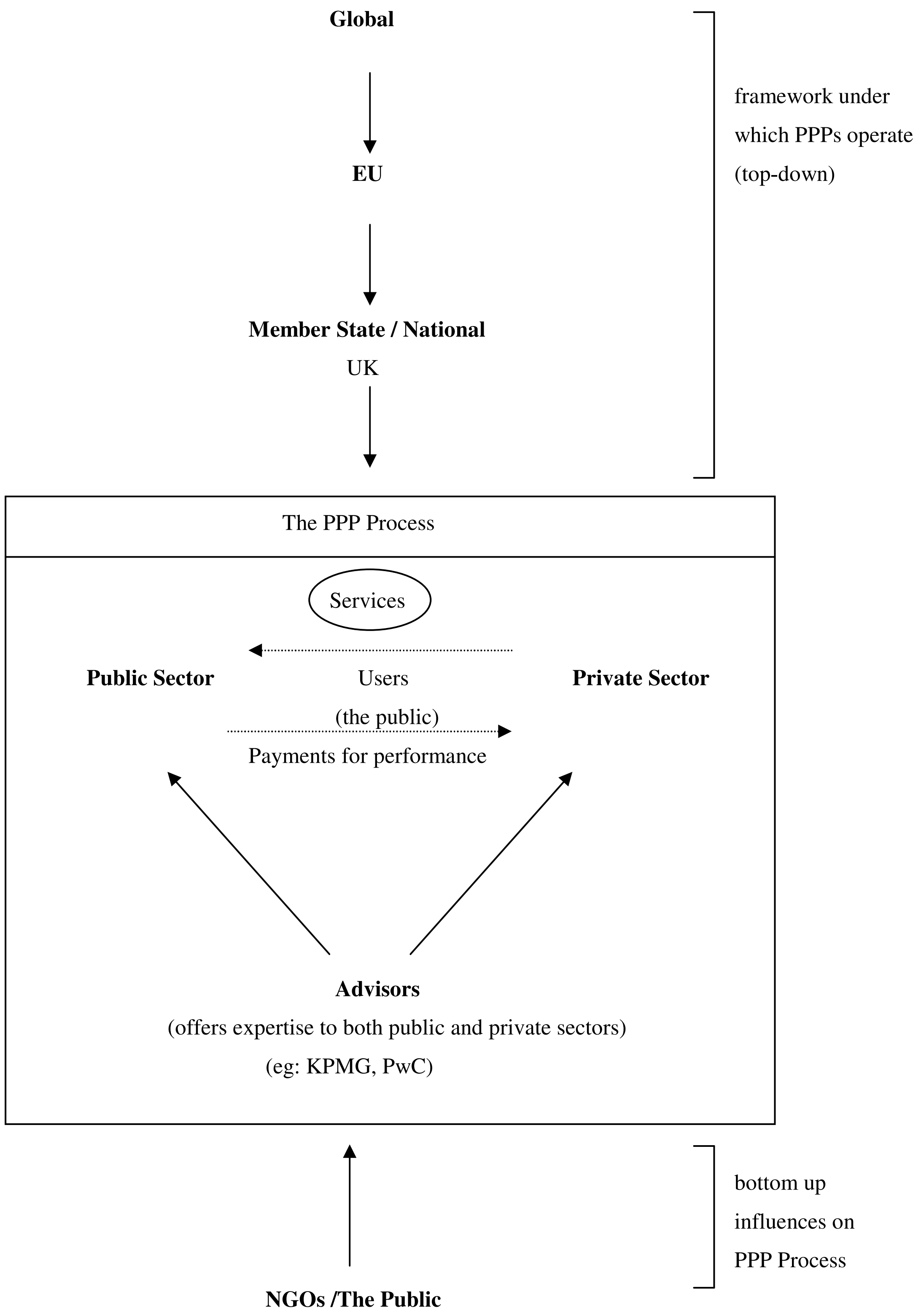


Table of Contents

Definition of Public Private Partnership

Public Private Partnership is an umbrella name for a range of initiatives which involve the private sector in the operation of public services.

In essence, a PPP is a form of collaboration or joint endeavour between the public and private sectors for the purposes of implementing a project, whereby the resources, strengths and capabilities of each are brought together. This is done in a way which allocates risks and responsibilities between them in a rational manner designed to achieve the optimum balance from each perspective.
Public Private Partnerships is not a precisely defined term. It embraces a range of structures and concepts which involve the sharing of risks and responsibilities between public and private sectors. The approaches and techniques range from the simple commercialisation of a set of assets that remain under public ownership right through to virtual privatisation. For the current report "Public Private Partnerships" (abbreviated as PPPs), will be used as an umbrella term for these range of initiatives.

In practice, PPP structures usually involve the transfer of much of the responsibility for financing, designing, constructing and operating the project-and most of the risks associated with these activities-to the private sector-whilst allowing certain (often residual) responsibilities and risks to be retained by the public sector.

Part 1: Guiding Legislation

1.1 Global

1.11 Public Private Partnerships in a Global Perspective

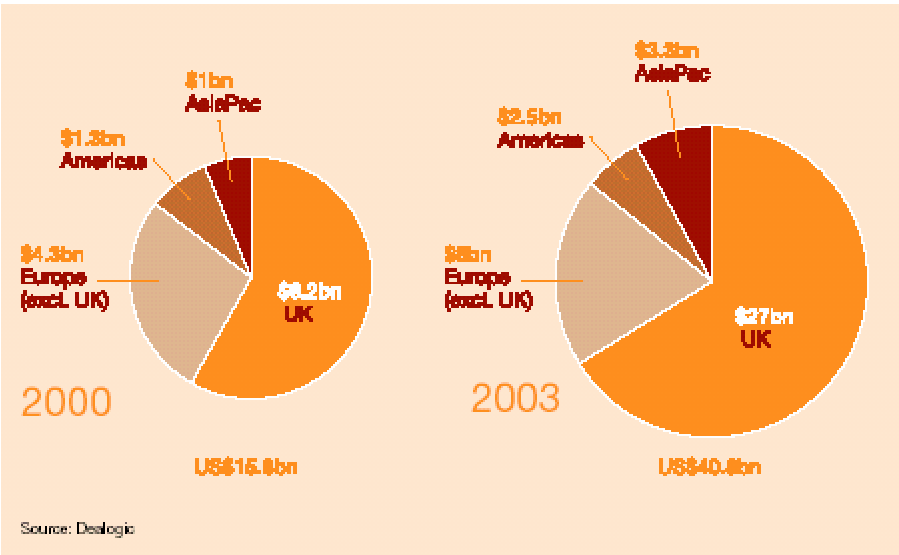
According to the International Project Finance Association, World Bank estimates predict that project financing for construction and operation of infrastructure around the world, is set to expand, and that the private sector will have an increasingly crucial role to play in the provision of public services. (IPFA, 2004)

The United Nations maintains that the last decade or so has witnessed what amounts to a worldwide revolution in the funding of infrastructure projects. (UN, 2002)

"Governments around the world are turning to public private partnerships as a means of improving public services." (PPP Global Summit, November 2004)

Figure 2 illustrates the main global players in the PPP market, determined by the capital value of closed deals, worldwide. (source: Price Waterhouse Coopers, 2004)
Note that public private partnerships in Europe, including the UK, account for 85% of PPPs worldwide.

Figure 2: Capital value of closed deals



1.12 The Global Sustainable Development Agenda and Public Private Partnerships

Dwindling national budgets and increasing public expectations have obliged many governments to seek more innovative ways of attracting private investments to meet public objectives. This had become more critical as nations met to assess the progress made for sustainable development at the Rio+10 UN Earth Summit in Johannsburg, 2002. The summit, in particular the EU, US and other industrialised countries, promoted the need for public private partnerships as a way of delivering environmental protection and poverty eradication (OECD, WBCSD, 2004). The summit outlined that PPPs are to become an increasingly important tool in the achievement of sustainable development (UN, 2002). According to the International Chamber of Commerce, they were one of the most hotly contested issues during the 2002 Johannesburg Summit on Sustainable Development, and one of the few concrete outcomes (2004). While the summit recognised that there is a lot of suspicion towards 'big business' involvement in the provisions of say, water and energy services, it concluded that public private partnerships are needed to tackle the UN Millennium targets (refer to Annex 1, for a list of the 8 Millennium Development goals. UN, 2002).

In a paper entitled 'Partnerships Involving the Private Sector', president of the World Business Council for Sustainable Development Bjorn Stigson maintains that partnerships are a central element in moving toward a sustainable future. The council back up the so-called "key message" from the Johannesburg Earth Summit 2002-that partnerships between government, business and civil society are needed, and that "achieving a sustainable future, in particular the Millennium Development Goals set forth by the United Nations, cannot happen without more public private partnerships".

The United Nations are actively encouraging governments to use PPPs in infrastructure for sustainable development and poverty alleviation, mindful of the limited resources available to governments to meet the huge development challenges of the era. The Monterrey Declaration, adopted at the International Conference on Financing for Development in 2002, translated the UN Millennium Development Goals of poverty eradication and environmental protection into national and global policy proposals. The declaration stressed the eighth internationally agreed goal: to develop a global partnership for development. The Monterrey Declaration recognises PPPs as an important instrument in creating an environment favourable to the normal functioning of business and the attraction of investment, an essential element in generating employment and creating wealth. Not least because of this advocacy, a number of governments are taking on board this concept and are formulating legislation and policy to mobilise resources outside the public sector (UNECE, 2004).

However, it is recognised that the commitment to PPPs varies from country to country, and that experience has shown that the transition tends to be rather slow from the usual adversarial relation between the public and private sectors, to the desired partnership in search of the common good and the best forms of attaining this (WBCSD, 2004). It was accepted that for public private partnerships to work successfully, the public sector (especially in developing countries) must build capacities so that a balance of power with the multinational companies is granted. According to the OECD and WBCSD, the challenge for business is to move towards clear performance indicators for sustainable development, and to align them with the broader needs of society (2004).

In their 'Public Private Partnerships for Development' report, in May 2003, the World Bank state that PPPs reflect the quest for a positive interaction between globalisation and governance, which in turn ensures that polices at the national, regional and global levels are capable of promoting the common good. The World Bank maintain that "the new paradigm for global development (also referred to as the "Monterrey consensus") is based on good governance at the corporate and political level"- and PPPs are a vehicle of this process. It recognises that trust between all the partners and entities that finance development must rest on policies that assure poverty eradication, sustained economic growth and sustainable development.

1.13 Public Procurement and Sustainability

According to the OECD, government procurement markets account for between 5-18% of GDP within OECD Member countries. The OECD acknowledge that public procurement therefore has a significant potential to bring about direct environmental benefits through improved environmental performance of public authorities and the promotion of "green" products and services. They recognise the "importance of governments in demonstrating leadership in progressing toward sustainable development". OECD's activities in this area date from 1996, and has involved workshops in Member countries and publications to promote greener public purchasing. In 2002, the OECD Council passed a commendation listing steps that governments should take to "green" procurement. Governments are urged to introduce appropriate policies, establish procedures for product identification, provide relevant information and technical support and evaluate progress.

Similarly, the World Trade Organisation's Government Purchasing Agreement contains a crucial article stating that: "Nothing in this agreement shall be construed to prevent any contracting authority from imposing or enforcing measures necessary to protect order or safety, human, animal or plant life or health in particular with a view to sustainable development" (WTO, 2003).

1.14 Overview

- Clear global movement towards the public private partnership concept
- PPP cited as a vehicle to achieve the global sustainable development agenda goals (UN Earth Summit, 2002)
- Interpretation of "sustainable development" in its broadest sense: to deliver much needed services
- Little attention paid to sustainability *within* a PPP scheme
- This may be addressed through the OECD's movement towards green public procurement (however, is only guidance based, and PPPs not specifically mentioned)
- OECD maintain that environmental considerations in procurement are best met on national level
- Sustainability can also be incorporated into a PPP scheme through voluntary agreements where businesses are invited to outline their core activities in terms of its effect on economic, social and environmental principles
- So, it could be suggested that at these high levels, the notion of achieving sustainable development in PPPs are only dealt with in their vaguest form. There seems, therefore, to be a somewhat one-dimensional approach taken by the larger institutions, regarding the understanding of what delivering 'sustainable development' means.

1.2 Europe

1.21 Europe and Public Private Partnerships

The European Commission has recognised the potential of PPP financing structures for a long time, but 2003 was the year that acknowledgement turned into action. This was driven by the volume of infrastructure necessary to bind in each of the 10 new accession countries from 1 May 2004, and make Europe work as a unit. Downward pressure on public sector budgets exerted by the Growth and Stability Pact has also helped PPP move up the European agenda (IFSL, 2003).

In the European Union, a number of member states, most notably the UK, have well-developed PPP programmes. In an opening letter of the 5th Annual Public Private Partnerships Global Summit, Mgr. Bohuslav Sobotka (Minister of Finance, The Czech Republic) states that "among the new Member States, where the need for infrastructure investment is even greater, there is a growing awareness that PPPs represent arguably the most efficient way of closing the infrastructure gap" (November 2004).

The EU considers PPP "an essential instrument to competitiveness and economic development in the whole EU territory". (Prodi, Report on Growth Initiative, 2004)

1.22 EU PPP Policy

At present, the term public private partnership (PPP) is not defined at Community level (EC, 2004). The Commission notes that in general, the term refers to "forms of cooperation between public authorities and the world of business which aims to ensure the funding, construction, renovation, management or maintenance of an infrastructure or the provision of a service."(EC, 2004)

There is a clear dedication from the EU to promote the use of PPPs. The development of the 'European Initiative for Growth' follows on from the request at the October 2003 European Council, to the Commission and the EIB to "explore how best to mobilise private financing support of the European Initiative for Growth" and to give "further consideration to a number of actions which should assist in promoting PPPs." (European Commission, 2003).

Although there are a number of EU statements and reviews concerning PPPs, there is no discernable EU PPP policy (PwC, 2004). The majority of EU activity in this area has concerned the development of the trans-European transport network (TEN), where the EU has a direct interest in using PPPs to assist delivery of the network. However, there has been recent developments concerning a Green paper on PPPs and public procurement and concessions.

Table 1 provides an over-view of EU activities and actions taken that concern PPPs.

Table 1 EU Activities / Actions Concerning PPPs (source: adapted from PwC, 2004)

Date	Action	Source
1993	White Paper on Growth, competitiveness and employment	COM(93)700
1997	High Level Group on PPP Financing of TEN-T projects (Kinnock Report)	COM(97)453
2000	Commission's Interpretative Communication on Concessions under Community Law	OJEC(2000/C 121/02)
2000	Proposal for a Regulation of the Council and Parliament concerning the granting of aid for the coordination of the transport by rail, road and inland waterways	OJEC(2000)5
2001	Paper on European Transport Policy for 2010: time to decide	COM(2001)0370
2001	Commission's Interpretative Communication on the Community law applicable to public procurement and the possibilities for integrating environmental considerations into public procurement	COM(2001)274
2001	Commission's Interpretative Communication on the Community law applicable to public procurement and the possibilities for integrating social considerations into public procurement (LOOK UP)	COM(2001)
2002	Building a Valuable Approach to PPPs. Working session on draft guidelines	COM(2001)0370
2003	Guidelines for successful Public Private Partnerships- DG Regio and dissemination at a series of international conferences	DG Regional Policy
2003	A European Initiative for Growth-Investing in Networks and Knowledge for Growth and Jobs	COM(2003)690
2003	Proposal for a Decision of the European Parliament and of the Council amending Decision No1692/96/EC on Community Guidelines for the development of the TEN.	COM(2003)564
2003	Regulation amending Council Regulation EC No2236/95 laying down general rules for the granting of Community financial aid in the field of TENs	COM(2003)561
2003	Communication from the Commission Developing the TENs: Innovative funding solutions and Proposal for a Directive on the Widespread Introduction and Interoperability of electronic toll collection systems	COM(2003)132
2003	High Level Group Report on the TEN-T network	DG Transport
2004	Eurostat proposals on accounting treatment of PPPs	CMFB/Eurostat
2004	New Procurement Directives-including introduction of Competitive Dialogue	OJEC
2004	Green Paper-EU consultative paper on PPPs and Community Law on Public Contracts and Concessions	COM(2004)327

1.23 PPP and the European Sustainability Agenda

This section studies some of the initiatives outlined in table 1, to determine what the law is regarding European PPPs and the sustainability agenda.

EU and Sustainable Development

In the Lisbon Agenda, targets are set for the EU to become "the most competitive and dynamic economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion", by 2010. The Stockholm European Council decided that the EU sustainable development strategy should complete and build on this political commitment by including an environmental dimension. The strategy maintains that in the long term, economic growth, social cohesion and environmental protection must go hand in hand. (EC, 2001. Refer to Annex 2 for objectives of EU Sustainable Development Strategy).

One of the EU's founding philosophies is: "to achieve balanced and sustainable development, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion" (OJEC, 2002). It is recognised that the ability of the EU to realise its aims are linked to the quality and quantity of Europe's infrastructure and public services (PwC, 2004). Hence, PPPs are interpreted as pushing forward the European agenda for sustainable development. One of the EU's statements on PPPs, from Arlene McCarthy MEP (2002), addresses the linkage of PPP and sustainable development: "Public Private Partnerships are essential to tackling market failure in urban areas, and fall within the EU's objectives of the regeneration of urban areas, as well as strengthening economic and social cohesion (Article 158 of the EU Treaty) and sustainable development (Article 2)."

The EU Sustainable Development Strategy makes no reference to PPPs, but does draw attention to the issue of public procurement. "In relation to public procurement, the legislative framework should facilitate the taking into account of environmental concerns alongside its primary economic purpose"(EC, 2001). It suggests that Member States should "consider how to make better use of public procurement to favour environmentally-friendly products and services."

The Commission proposal for the Sixth Environmental Action Programme, which covers the years 2001-2010, identifies public procurement as an area which has considerable potential for "greening" the market through public purchasers using environmental performance as one of their purchase criteria (COM 2001).

Initiatives taken by the EU in relation to or concerning PPPs.

Procurement Directives / Rules

It was acknowledged by Commissioner Frits Bolkestein (DG Internal Market), at the Third Annual PPP Summit in 2002, that: "EU procurement law does not define public private partnerships, nor does it provide for a specific set of rules covering the procurement of PPP projects." (Speech by Commissioner at the Third Annual Summit in 2002). The EU has recognised that the current state of EU procurement law does not provide sufficient legal certainty in the area of PPPs and believes that: "the absence of a proper legal framework would hinder the development of PPP projects within the EU." (Commissioner Frits Bolkestein, Third Annual Summit, 2002). However, as the Economic and Social Committee noted: "a specific PPP directive would be difficult to formulate and even harder to apply." (OJEC (1998/C129/14) Opinion of the Economic and Social Committee on the Kinnock report).
The public procurement directives do not contain any explicit reference to environmental or social concerns, or any other aspects beyond the core market policy. It is the EC Treaty-based principles of public procurement of non-discrimination, equal treatment, transparency, mutual recognition and proportionality that are central to the directives, and must be applied in all matters of procurement.

Commission Interpretative Communication on the Community law applicable to public procurement and the possibilities for integrating environmental considerations into public procurement (July 2001)
and
Commission Interpretative Communication on the Community law applicable to public procurement and the possibilities for integrating social considerations into public procurement (October 2001)

The objective of the documents was to analyse the existing Community legal framework with regard to the scope to integrate environmental and social considerations into public procurement, offering public purchasers "the possibility to contribute to sustainable development" (EC, 2001). In particular, the Commission's communication document on including environmental concerns, was in response to the Europe's Sustainable Development Strategy (2001). According to the Commission's communication, 3 guiding principles should ensure the inclusion of environmental and social criteria in public procurement:
-Non-discrimination: the tender cannot be formulated in a way that excludes, directly or indirectly, tenders from other Member States.
-Transparency: specifications have to be measurable and objective.
-A description early in the tender process: specify what the contract concerns, and specify what technical specifications are sought. A specification can for example be a low-energy consuming building, using specific materials, certain heating systems etc. (euractiv.com)

It concluded that there is sufficient scope to pursue environmental objectives in public contracts under the current directives, notably when defining the technical specifications, the selection criteria and the award criteria of a contract. In certain circumstances, it is noted that specifications can be identified in line with eco-label criteria- with eco-label certificates providing proof of compliance with the particular requirement. Environmental management systems (ISO 14001 and EMAS) can also be a relevant means of proof of technical capacity where it provides evidence relevant to the subject or performance of the contract. Contracting authorities may impose specific additional conditions that are compatible with the Treaty rules, and is down to national law, whether contracting authorities have further possibilities for "greening procurement". This is aided by the Commission's handbook on green public procurement. Environmental factors may also be taken into account at the award stage, where they are relevant to an assessment of whole life costs or quality, and are of economic benefit to the contracting authority (EC, 2001). However, the awarding of the contract to the "economically most advantageous tender", as stated in the public procurement directives still abides. The Coalition for Green and Social Procurement argue that the Interpretative Communication does little to explain the interpretation of this concept. "It could be interpreted in a way that each award criterion has to have an economic advantage for the contracting authority, or that each award criterion has to be measurable in economic terms. This difference in interpretation can be important, since environmentally-friendly products are often more expensive" (www.euractiv.com, 2002).

It is noted by the Commission (2001) that there is far less scope to incorporate social issues in public procurement, than in the case of environmental issues. The reason for this is that environmental issues tend to relate to what is being procured- eg: green specifications, energy efficiency and recyclability, whereas many social issues do not.

PPP and Community Law on Public Contracts and Concessions (April 2004)

The Procurement Directives have been revised many times and yet only recently has the EU issued a consultative document on the procurement of PPPs. In the context of its Strategy for the internal market 2003-2006, the Commission announced that it would publish a Green Paper on PPPs and Community Law, in order to launch a debate on the best way to ensure that PPPs can develop in a context of effective competition and legal clarity. The publication was also one of the actions planned under the European Initiative for Growth. The Green Paper discusses the phenomenon of PPPs from the perspective of Community legislation on public contracts and concessions. It notes that community law does not lay down any special rules covering the phenomenon of PPPs. However, it outlines that any act whereby a public entity entrusts the provision of an economic activity to a third party must abide by the Treaty principles of transparency, equality of treatment, proportionality and mutual recognition. However, according to Price Waterhouse Coopers, it is debateable whether these have clarified the situation in regard to public private partnership contracts, or have added to the complexity of assessing which rules are to be applied in such situations (2004). The paper does not mention, at any stage, the possible inclusion of sustainable development considerations.

Guidelines for Successful Public Private Partnerships (DG Regional Policy, March 2003)

The European Commission has a particular interest in promoting and developing PPPs within the framework of the grants that it provides. It has expressed it's willingness to assist in the development and implementation of PPP projects and use grant financing to leverage such arrangements (EC 2003). The challenge of combining PPPs with grant funding have been outlined in the Guidelines for Successful PPPs. The Commission acknowledge that the use of grants will impose additional conditionalities on projects particularly given the Commission's financing objectives, constraints and over-riding requirement to protect the public interest. "The project and its' different partners must be able to effectively integrate and accept these and manage their consequences". The guidelines do not mention sustainable development as one of these 'conditionalities', however, as seen in the following section (1.24 EU Regional Funding and PPPs), sustainable development is a key principle in EU funding.

1.24 EU Regional Funding and Public Private Partnerships

Even though this aspect has been briefly discussed in the previous section (Guidelines for Successful PPPs), the issue of combining EU funding, in particular, the Regional funds, with PPPs demands further analysis, as it is liable to be a growing market, and directly incorporates the sustainable development agenda.

EU Regional funding takes a number of different forms. Those most relevant to the provision of infrastructure and government services are the Structural funds (particularly the European Regional Development Fund and the European Social Fund), and the Cohesion Fund.

Cohesion Fund

The Cohesion Fund finances projects designed to improve the environment and develop transport infrastructure in Member States whose per capita GNP is below 90% of the Community average. "In this way, Cohesion Funds contributes to sustainable development in the Member States concerned as well as strengthening cohesion in the European Union."(www.europa.eu.int).
The Cohesion Fund budget for 2000-2006 amounts to €18 billion. The countries qualifying for the period 2000-2006 include Ireland, Greece, Spain and Portugal (as a result of a progress review, Ireland no longer qualifies for funding since 2003), and since May 2004, the 10 new Member States also qualify for Cohesion Fund assistance. The projects financed must be for either environment or transport, and funds are split 50-50 between the two categories. Grant financing is about 80% to 85% of the total cost.
All projects must comply with the treaty and with Community legislation in force, in particular the rules on competition, the environment and the award of public contracts.
Environmental projects are aimed to help achieve the objectives of the Community's environmental policy. These objectives are defined in the Treaty:
-preserving , protecting and improving the quality of the environment
-protecting human health
-assuring prudent and rational use of natural resources
In accordance with the Directives on the environment in force, the Fund gives priority to drinking-water supply, treatment of waste water and disposal of solid waste. Reafforestation, erosion control and nature conservation measures are also eligible. Transport infrastructure projects are more geared towards the establishment and development of transport infrastructure within the Trans-European Transport Network (TEN), or projects providing access to the TEN.
The Commission, in it's proposal for Regional Funding Reforms(2004), anticipates that the Cohesion funds will "strengthen its contribution to sustainable development" in the new period 2007 onwards. TEN networks and environmental infrastructure will remain priorities. The funds are also envisaged to support projects such as rail, maritime, inland waterways, other multi-modal transport, sustainable urban transport and environmentally important investments in the key fields of energy efficiency or renewable energies.
(source: European Commission. DG Regional Policy)

The Structural Funds

Four different types of Structural Funds have been established by the European Union for granting financial assistance to support structural economic and social development. Two types of Structural Fund, the European Development Fund (ERDF) and the European Social Fund (ESF) are relevant to PPP projects (PwC,2004). All EU Member States qualify for some type of structural funding, with a total budget of €195 billion available, for the period 2000-2006. Grant financing is variable, and depends on the wealth of the region where the investment is made.

The ERDF mainly finances the development of infrastructure and small or medium enterprises. ERDF resources are mainly used to co-finance: productive investment leading to the creation or maintenance of jobs, infrastructure, local development initiatives and the business activities of small and medium enterprises. The EU state that "In order to reduce the gap between the levels of development of the various regions and the extent to which the least-favoured regions and islands (including rural areas) are lagging behind, the ERDF contributes to the harmonious, balanced and sustainable development of economic activity, to a high degree of competitiveness, to high levels of employment and protection of the environment, and to equality between women and men"(www.europa.eu.int).

The ESF funds programmes to develop or regenerate the employability of people in eligible regions and local employment initiatives giving assistance to individuals through vocational training, education and careers advice, also through social skills development. (source: European Commission)

According to the Commission, the funds make an important contribution to realising the aims of the Lisbon Strategy and Gothenburg agreement (Commission: 2004). In the Commission's proposal for a

Council Regulation on "laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund"(2004), the Commission states that funding policies must incorporate the Lisbon and Gothenburg objectives and to become a key vehicle for their realisation via the national and regional development programmes. The EU Heads of State also agreed that Regional policy should contribute to the EU Sustainable Development Strategy. This means that Regional funds should support actions which mutually strengthen the Community's economic growth, social cohesion and environmental protection and improvement.

Combining EU Funding with Private Finance

Both Cohesion and Structural funding require co-financing, with EU funding normally being limited to a maximum of 85% and 75% of eligible costs respectively. These grant schemes have been in place for many years, but few if any examples of PPP projects with EU grant funding appear to exist (PwC,2004). Since May 2004, the new Member States have become eligible for these funds. However, it does bring with it a considerable co-financing commitment. Even if projects and programmes receive the maximum grant funding levels, the estimated co-financing requirements will amount to €5 billion over a period from 2003-2006 (InfoBASE Europe, European Commission and PwC calculations). To date, governments have chosen to co-finance EU grants with public funds. However, this option is not necessarily a realistic option for many of the new EU Member States. Therefore the topic of integrating EU funds and PPP projects is gaining increased importance.

Price Waterhouse Coopers, in their report: "Developing PPPs in the New Europe" (2004), maintain that considerable uncertainty surrounds the concept of using private finance as a means of co-financing funds provided by the EU. Results show that there have been very few projects which have combined these forms of EU funding with sources of private finance or PPPs. However, a small amount of projects have been /are being undertaken involving Cohesion funds and private finance, in countries that apply for such funding: namely Ireland, Greece, Portugal and Spain. No projects funded by ISPA (the pre-accession form of the Cohesion fund, for the pre-accession countries) were co-financed by private funds.

Price Waterhouse Coopers suggest that the combination of cohesion funds and PPPs would be more suitable than with structural funds, as most structural fund programmes don't have a significant infrastructure or public service element to them, and structural fund projects tend to be of smaller size and hence less appropriate for PPPs (PwC, 2004). There is an exception to this idea- the Actnow Broadband Communications Project.

Case Study: Actnow Broadband Communications Project

Cornwall is an example of an 'Objective One' region in England, entitled to EU Structural funds. Actnow (Access for Cornwall through Telecommunications to New Opportunities Worldwide) is a PPP between BT and a number of public sector entities. Of the total cost of €20 million, €8.4 million came from ERDF and BT contributed €4.8 million. Under the contract, BT will deliver the commercial benefits of broadband services to small businesses in remote areas. (upgrade 13 telephone exchanges to deliver ADSL broadband services at significantly lower levels of demand than normally required to justify deployment of the technology.) Pierre Danon, Chief Executive of BT Retail said "Cornwall could be the blueprint for the development of broadband in other regions of the UK where, without this kind of partnership approach, deployment is currently uneconomic" (www.actnowcornwall.co.uk). The initiative is expected to create more than 1,000 jobs from the commercial applications of broadband services in Cornwall. Actnow has been identified as an example of best practice in using public private partnerships to deliver the commercial benefits of broadband services to small businesses in remote areas. It is also a rare example of EU regional funding being met with private finance through a public private partnership. The partnership has been successful and is likely to be the start of many such EU funds / PPP ventures, in the aim of delivering much needed services and infrastructure to the 10 new EU countries, in the future.
Regarding the sustainability agenda, the project itself, was seen as delivering 'sustainable development' to the region. Sustainability principles in themselves did not particularly have to be applied due to regional funding objectives. In an interview with Dr. Ranulf Scarbrough, Programme Manager of the project, he stated that the criteria they had to abide by in order to fulfil regional funding obligations were basically economically based- "the main frame work of issue were to try to deliver GDP & business competitiveness while remaining within state aid". Particular aspects of sustainability

did not have to be addressed within the project-" It depends what you mean by 'sustainability'. If you mean how did we ensure the impacts of the project stood the best chance of continuing when it ceased operation, then yes we thought a lot about how to manage this and it strongly influenced the decision making process. If you mean sustainability in the environmental context, then we had a strong feeling that there would be very positive environmental impacts and we are just starting to measure these, but they didn't particularly influence how we went about the project".

It is surprising that there have been so few projects which have combined these two sources of finance. There seems to be a perception gap between the views of the member states (where there is a scepticism as to whether the EU is willing to see EU grants and private sector funding combined) and the EU where the Commission has stated that private co-financing is acceptable, so long as various requirements are met (PwC, 2004). Indeed the EU has stated that encouraging greater use of private sources of funding should be supported:
"The new Structural Funds Regulations stress the need to achieve the best leverage from operations funded from the Community budget by favouring as far as possible recourse to private sources of financing, notably risk and venture capital and Public Private Partnerships (PPPs), as a means both of increasing the resources available for investment and also of ensuring that private sector expertise is brought to bear on the way in which schemes are run".
(PwC, 2004)

Similarly, the Cohesion Fund regulations states that:
"The Commission shall support beneficiary Member States' efforts to maximise the leverage of fund resources by encouraging greater use of private sources of funding."
(PwC, 2004)

It is suggested that possibly one of the practical issues holding back the development of such co-financing structures, is the sheer complexity that would be involved in combining the separate requirements of PPPs and EU funding, in one project structure and procurement, within the context of national public sector procurement requirements (PwC, 2004). The challenge of combining PPPs with grant funding, have been outlined in the Guidelines for Successful PPPs. Even though the guidelines do not mention the inclusion of sustainability explicitly, it does note that one of the key issues to consider in such a venture, is to ensure the recognition of EU grant financing objectives.

The Potential

Funding for regional development and for strengthening economic and social cohesion is the second largest part of the EU budget. In the current Financial Perspective (2000-2006), EU grant funding amounts to some €240billion (www.europa.eu.int). However, there is a concern that the new Member States don't have the capacity to fully absorb these funds. Hence the huge potential for the use of private finance.

The WWF maintain that EU Regional Funds, if properly directed and managed, represent the highest potential for sustainable development in Europe (WWF, 2004). The draft new regulations on EU Regional Funding policy (July 2004) promote the delivering of sustainable development through the regional funding mechanism, and these apply for the period 2007-2013.

With sustainable development as a present and future baseline objective in the provision of these funds, it is accepted that PPPs, if entering into co-finance agreements, will have to adapt to the sustainable development agenda. However, as noted by the WWF, Regional Funds have not been directly and compulsorily linked to supporting environmental or 'sustainable' goals. Funds continue, for example, to be used in practice in ways to undermine agreed environmental and nature conservation objectives (WWF, 2004). The lack of truly integrating sustainability throughout regionally funded projects is also described in the Actnow Cornwall case study above. There is little in the new draft guidelines to suggest that sustainability proofing EU funding projects will occur, leaving future collaborations between EU funds and private finance open to interpretation on the sustainability issue.

1.25 PPPs in the Member States

The state of PPP development varies widely between the Member States. While there is an interest in PPPs in all Member States, experience of the procurement of PPPs is limited. The UK stands out as having the longest and most substantial experience of PPPs (PwC, 2004).

Figure 3 provides a summary of PPP activity in Europe by country and sector (source: PwC, 2004)

	Central Accommodation	Airports	Defence	Housing	Health & Hospitals	IT	Ports	Prisons	Heavy Railway	Light Railway	Roads	Schools	Sports & Leisure	Water & Wastewater (incl solid waste)
Member States														
Austria	○	○			◔	○		○	◔		◔	○		○
Belgium		◔	○	◔					○	○	◔	○		◔
Denmark	○						◔	○	◔		◔	◔	◔	
Finland			○		◔						◔	◔		○
France	◔	◔	○		◔		◔	◔	◔	●[1]	●[1]	○		●[1]
Germany	◔	○	◑		○	◔		◔	◑	◑	◑	◑		◕
Greece	◔	●									◑		◑	
Ireland	○			◔	◔					◔	◕	◑		◕
Italy	○	◔		○	◑		◔	○		◑	◕		◔	◔
Luxembourg		○				◔								
Netherlands	○		○	○	○		○	○	◑		◑	◔		◑
Norway (not EU)	○		○		◔			○	○		◑	◔		
Portugal		○		○	◔	◔	○	○	○	◑	●	○		◑
Spain	○	○			◔		●			◔	●	○	○	◑
Sweden			○		○				○	◑	○			
UK	●	●	●	●	●	●		●		●	●	●	●	●
New Member States														
Cyprus		◑					◔				◔			◔
Czech Republic		○	◔	○	○				○	○	◔	○	○	◑
Estonia					○	○					○	○		
Hungary				○	◔	○		◔		○	◑	◑	◔	◑
Latvia				○							○			
Lithuania										○				
Malta				○	◔									
Poland	○	○		○			◔		○	○	◔			◑
Slovakia		○									○			○
Slovenia														◑
Applicant Countries														
Bulgaria		○									○			◑
Romania				○	◔						◑		◔	◑
Turkey		◑							○	○	○			◑

Legend

○ Discussions ongoing

◔ Projects in procurement

◑ Many procured projects, some projects closed

◕ Substantial number of closed projects

● Substantial number of closed projects, majority of them in operation

[1] Procurement activity in these sectors relates to traditional style concession contracts

Source: PricewaterhouseCoopers

Figure 4 provides an outline of efforts made by governments to develop the 'institutional capacity' and 'enabling environment' for PPPs (source: PwC,2004)

Member States

	PPP Unit	PPP Law	
Austria	✿✿✿	–	
Belgium	✿	*	
Denmark	✿✿	–	
Finland	–	*	
France	✿	**	
Germany	✿✿	**	
Greece	✿	**	
Ireland	✿✿✿		***
Italy	✿✿	*	
Luxembourg	–	–	
Netherlands	✿✿✿	–	
Norway(not EU)	✿	–	
Portugal	✿✿	**	
Spain	–	**	
Sweden	–	–	
UK	✿✿✿	–	

New Member States

	PPP Unit	PPP Law	
Cyprus	–	–	
Czech Republic	✿✿	**	
Estonia		✿	–
Hungary	✿✿	*	
Latvia	✿✿	*	
Lithuania	–	–	
Malta	✿	–	
Poland	✿✿	**	
Slovakia	–	–	
Slovenia	–	–	

Applicant Countries

Bulgaria	✿	*
Romania	✿	**
Turkey	–	***

Key

✿ Need for PPP unit identified and some action taken (or only a regional PPP unit existing)

✿ ✿ PPP unit in progress (or existing but in a purely consultative capacity)

✿✿✿ PPP unit existing (actively involved in PPP promotion)

* Legislation being proposed

** Comprehensive legislation being drafted / some sector specific legislation in place

***Comprehensive legislation in place

Source: PricewaterhouseCoopers 2004

An approach which a number of governments have taken has been to develop a centre of knowledge and excellence in PPPs, often referred to as a 'PPP Unit' or 'Knowledge Centre'. The roles played by these units, and the importance which they have in actively promoting the development of PPPs, varies from country to country.

Although figures 3 and 4, below, demonstrate the relatively limited progress which has been achieved in Europe to date, the use of PPPs is growing. In 2003, ninety PPP projects were financed in Europe amounting to $21.65 billion. (Dealogic, 2003, Global Finance Review). The EIB has itself provided funds of nearly €18 billion to PPP projects.

Table 2 illustrates key PPP developments in European countries.
(source: IFSL 2003)

Country	Legal Developments	Project Developments
Finland		Helsinki-Lahti DBFO road concession. Esposa sixth form college. Interest in developing PPPs in defence and health.
France		Autoroute concessions (real toll, via SEMs). Water concessions.
Germany	Legislative changes implemented For transport projects. Facilitating Legislative changes considered for public building construction projects. PPP unit on federal level. PPP units on province level sporadically already existing (North Rhine, Westphalia, Lower Saxony).	PPP models developed for transport projects (eg: Warnow Tunnel) and school projects (District of Offenbach, different projects in North Rhine-Westphalia). Currently defining requirements and structures to implement PPPs in the public building construction sector on a federal, province and municipality level.
Greece	'Centre of Excellence' established	Road concessions (real toll). Tessaloniki light rail PPP. Projects in rail, urban transport and social Infrastructure being identified.
Ireland	Policy framework implemented and Taskforce established.	PPP programme covering transport, water, education and waste is now in progress.
Italy	Legislation implemented and Taskforce established.	Hospital, transport and waste management projects in progress.
Netherlands	PPP Knowledge Centre ("Kenniscentrum"), established in 1999.	High Speed Link(HSL) rail project. Water PPP in progress. Health, education, prisons and government buildings at feasibility stage.
Portugal	Legislation implemented	SCUT road concession (shadow toll). Healthcare PPPs being considered. Airport PPPs in initial stages.
Spain		Autoroute concessions (real toll). Regional road concession (shadow toll). Airport and transport PPPs being considered.
UK	Treasury Taskforce established (1997). Partnerships UK launched and funded.	Transport PPPs (London Underground). Projects in Education. Regionally based health PPP projects.
New Europe: Hungary, Poland, Romania, Croatia		taken part in BOT road schemes

The World Bank estimates that infrastructure investment needs for the accession candidates to be €65 billion over the next 15 years. It cites Poland as the country with the highest amount of infrastructure investment needs (€21.4 billion), followed by the Czech Republic, Bulgaria, Romania, Hungary, Slovakia, Estonia, Slovenia, Lithuania and Latvia, with some 70% of these investment requirements being at municipal or regional levels of government (www.worldbank.org).

1.26 Opinion

Price Waterhouse Coopers

Price Waterhouse Coopers, in their 2004 report: "Developing PPPs in New Europe", maintain that the EU's approach to the development of PPPs is largely compartmentalised and uncoordinated. "Little actual progress has been made, and there is considerable uncertainty as to how PPPs interact with EU legislation and regulations." They acknowledge that it is at the member state level, where the prime responsibility for the development of PPP policies and procurements lies, however, the EU have a crucial role in assisting and influencing these member states in developing and procuring PPPs. In their document, they suggest that the Commission should set up a cross-EU Group, whose role would include assessing the impact of EU decisions and actions on the PPP market and acting as a centre of Knowledge for PPPs in the EU.

They state that the expansion of PPPs in Europe is a stepping stone in realising the EU founding philosophy of "achieving balanced and sustainable development", through the delivery of infrastructure and public services. However, this is as far as the report goes regarding mentioning the sustainability agenda. Significantly, in outlining a list of all EU activities and actions directly or indirectly concerning PPPs, it fails to mention both Interpretive Communications from the Commission on how to incorporate environmental and social considerations into procurement.

(see section 2.4 for further analysis of PwC in the UK and the extended PPP market)

The United Nations Economic Commission for Europe (UN/ECE)

The United Nations Economic Commission for Europe has encouraged PPPs for infrastructure development in the context of the UN's commitment to sustainable development (UNECE, 2004). In 2002, the UNECE Public Private Partnership Alliance was established in cooperation with the EU, EBRD, EIB and the OECD to improve the public sector's awareness, capacity and skills to deliver successful PPP projects. In 2004, the PPP Alliance agreed, in light of the lack of information available on the topic, to prepare guidelines on the subject of good governance in PPPs.

This guidance addresses increasing interest in governance issues- due to some concerns about ethical behaviour of both public and private actors operating in an increasingly global economy. The UNECE specify that to date, the practitioners of PPPs in infrastructure have not yet given their particular attention to the question of governance, and that this gap needs to be addressed. One of the ingredients that they perceive are key in PPP governance, is sustainable development. They define sustainable development in terms of social protection and environmental improvement and maintain that PPPs are ideal vehicles to achieve integrated economic, social and environmental objectives, because of their multi-party, multi-sector structure.
"The challenge is to achieve successful PPPs that deliver on social objectives such as poverty alleviation, and protection of the weak and vulnerable groups" (UNECE, 2004). In their guidelines, they cite a case study of an education PPP scheme in Glasgow, where the project is ensuring that schools are serving deprived areas and giving children internet access for the first time. Such an example of 'social sustainability' in a PPP was achieved, as companies were not eligible for financial incentives unless they achieved improvements in educational standards and in class attendance.
The group also strive to incorporate the environmental sustainability agenda into PPPs. One example the guidelines cite, is Chesapeake Bay in the US, where a PPP scheme allowed the state purchase land adjacent to the bay and set up a management plan to protect the biodiversity rich area.

Their guidelines, however, are a work in progress (November 2004), and have yet to fully define benchmark case studies of sustainable practice in PPPs. In an interview with Mr. Geoffrey Hamilton of the UNECE, he admitted that the development of a framework to include sustainability considerations into PPPs was as yet, a very under-developed topic. According to Mr. Hamilton, "there is an overall lack of resources and general knowledge in the field regarding best practice case studies in PPPs and elements of sustainable development. The lack of accessibility to relevant information is a major obstacle in forging ahead the sustainability agenda in PPPs." Mr. Hamilton, when questioned regarding the EC's relevant documents, was unaware of interpretative communications on including environmental and social considerations in public procurement; indicative of the lack of coordination and indeed low profile of these documents.

The lack of coordination and access to information on sustainability and PPPs needs to change, according to Mr. Hamilton, as PPP practitioners and policy makers are becoming increasingly interested in this aspect.

When questioned, on whose role is it to drive sustainability in PPPs, it was considered that the government is most influential. “They fix the incentives and penalties not the EU.” Primarily, it is up to policy makers in central government- but international NGO’s and more local interest groups with a sustainability mandate have a vital role in pushing this agenda. “The UN has a role in pushing governments and that will depend on the Ministries on environment, but to date within our ECE environment division they have been very quiet on PPPs.”

1.27 Overview

- Promotion of and increasing interest in PPPs in a European context. Especially relevant in new enlarged EU.
- No discernable policy in relation to PPPs
- Legalities of PPPs are covered under public procurement Directives (even though they are not defined in the laws)
- Recognised that further guidance in other areas is required, and there is a need for the EU to take a more joined up approach to the PPP market.
- It is at the member state level, where responsibility lies in developing PPP policy.

- No mention of sustainable development issues in procurement directives.
- However, according to EU interpretive communication- contracting authorities have sufficient scope (but are not obligated) to define the subject of the public procurement contract in an environmentally and socially sound way.
- Such considerations can be included when defining the technical specifications, the selection criteria and the award criteria of a contract.
- However, these guidelines seem to have a very low profile.
- Promotion of “greening” procurement, in EU sustainable development strategy, but acknowledged that mostly an issue for national governments.
- Problem with one-dimensional interpretation of ‘sustainable development’ in EU and other documentation. PPP’s are seen as advancing ‘sustainable development’ due to role in service delivery, and easing regional disparities. Issue of a PPP displaying sustainability principles *within* a project is not approached.

- Emerging potential of aligning EU Regional funds with PPPs (relevant for new EU Member States)
- However, considerable uncertainty around co-financing structures, and few case studies available.
- Sustainable development an intrinsic objective of EU regional funding, however, regional funds not necessarily linked to sustainability principles within a project.

- Sustainability within PPPs only recently considered. But severe lack of information on best practice, and access to relevant information difficult- currently holding the process back.
- Implementing sustainability within PPPs is seen as mainly a task for national government. Interest groups and NGO’s also have an important part to play.

- Private sector specialists in PPPs very active in promoting and establishing PPP framework in European countries (eg: PwC)
- Issue of sustainable development not approached or seen as ‘relevant’ in their activities (see further analysis in section 2.4)

1.3 Member State Case Study: UK

1.31 Introduction

The British Government launched its own PPP development policy in 1992 under the label "Private Finance Initiative" (PFI). "The Private Finance Initiative (PFI) is a procurement mechanism by which the public sector contracts to purchase quality services on a long-term basis so as to take advantage of private sector management skills incentivised by having private finance at risk. This includes concessions and franchises, where a private sector partner takes on the responsibility for providing a public service, including maintaining, enhancing or constructing necessary infrastructure" (Treasury Taskforce, 2002).

Although HM Treasury stresses that PFI accounts for only 10-15% of public sector net investment since 1997, the level of that investment has risen significantly, and PFI has expanded in proportion-from 9 projects signed during 1995 to 65 projects signed during 2002, with a total value of £7.6 billion. PFI thus represents a significant level of spending, particularly as a proportion of new build procurement, and one that is set to continue. For instance, all secondary schools in England will be rebuilt or renovated over the next 10 to 15 years, at least half via the PFI route, with an annual investment of £2 billion over that period (www.publicprivatefinance.com). According to the Treasury, PFI has already delivered 600 new operational public facilities. Schools and hospitals have been the main beneficiaries, followed by transport projects, fire and police stations, prisons, and waste and water projects.

According to Price Waterhouse Coopers "many public sector bodies in Europe are looking towards the UK PFI model, as a potential new way of procuring much needed services" (2004).

The flowing sections examine the guiding legislation on public procurement and PPP / PFI in the UK, and how this possibly links in with the sustainability agenda. This will form a useful example of how EU directives and policies relating to procurement and PPPs are translated to a Member State level, and how the inclusion of sustainability principles in PPPs are dealt with on a national scale. (While Part 2 of the report will evaluate the current practice in the UK PPP market).

1.32 Public Procurement Policy

Procurement Policy and Legal Framework

Guidance on procurement is issued by the Office of Government Commerce, and is a product of the Procurement Policy Unit. The PPU is a joint Treasury / Department of Trade and Industry unit. The government's procurement policy objective is that "all public procurement of goods and services, including works, is to be based on value for money, having due regard to propriety and regularity". It outlines that value for money is not the lower price, but is defined as "the optimum combination of whole-life cost and quality to meet the users requirement". It notes that whether in conventional procurement, market testing, private finance or some other form of public private partnership (PPP), value for money will involve an appropriate allocation of risk. This policy is set out in Chapter 22 of Government Accounting, and is the responsibility of all Government Departments and their Executive Agencies to apply it. It notes that all public bodies have to comply with the EC Treaty and EC Procurement Directives (i.e.: the principles of non-discrimination, equal treatment, free movement of goods and services and transparency.) These rulings do not contravene the value for money policy.

Framework for Sustainable Development on the Government Estate

The Framework for Sustainable Development on the Government Estate, was published in July 2002, as a response to the government's commitment to the UK's Sustainable Development Strategy: A Better Quality of Life. (refer to Annex 3 for the strategy's key objectives).

The framework sets targets for all Government Departments to identify their most significant contributions to sustainable development in terms of their policy and operational activities. Part F of the framework deals with the topic of procurement. Public private partnerships are not directly mentioned. The Government states that "central Government procurement can and should support sustainable development within the framework of the Government's procurement policy and it's overarching aim of achieving value for money, and the EC procurement rules" (www.sustainable-development.gov.uk). It states that most headline and core quality of life indicators are relevant to procurement issues, but particularly notable are:

-materials recycling
-primary aggregates per unit of construction value
-construction and demolition waste going to landfill
-pesticide residues in food
-area converted to organic production
-chemical releases to the environment
-world and UK material consumption levels per head

In November 2001, the Interdepartmental Sustainable Procurement Group (SPG) was established to look at the scope to improve the way in which sustainable development considerations are incorporated into purchasing. Their main aim is to demonstrate to the public sector, that achieving value for money and sustainable development objectives are compatible. The group claim that procurement and sustainable development policies have proceeded along parallel tracks, and that outside audiences increasingly see Government procurement as a barometer of its commitment to sustainable development (SPG, 2002).

Part of the Sustainable Procurement Group's work was in the submission of a joint report and recommendations on environmental issues in purchasing, in October 2003.

Environmental Issues in Purchasing

The Office of Government Commerce and DEFRA produced a Joint Note on Environmental Issues in Purchasing, to assist Governmental Departments in raising environmental standards in public sector purchasing. The guidelines are a UK translation of the EU's Commission Interpretative Communication on the Community law applicable to public procurement and the possibilities for integrating environmental considerations into public procurement (July, 2001). Published in October 2003, it demonstrates through practical examples, how environmental issues can and should be integrated appropriately into each stage of the procurement process. It makes clear that the Government's policy of achieving value for money in procurement applies to the award stage of procurement processes. It is for the Departments to decide what to buy and to set the specification, in the context of their overall objectives and subject to the normal public expenditure tests of need, affordability and cost-effectiveness. It is at this early stage that there is most scope to consider environmental issues (DEFRA and OGC, 2003).
The Group announced in November 2003, that all new central governmental contracts must apply minimum environmental standards when purchasing certain types of product. 'Quick wins' were identified as routes to meeting these standards, and as such, the joint note on environmental issues in purchasing has been revised accordingly. However, according to the Sustainable Procurement Group, these measures do not have a clear application to contracts covering major public building projects, including PFI.

Social Issues in Purchasing

The Sustainable Procurement Group recognise that the early focus was on environmental issues in procurement. However, social issues such as labour considerations, social exclusion and equal opportunities, have been emerging during the last few years both in the UK and at EC level (SPG, 2002). The OGC are currently working with other Departments to prepare guidance on how to take social issues into account during the procurement process. These issues have been addressed on a case-by-case basis, reflecting that, unlike environmental issues, there is no single lead department for all social issues and the procurement angle in each case can be very different. Also mentioned, is the fact that the scope to incorporate social issues in the tendering and award stages of the procurement process is less than the scope to incorporate green issues-this is largely because many social issues do not relate directly to the subject of the contract (OGC, DEFRA, 2003).

Achieving Sustainability in Construction Procurement

This guidance was published by the Government Construction Clients' Panel in June 2000, and places targets on Government departments to achieve: value for money on the basis of whole life costs; high BREEAM assessments; less waste; energy and water efficiencies that meet, at least, current best practice for construction type; enhancement of biodiversity; less pollution; better environmental management and improved health and safety on building sites; better working environment and increased productivity; increased engagement with local communities as part of the decision making process; and improved industry performance against Egan targets.

In the construction field, the OGC plays a leading role in achieving excellence in the construction agenda, and aims to achieve cost and time reduction in new construction, maintenance and refurbishment projects, improvements in quality, sustainability, health and safety and in the client management of the supply chain (www.ogc.gov.uk). The public sector currently accounts for around 40% of the industry's output and the Office of Government Commerce is helping to develop improvements in the government construction client performance. They are working with the Commission for Architecture and the Built Environment (CABE), supporting the Prime Minister's Better Public Buildings initiative, to highlight the importance of good design in the pursuit of value for money and improving the quality of the built environment.

Green Guide for Buyers

This guide sets out rules to be followed when specifying contractual requirements in green terms. The requirements must, for example, be relevant to the contract and, where appropriate, refer to relevant European standards and specifications. It also covers whole life costs, resource efficiency and best practice. The guide contains a series of action sheets useful to help buyers in specific areas such as construction, energy efficiency, hazardous substances, transport, waste, water and wood.

In relation to public private partnerships, the Green Guide states that with the long-term nature of the PPP / PFI projects, and their emphasis on securing best value for money, contractors can be motivated through the output specification and payment mechanism to achieve improvements in environmental performance (www.defra.gov.uk). For example; through conservation of energy, waster use and other resources, controlling pollution, reducing waste and better environmental management. It states that the 'green' aspects of such contracts will however, need careful monitoring and management to ensure that the project's objectives are met without putting the risk back onto the public sector. For further details, the book refers to the guidance on greening public private partnerships.

1.33 Public Private Partnership / Private Finance Initiative Policy

The HM Treasury's Private Finance Unit is responsible for policy development, advice and guidance on public private partnerships and private finance initiatives. PFI guidance exists, covering the whole procurement process, from developing the business case to finalising the deal. Treasury rules require that PPP and PFI projects demonstrate that they achieve value for money. They define this as "the optimum combination of whole life cost and quality to meet the user's requirements".

The Treasury Taskforce's key PPP /PFI documents are as follows:
-Standardisation of PFI Contracts
-Credit guarantee finance technical note and draft documentation
-Value for money appraisal guidance
-PFI: Meeting the Investment Challenge
-The Advisory Council of Partnerships UK Annual Report
-Green Public Private Partnerships

The only document of relevance to the sustainability agenda, is the latter document.

Green Public Private Partnerships - A Guidance Note on how to include Environmental Considerations within PPPs and PFI Projects. July 2002.

This guidance document has been produced jointly by the Office of Government Commerce, the Office of the Deputy Prime Minister, the Department for Transport, and the Department for the Environment, Food and Rural Affairs. It is intended to add to the existing guidance on PFI projects produced by the Treasury Taskforce, as well as guidance produced to support the Government's commitment to taking forward best environmental practice and sustainable development on its own estate. It is addressed to "anyone developing or managing a public private partnership".

The document outlines steps that can be taken within a PPP or PFI project, to incorporate environmental considerations (these criteria can be viewed, in Annex 5). It states that in doing so, the project team can achieve "value for money, deliver a much better scheme and at the same time reduce waste and improve the environment. It's a win-win opportunity." However, "failure to consider green issues when developing a PPP / PFI project, means that you can miss a once in a lifetime opportunity to reduce the whole life costs, since the contract may run for 25-30 years; but potentially even longer given the asset life" (Treasury, 2002).

The steps in incorporating green issues, such as reducing the use of energy, water and other resources, minimising waste and controlling pollution and other quality objectives, must be instigated at the specification stage, selecting bidders and awarding contracts stage. It is vital to be clear what is acceptable at each stage. This relates to the organisation's strategy for sustainable development and its environmental policies, and be aware of how far these can be delivered through the PPP /PFI project. The guidance notes realise that 'greening' doesn't just stop with the award of the contract, but that the organisation will need to work with suppliers to ensure improved environmental performance throughout the life of the project.

The contract specification for a public private partnership affords the opportunity and freedom to potential contractors to propose innovative solutions which integrate the design, construction, operation and maintenance of a new or existing public facility. In some cases the main outputs of a project may be green objectives, for example the recycling and composting in PFI schemes for waste management. The specifications should take account of the aims, objectives and relevant targets for improving environmental performance set out in the Framework for Sustainable Development on the Government Estate's Departmental policies and advice on best practice.

The selection of bidders and evaluation of their bids allows an opportunity to examine the abilities of the firms and how they have responded to the environmental requirements within the specification. In selecting bidders, the contracting authority may look for EMS's as a relevant proof of technical capacity where they provide evidence relevant to the subject or performance of the contract, or that the bidder is composed of an integrated team (comprising of environmental champion, architects, engineers, designers) that can effectively meet the project's aspirations. The evaluation process may therefore include a specific consideration of how the bidder is proposing to handle various environmental issues set out in the specification. The final evaluation of tenders should not be based on initial price alone. It should also take into consideration whole life costs, quality, deliverability, flexibility, management and apportionment of risk, innovation, increases in productivity and other relevant factors.

The document notes that EC public procurement directives provide plenty of scope for reflecting environmental considerations in procurement. Project teams should ensure that they conform to the rules, which are designed to ensure that public procurement is carried out on the basis of transparency, non-discrimination and competitive procurement. Project teams considering the inclusion of environmental issues should pay particular attention to the EC procurement rules at the stages listed above.

According to the Treasury, the project team will inevitably require advice at various stages, such as preparation of the output specifications, assessment of tenders and preparation of contract documentation. It is important that any technical advisor appointed to the contracting authority is able to identify suitable requirements which can help 'green' the project and assess any environmental claims made by the bidders.

The document also provides guidance notes on incorporating green issues in the bidding proposal. Bidders should consider the issues of minimising waste, reducing whole life costs, enhancing service delivery, promoting wider social and environmental benefits and encouraging in-built flexibility, in the PPP proposal. (Refer to Annex 5)

1.34 Opinion

Sustainable Procurement Group

In their report on sustainable procurement for the Framework for Sustainable Development on the Government Estate, the SPG conclude that within the policy and legal framework (both at Governmental and EU level) and within the context of achieving value for money, scope and opportunities exist for relevant sustainable development considerations to be taken into account in public procurement. However, the critical issue under green procurement for the UK and other Member States, is that they are not using the full scope available under the policy and legal framework to reflect the environmental objectives of sustainable development through government procurement (SPG, 2002).

Some of the Group's recommendations include the need for central government to lead the way and have a clear commitment to the integration of their sustainable development objectives into procurement policies. The sustainable procurement group argue that the Government has not yet put sustainable development sufficiently securely at the heart of its business, to remove all doubt about whether it is desirable for buyers to pursue green procurement. The group also, significantly, make reference to 'Green PPPs' guidance notes, and suggests that they be embedded into procurement practice.

They maintain that a more thorough use of whole life costing would of itself, lead to the purchase of more sustainable products without change in policy. It is at the business case and specification stages that wider issues, including those which provide value for money, where sustainability can be aligned with procurement objectives.

Green Alliance

According to Green Alliance, in their recent report on "PFI : Meeting the Sustainability Challenge", central government evaluation is not visibly driving sustainability. "Central government needs to set a clearer policy and implement it. Departments such as ODPM and Treasury need to make sustainability criteria a requirement of PFI. Otherwise, if you don't ask for it, you won't get it" (2004). They maintain that the government relies too heavily on the influence of guidance and that only with clear standards and an incentive framework, will clients be permitted to give due weight to sustainability. According to the report, Departments and HM Treasury say they want sustainability considerations factored in, but it is not clear that this has yet created scope for higher value bids as a result. An important signal of the inconsistent attention to sustainability issues was that many key players, surveyed for Green Alliance's report, were completely unaware of the Green PPP guidance.

Similarly, the approval processes by Private Finance Units (for centrally-procured projects) and the Project Review Group (for local authority procured projects) are not giving sufficient support to procurement professionals on making judgements regarding non-financial costs and benefits (Green Alliance, 2004). Also, neither the Public Accounts Committee nor the National Audit Office, who both evaluate all costs and benefits of PFI projects, appear to have committed as yet, on the achievement of sustainability through PFI. However, according to Green Alliance, the NAO, when questioned regarding this issue, stated that they are interested in evaluating PFI projects based on sustainability criteria, and are in particular, keen to identify examples of best practice (2004).

The report concludes that the government's efforts at incorporating green and wider issues into PPP's are having a low impact.

1.35 Overview

- UK most advanced and developed PPP market in the world
- Evaluation also includes their Private Finance Initiative modal of public service procurement

- Public procurement rules promote value for money and incorporate whole life costing
- Commitment from Government (through their Sustainable Development Strategy) to promote more 'sustainable' procurement.
- Setting up of Sustainable Procurement Group, as a result
- Environmental Issues in Purchasing (translation of EU interpretive communication on the subject, and DEFRA / OGC governmental document).
- Social issues in procurement admitted to be a more difficult task to incorporate, and is a current work-in-progress (SPG)
- Initiatives and guidelines from government and the construction sector, to promote good design in the pursuit of value for money in public procurement.

- HM Treasury involved in PPP / PFI policies.
- According to OGC and ODPM, PPP / PFIs have more potential to achieve sustainability than other forms of procurement as the long term integrated nature of PPP service contracts incentivises the contractors to consider the synergies between the design of an asset and its ultimate operating costs.
- One Treasury document that deals with sustainability and PPPs: Guidance on how to include green considerations into PPPs.
- The steps in incorporating green issues, such as reducing the use of energy, water and other resources, minimising waste and controlling pollution and other quality objectives, must be instigated at the specification stage, selecting bidders and awarding contracts stage. (Green PPPs)
- Project team may require advice on how to link their sustainability strategy to the delivery of a PPP, as well as in the evaluation of bids on environmental grounds.
- Final evaluation should not be based on price alone, but consideration of green issues (Green PPPs guidance notes)

- However, according to independent bodies: the UK (and the EU) are not using the full scope available under the policy and legal framework to reflect the environmental objectives of sustainable development through government procurement.
- The drive to include sustainability issues into public procurement and PPPs is purely guidance based.
- No significant bodies in the government actively enforcing or promoting these guidance measures.
- Concern that government needs to lead the way more significantly.

Part 2: Current Practice

2.1 Introduction

The second part of the UK case study involves the examination of current practice in the PPP market. From the analysis of Global, European and National legislation and policies, it is evident that there is promotion of ‘green’ procurement, and scope for sustainability issues to be considered in public private partnerships. However, what is being done about this? How are PPP professionals responding to such guidance? This section evaluates current practice among all the key players in the PPP / PFI process, regarding the sustainability agenda.

This evaluation is relevant, not only on a UK basis, but on a broader scale, as the UK is a global leader in PPPs, sharing it’s practice worldwide. According to a report from the International Financial Services London (2003), “the expertise of UK firms is crucial to the budding international market for public private partnerships”. Hence evaluating the current state of play regarding the incorporation of sustainability principles into PPPs in UK projects, has a European and global relevance. The UK model, particularly as represented in the Private Finance Initiative (PFI), according to the IFSL, may be appropriate for other countries but even where not, it serves to illustrate key benefits and lessons. “Using the UK’s experience means that others do not have to waste time and effort in re-inventing the wheel” (IFSL, 2002).

According to Green Alliance, PFI has a key role to play in progressing the agenda of sustainability, due to the scale of investment involved; the greater ease of influencing the small number of actors involved; and the way in which PFI contracts secure the long-term engagement of contractors. “PFI has clear potential to be an environmentally and socially progressive form of public procurement” (2004). However, how is this potential being realised in current practise in the PPP / PFI market?

This section examines all the key players in the PPP process; their attitude and practice towards sustainability principles in PPP schemes. The study hopes to highlight at what stages sustainability can be incorporated, who and what is driving this inclusion, examples of best practice, and an overall impression of the current state of play (see figure 5 for an overview of the PPP process and interactions between key players.)

Figure 5: Overview of PPP process and Interactions between Key Players

PPP Process
Key Questions: Where is sustainability included? By whom? And what drives this?

Contracting authority:

Step1) Output Specifications.

Step 3) Bid Evaluation / Selecting Bidder.

Step 4) Award of Contract.

Private Sector:

Step 2) Bidder proposal.

Consultants
(Involved in advising at each stage)

Current practice is evaluated by:

- Outlining best practice case studies in the incorporation of sustainability, and analysing the driving forces behind them.

-Gaining opinions and comments from key PPP / PFI professionals regarding how the sustainability agenda is considered in their work. This involves questionnaires and interviews with people from the procurement profession including PFI consortia and advisors (see Annex 9, for people / groups surveyed).

-Including the opinions from relevant NGOs and groups offering advice on procurement. Again, this is achieved through primary and secondary sources (again refer to Annex 9 for people surveyed).

2.2 The contracting authority

2.21 Case Studies

Inland Revenue-Manchester Office Rationalisation

In 1995, the Inland Revenue embarked on a PFI project to relocate 2000 of its staff from 11 buildings in the Manchester area, to a single site. The £140 million project was awarded to London and Regional Properties, with a contract for 20 years. In its output specifications, the Inland Revenue required that all bidders comply with the Inland Revenue Green Guide, along with their primary objective of obtaining replacement serviced office accommodation in central Manchester, at optimal cost.
The successful scheme involved a building that was naturally ventilated, lighting that switched itself off when people left, gas-fired heating with individual thermostatically controlled radiators, double glazing, building materials from sustainable sources and building management systems that monitored the use of resources. (source: Treasury Taskforce, 2002).

Ministry of Defence Colchester Garrison

In 1996, the Ministry of Defence decided to take the PFI route to upgrade the serviced accommodation and office facilities on its 316 hectare site in the heart of Colchester. The MOD required all bidders to comply with the BREEAM standard and BRE's Energy Consumption Guide 75, which requires them to benchmark energy consumption. The army was spending around £1.6 million per annum, on energy at Colchester, and wished to reduce this significantly. The ability of bidders to comply with the green requirements of the scheme were included as part of the evaluation process and made up 5% of the assessment score. (source: Treasury Taskforce, 2002).

London Underground Power Supply and Maintenance

In the early 1990's, London Underground was faced with the problem of maintaining electricity supply for the Underground network. It was decided that a solution would be found by taking the PFI route. The LU places a high priority on maintaining the environment, and so it set though environmental standards for the decommissioning and redevelopment of its power stations. The bid evaluation process therefore focused on the bidders' understanding of LU's environmental policy and their ability to conform to it. Seeboard Powerlink were awarded a 30-year £1 billion PFI contract to supply and manage the distribution of high voltage electricity to the Underground network. The contract also included the decommissioning of one power station and the redevelopment of the site for other uses, the establishing of an Environmental Management System as a framework for the day-to-day management of systems and a contribution to LU environmental objectives. (source: Treasury Taskforce, 2002).

2.22 Opinions

Green Alliance

According to Green Alliance's recent survey into sustainability in PFIs, interviewees were virtually unanimous that output specification and bid evaluation are the most important stages of the process in terms of giving life to sustainability aspirations. They maintain that there are many examples of strategies and practice that are resulting in more sustainable PFI projects now, and are likely to do so in future. However, it is clear from their interviews that flagship projects result from exceptionally high awareness and ambition. They cite a key example, as the Herefordshire procurement of Whitecross school, where design considerations, including sustainability, were awarded a visable 50% of the scores in evaluation of the bids. This is not the norm.

4ps (Preparing Professionals for Partnership with the Public)

It is the opinion of Mr. Kelly, from 4ps (offers procurement advice to local authorities), that “PFI has failed to deliver sustainable development”. This is largely because most projects face some form of affordability and/or deliverability issue during procurement, which tends to be the main focus of effort to the detriment of sustainable development. “In addition sustainable development is not a high priority for the clients. Their main focus is delivering affordable investment”.
According to Mr. Kelly, the onus on delivering sustainable development in PPP / PFI has to lie with the client and ultimately Government who sets out the requirements for any project and the wider policy framework. “If you don't ask for something you won't get it” and the private sector won't invest in sustainable development outcomes unless they see a commercial payback i.e. it will help them secure a deal. Sustainable development for many means energy efficiency and it is seen as a technical/property matter. “Few clients look at issues of business need, location, alternative methods of service delivery, etc. Perhaps there is a niche for specialist SD advisers”.

Sustainable Procurement Group

According to the Sustainable Procurement Group’s report, the real difficulty is how value for money, which is the cornerstone of both the UK Government’s own procurement policy and the EC rules, is being interpreted by Departments and procurers. In particular there is confusion about the legitimate definitions of the ‘value’ side of the equation, especially where the value is not directly experienced as a financial saving for the budget holder. According to the sustainable procurement group, this effect is demonstrated by the lack of evidence that public sector authorities are routinely making purchasing decisions and consistently awarding contracts on the basis of whole life costs (which will often factor in green issues such as energy efficiency and disposal options). The group fear that the UK’s guidance based approach has not sufficiently encouraged green procurement (SPG, 2002).

Forum for the Future

It is at the evaluation of bid and award of contract stage, where value for money / whole life costing analysis are carried out. An independent environmental group called Forum for the Future aids local authorities in ensuring sustainability concerns are given due weight at these stages in the process. However, they state that “convincing clients to consider extra costs on sustainability grounds, is always a hard task.” Forum for the Future sees a real opportunity for local authorities to lead the way in ensuring that PFI projects deliver sustainable development. They state that “public service agreements offer an opportunity to focus a local authority’s efforts on specific targets which further progress towards the long-term vision for the area and community priorities” (www.forumforthefuture.org.uk).
In an interview carried out for the current report, Vicky Bull, the strategic advisor in Forum for the Future’s local and regional programme, maintains that procurement should contribute positively to delivering department and community strategies, and this should progress the sustainable development agenda, if such strategies were prepared following guidance requirements which align with the UK Sustainable Development Strategy. However, it is noted that in most cases, “contracting authorities are not making the link between the implementation of their sustainable development goals, and their procurement programme”. This lack of so-called ‘joined–up’ or ‘extended’ thinking is impeding the incorporation of sustainability principles into PPP / PFI projects and hence failing to realise the potential that procurement processes have in delivering sustainable development. However, according to Forum for the Future, issuing authorities are beginning to make this link, and are now asking for support to include such sustainability principles. This is seen as a result of the new SEA EU Directive that came into force Summer 2004, where programmes and policies now have to be assessed in terms of environmental considerations, early on in the process (see Annex 6 for further information). The UK has a wider interpretation of this law, according to Ms. Bull, incorporating social as well as environmental elements.

Green Alliance

In correspondence with Julie Hill of Green Alliance, she states that the implication from several of their interviewees, in their report on sustainability in PFIs, was that advisors may be very important, since they are a potential source of specialist environmental advice to clients who may have very little background in the issues. However, one problem is that they are often quite expensive, and it may be hard to continue with specialist advice past the bid evaluation stage. “Our general conclusion was that delivery of sustainability outcomes is highly reliant on the interest and enthusiasm of clients, and clearly the more enthusiastic the client the more likely they are to budget for, seek and retain good advice. No amount of specialist advice will substitute for client commitment.”

UNECE

According to the United Nations Economic Commission for Europe (2004), sustainable development requires integrating policies and adopting holistic approaches which can be beyond the capacity of authorities. Local and municipal authorities often do not receive assistance from their national authorities to develop PPPs. Many authorities at municipal and local levels have not considered the implications of their policies on low-income groups and hesitate to discuss in concrete terms private sector participation in relation to the socially disadvantaged.

2.23 Overview

- The most important stages in ensuring the consideration of sustainable development is in the specification and bid evaluation stage.
- It is the public sector who has the onus to deliver a sustainable PPP / PFI project.
- It is important to set environmental and other targets from the outset.

- In many cases, the contracting authority do set sustainability principles in their output specifications and incorporate sustainability as an important factor in evaluating bids.
- The value of the selection of a provider with similar commitment to sustainability.
- In the case studies, including sustainability is driven by the contracting authority having a strong dedication to sustainability issues.

- However, such awareness and dedication to sustainability issues in PPPs is not the norm.
- Most public sector clients’ main concern is affordability, rather than basing purchasing decisions on the concept of ‘whole life costs’.
- ‘Green PPP’ guidance notes not widely known or used by contracting authorities.
- Contracting authorities currently not making the connection between their community sustainable strategies, and procurement processes.

- However, there is a recent movement in contracting authorities to acknowledge this, with the implementation of the new EU SEA Directive.
- Emerging market for sustainability advisors to public sector.

2.3 The Private Sector

2.31 Case Studies and Evaluation of Core Business Practices

The following, is a description of some best practice case studies relating to sustainability in PPP / PFI, initiated by the private sector. The studies are sourced from the BRE PFI Unit, in their recent information paper on 'Sustainability lessons from private finance'. The objective of this study is to encourage construction teams to adopt more sustainable procurement processes by dissemination of case studies that demonstrate how PFI and similar public private approaches deliver benefits. In doing so, each project was examined through the use of the Movement for Innovation sustainability indicator.

The Movement for Innovation (M_4I) is involved in a wide-ranging effort to improve the construction industry at all levels of performance. The M_4I Sustainability indicator benchmark system is a system that compares the sustainability attributes of a project with those of the existing database of projects that have been analysed by M_4I. Benchmarks are allocated for sustainability attributes in design, construction, environment, social and economic impacts.

The private operator involved in each best practice case study, is then more closely analysed to determine the driving forces behind the incorporation of sustainability principles and how consistent this practice is. This provides an over view of the stance of the private sector towards sustainability in PPP / PFI, and the elements influencing this.

Carillion

Case study: The Great Western Hospital, Swindon

Swindon and Marlborough NHS Trust needed to deliver a higher quality of health care to twice as much patients as the existing hospital in accessible, attractive, comfortable and practical surroundings. Funding has been achieved through the PFI enabling the NHS Trust to commission the construction of the hospital. The functional requirements of the new site included good emergency access, affordable land and an outlook to promote well-being.
Carillion were contracted to finance, design and build the hospital, and then maintain it and provide all non-clinical services for a period of 27 years. The output specification did not set specific sustainability targets, but Carillion aimed for and achieved a substantial degree of sustainability in practice. This is reflected in their high score for the M_4I Sustainability indicators. Sustainability was seen as an opportunity and they adopted it as their 'unique selling position'. Sustainable features of the project include:
-energy-saving measures and reduction of noise and light pollution
-landscaped grounds and some specific facilities for staff
-environmental life cycle assessments and whole life costing for most materials
-minimised transport impacts of deliveries to site and reduction of waste by recycling, lean construction and prefabricated components
-addressing of social issues by setting up a job centre on site to promote creation of local jobs.

Mr. Herzberg, Managing Director of Carillion's PFI unit outlines that the incorporation of sustainability principles in this case was seen as a positive differentiator in the evaluation of bids process, while also saving some money as a result of re-cycling waste.

Carillion's Corporate Strategy

Carillion is a major force in the construction and services industries, active in the PFI sphere, but with other businesses including capital projects (in the Americas, Europe, Middle East), services (facilities management, insurance, and mechanical and electrical engineering), and infrastructure management.
The company is proactive in the corporate social responsibility and sustainable development agenda. Their vision is to be "a sustainable construction to services company, which delivers growing shareholder value with transparency and accountability in our environmental and social performance"(www.carillionplc.com). They also wish to explore opportunities to use sustainability as a driver for innovation and new business. They are committed to changing the way they do business, by "looking to the future that will see full integration of management of economics, environmental and

social performances"(www.carillionplc.com). They are also developing new strategic objectives to guide the business from 2002 onwards. These will be informed by understanding of company sustainability impacts, external comment, corporate social responsibility best practice and will be consistent with Government's definition of sustainability. The company is also featured on the FTSE4Good indices. Refer to Annex 6, for Carillion's Corporate Sustainability Objectives and Targets.

Interview with Stuart Mee, Environmental Advisor, Carillion

Mr. Mee maintains that incorporating environmental principles into Carillion's projects is of significant importance. The environmental department work closely with all PPP / PFI projects in Carillion. It is accepted that incorporating environmental principles in design is good business practice. Specifically, Mr. Mee states that "because PFI schemes are based on long term contracts, elements like energy efficiency and increasingly, waste efficiency and management, are very relevant to whole life savings on the project". "There is a strong business case in spending extra on capital costs for environmental efficiency", and their clients generally recognise this. However, in the long run- the reaction to more environmentally conscious design differs from client to client, and "in the end, it comes down to affordability". "It is essential to find a balance".
Additionally, Carillion's drive to include environmental aspects is based on their company sustainable development strategy. It is a "core ethic" in the company, with the strategy setting out clear targets and objectives against a specified time frame. To this end, it is essential that the company exercise their principles through their projects, so as to reach their intended performance targets. This results in the company actively promoting sustainable design principles in their bids, even when not specified by the client.
Mr. Mee is quick to point out that, sustainability is not just interpreted in environmental terms, but equally involves the social aspect. The company promote their community engagement strategy in their projects. Again, social action is one of the key strategic objectives in their sustainable strategy, so such activities are voluntarily adopted by the company, in their PPP / PFI schemes. An example given of one of their current community engagements, is in a hospital PFI. They are implementing a local biodiversity action plan in the associated region, and incorporating the help of local school children in the exercise.
The company see the adoption of voluntary codes of sustainability as enhancing their reputation. They maintain that they are more advanced in incorporating environmental and social criteria, than their competitors, and this is seen as an advantage by many clients.
The inclusion of such principles into PPP / PFI is anticipated as becoming more important. Mr. Mee suggests that this will not be led by legislation, but (relating to the environmental aspect) that it is the role of the market to illustrate the advantage of sustainable design (energy efficiency for example). Groups like BRE also have an important part to play in improving the delivery of sustainable design, by continuing their assessments and aiming for increased excellence ratings in sustainable construction. Also noted, was the importance of the client having a good understanding of sustainable development issues. This ensures a more coordinated and determined delivery of a 'sustainable' project. They don't see advisors such as KPMG or PwC as having any role to play in either prompting or pushing the sustainability agenda.

Interview with Mr. Herzberg, Managing Director of Carillion's PFI unit

When questioned on what the company's sustainable development policy means for their work with PFI schemes, Mr. Herzberg stated that policies were "fully integrated" into all their activities in their company. "Sustainability issues should be considered on all projects at the outset, before a tender is submitted and when construction / operation is in progress." Mr. Herzberg maintains that incorporating sustainability principles into their PFI bids and projects has 3 advantages: "to act as a differentiator when submitting bids, to make a positive contribution to the environment and to local communities and, to ensure our staff are kept safe at all times." They "almost always" voluntarily include sustainability criteria if not prompted by the contracting authority, and are "content to continue to lead if authorities do not".

Jarvis

Case Study: Barnhill School, Hillingdon

A 25-year PFI contract was granted to a consortium led by Jarvis Construction (UK) ltd, by Hillingdon Borough Council, to provide additional space within the borough for educating 1450 school children aged between 11 and 18 years. The functionality drivers included a special needs unit, a stimulating indoor and outdoor environment and circulation areas that allows ease of movement.
The project team for Barnhill saw sustainability as a positive attribute to be marketed as an advantage over the schemes proposed by competitors. Their faith in sustainability can be recognised by the SEAM (Schools Environmental Assessment Method) 'A' rating achieved and its nomination for 'School of the Future'. The design team voluntarily set energy targets. Water use/recycling, waste issues and transport issues were all considered and sustainable solutions sought.

Jarvis Corporate Strategy

Jarvis Projects is a multi-disciplinary organisation, specialising in PPP / PFI. The company provides integrated services in areas of design, construction, facilities management and project finance.
Jarvis aims to "set the pace in its approach, across the full spectrum of corporate responsibility: from health, safety and environmental factors, to social and community issues"(jarvis-uk.com). This commitment is driven by the belief that the most successful and profitable companies of the future will be those which actively work to create sustainable relationships with all their stakeholder groups: from employees, shareholders, customers and suppliers, to the wider community, investors and regulators.
Jarvis has committed itself to developing a properly structured approach to its environmental and social responsibilities. This on-going programme is expected to be completed during 2005 and will focus on developing a formal 'CSR framework'. This involves "balancing responsible corporate behaviour against commercial imperatives" (jarvis-uk.com). Jarvis has already established clear environmental policies and continues to work on implementing these across its entire business and supply chain. The Group is determined to reduce any negative impact which its activities might have on the environment, year on year. The company co-ordinates its environmental management issues through a dedicated corporate environment working group, set up to identify and spread best practice across the Company. Within each of these areas, there are specific targets and indicators against which the Company measures its performance. Refer to Annex 7 for details of the company's best practice objectives and targets, sourced from their website.

Jarvis has introduced a specialist utilities management software package to monitor the use of water, gas, oil and electricity across all 460+ properties that the Company either occupies and/or manages.
More than 10% of the energy used in schools where Jarvis provides facilities management services already comes from renewable energy sources. While the decision to use renewable energy is ultimately led by Jarvis' customers, the company actively supports any who wish to do this and offers a range of schemes that include innovative energy conservation and renewable energy solutions.

Equion

Equion is a company that concentrates solely on investing in and managing project companies that specialise in the PFI and PPP serviced accommodation sector. They are a subsidiary of John Laing plc. Their primary focus has been on public projects in the areas of health, defence, education and the emergency services.

Equion's Corporate Strategy

The company's internal policy, according to their website, reflects their dedication to sustainable issues (www.equion.plc.uk). In their Corporate Social Responsibility Report- "The company takes account of social, environmental and ethical issues when bidding for new contracts. Such matters are taken into account by project bid teams and bids are reviewed by sub-committees of the Board who report material matters to the Board using risk registers and stated procedures"(www.equion.plc.uk). Equion achieved an ISO 14001 Quality Assurance certification in June 2003. As part of its commitment to this EMS, all sites are recording water, gas, electricity and oil consumption and are monitoring CO_2 emissions. All Equion's bids are internally and externally audited and part of this process is the review of compliance with its environmental policy. The project teams work closely with each client to minimise the impact of its activities on the environment, and often project specifications include enhancements that are identified by the company that will improve the sustainability and quality of the local environment.

2.32 Opinions

BRE

BRE, in their best practice document, state that companies are now beginning to incorporate sustainability, so as to reduce the risks and future financial impact of failing to meet new environmental legislation / requirements.

WBCSD

They maintain that there is growing evidence that companies that integrate sustainable development practices outperform their peers.

Green Alliance

However, according to interviews carried out by Green Alliance, (in their report on sustainability in PFI projects, 2004), contractors perceive that clients do not generally reward sustainability features in choosing their preferred bidder, even where they are asked for such features in their output specification. "The reality for a lot of contractors, is that they are unlikely to propose innovative designs without confidence in reward, due to the high cost and risk involved in bidding for a PFI contract" (Green Alliance, 2004). Contractors bidding for PFI projects are in a highly competitive environment, using finance at risk, and bid costs and bid risk are high. This is seen as being a disincentive for some companies to be proactive and creative on the sustainability agenda. "In theory, clients are now encouraged to seek value for money, however, this is more often interpreted as least cost rather than optimum quality." From questionnaires and interviews carried out by Green Alliance, it was determined that value for money is not consistently being interpreted as optimum quality rather than least cost. Government guidance does not indicate just how quality should be weighed against costs at either programme or project level, and specifically in bid evaluation. Many interviewees (from private sector experience) felt that it is still least-cost bids that win, so sustainability features that add to costs, if proposed by only one contractor, could lose them the competitive edge.

Interviewee quote (Green Alliance): "Our experience is that invariably lowest cost wins. Quality criteria only come in to play if there is less than 2% price difference between bids".

Forum for the Future

Forum for the Future maintain that in most cases, the private bidder will just abide by legal environmental requirements, but not necessarily go beyond that. They maintain that the contracting authority has the commitments to achieve sustainability, and therefore should ensure they be implemented, by specifying them at the earliest stage possible in the process, and then follow this on, by awarding them due concern in the evaluation and award stages.

2.33 Overview

- From the case studies: functional and sustainable design can be driven successfully by the private sector.
- Companies surveyed, maintained that incorporating sustainability principles into their PPP / PFI bids, gave them the edge ahead of their competitors.
- Sustainability can be included in project briefs and reduce whole life costs
- There is a strong business case for energy or waste efficiencies in PPP / PFI projects.
- Sustainability in the outlined case study companies, are strongly driven by the company's internal core principles.
- Such voluntary codes of conduct are central to their overall corporate strategy and is fully integrated into their PPP / PFI policy. They incorporate sustainability principles voluntarily, so as to meet their own internal policy objectives and targets.
- It is important that the client has a good understanding of sustainability issues also.

- However, it is noted that the voluntary adoption of such principles is not necessarily the approach throughout all the private sector.
- The reality for a lot of contractors, is that they are unlikely to propose innovative designs without confidence in reward, due to the high cost and risk involved in bidding for a PFI contract.

- There seems to be a perception gap about the business case for incorporating sustainability principles: with companies that maintain it is a strong advantage to include sustainability principles (in the winning of bids, and in reducing costs), and companies that consider it too risky to incorporate such principles.
- This prompts the need for further dissemination of best practice.

- Reaction to sustainable principles and design differs from client to client.
- There needs to be a consistent approach from the contracting authority to award value for money based on whole life costs, as opposed to least cost bid wins. There is currently no precise guidance on how this is to be done.

2.4 The Advisors

2.41 The Growing Influence of Private Advisors

Organisations such as KPMG and Price Waterhouse Coopers are instrumental in promoting and developing PPP markets in the UK and abroad. These accountancy firms work with government to increase the export of privatisation expertise. Top firms KPMG and PwC have launched a joint document with Partnerships UK and International Financial Services London (IFSL) to boost the export of management consultancy. The document aims to "develop commercial opportunities" internationally in public services including health, education, prisons, transport, and defence. Similarly, Price Waterhouse Coopers are actively assessing the accession countries market for the development of PPPs, in their recent report "Developing PPPs in the New Europe".

Such organisations have essentially, 2 roles to play in the PPP process:
-Serving the Public sector; to achieve best value for money, optimise risk allocation, ensure deliverability.
-Serving the Private Sector; to optimise funding package to achieve a winning bid and maximise equity returns.

The UK and other governments rely on the reputation and expertise of the accountancy firms to develop, promote and implement Public Private Partnerships (PPPs) and the Private Finance Initiative (PFI). Because KMPG and PwC are instrumental in developing PPP markets, and providing consultancy services to government on how this shall be achieved, an analysis of their approach to sustainability, is crucial in understanding the current state of the issue in a UK and European context, as well as an indication of it's future importance in developing markets.

2.42 International Financial Services London

IFSL, formerly British Invisibles, is a private sector lobby group promoting the UK-based financial services industry. It is taking a leading role in the promotion of public private partnerships around the world through its PPP Working Group, chaired by Dr Tim Stone of KPMG. Working with Central Government and the private sector, IFSL runs seminars in many countries. It also organises meetings and visit programmes for overseas officials visiting London who come to find out more about the UK's experience and expertise in PFI / PPP. It markets the expertise of UK firms as "crucial to the budding international market for public private partnerships." The expertise, it says, "has been built on the 400 PFI contacts worth over £17 bn signed in the UK up to end – 2000" (IFSL, 2003). Countries where IFSL is currently active in promoting PPP include Mexico, Spain, Germany, Denmark, Poland, Canada, Czech Republic and Egypt.

Dr Stone (KPMG) states "we are committed to demonstrating that the considerable benefits being derived from PPP schemes are fully understood. These benefits are being realised, not only in the UK but also in many other countries. We would like to ensure that the rationale behind the development of this new industry is fully examined to enable those benefits to be repeated and improved on abroad. A clear understanding is important of which deals have been particularly successful and which others provide salutary lessons for the industry" (IFSL, 2003).

Their document: 'Public Private Partnerships. UK Expertise for International Markets' (2003) does not make explicit any elements of sustainable development. One table on 'responding to criticisms of PFI in the UK', gives their response to the comment that PFI schemes have an adverse design and environmental impact. They state that "PFI can help to promote design concepts and environmental efficiencies through suitable treatment of these requirements in the output specification. Issues related to design and whole-life costing have been the subject of guidance provided by the Treasury Taskforce".
This suggests that the IFSL recognise the scope to incorporate good design and environmental principles, yet do not commit themselves to actively including them. They see it as mainly an issue for the client in their output specifications, and relying on the legislation or government policies that allows those principles to be included.

This view is echoed in an interview with Mr. Charles Lloyd, of PwC and the IFSL. "In general we act as advisers rather than principals on PPP / PFI deals, so our collaborations are in that context. Sustainable development is not a key factor in the advice we provide, although sustainable solutions may well be sought or provided by our clients." The incorporation of sustainability principles "depends largely on the client's attitude." Regarding his work with the IFSL group, Mr. Lloyd, when questioned on how sustainability fits into promoting the PPP model, stated that "it is not generally applicable". However, it was recognised that the inclusion of sustainability principles will probably become more important in the future.

2.43 KPMG

KPMG's role in the PPP market

KPMG provide in-depth knowledge of markets, issues and processes to corporate and government clients on a global basis. They provide independent advice on financing major projects, tax, transaction, accounting and due diligence issues in relation to PPP / PFIs. KPMG aid procurement authorities to create a commercial framework for their investment programmes that attracts the interest of good-quality bidders, and help bidder select their targets carefully and then seek to deliver the most competitive tender possible (www.kpmg.co.uk).

The Sustainable Development Agenda

KPMG provide sustainability services to businesses and organisations wishing to gain greater understanding and improved management and reporting of their environmental, social and ethical performance. They have an in-house corporate social responsibility policy, involving a national UK strategy to target specific needs of their local communities and environments. CSR forums exist in each office, where volunteer coordinators are encouraged to work together to achieve the firm's community and environmental goals. For some, this results in a focus on waste and consumption issues, while for

others, social inclusion is an imperative. KPMG were ranked top of their sector in the recently launched Business in the Community (BitC) Corporate Responsibility Index, and to be highly commended in BitC's 2002 'Impact on Society' and Community Investment awards. KPMG strive to "inspire, challenge and empower their people to contribute positively to their social and environmental performance" (www.kpmg.co.uk). They are currently aiming to implement an EMS ISO 14001, for all their UK offices.
"Looking forward, our priority is to continue to uphold our values in everything we do and to build on our strengths to create sustained business success". KPMG recognise that "the greatest influence on society is through the advice we provide and the clients we work with. Direct community, economic and environmental impacts from our operations are small in comparison" (www.kpmg.co.uk).

However, how does their company's sustainability values relate to their activities in the PPP market?

In an interview with George Molenkamp, head of global sustainability services with KPMG, he stated that the company's own internal CSR policy is "fragmented". Even though the company are dedicated to environmental and social principles, it is admitted that there is a long way to go before the firm itself can actually "walk the talk". The sustainability agenda is seen more from the point of view of external work that the company carries out, rather than internal core principles. "As yet, there is very little linkage between sustainability departments and other aspects of work that the company carry out". Because there is little coordination between sustainability / CSR experts and people involved in other departments, little consideration is given to sustainability issues in other aspects of KPMG's work. This makes KPMG's approach to including sustainability issues into their advisory and assurance activities inconsistent- as it is mostly based on interdepartmental relations, not core business principles. However, this is something that the sustainability services department are working on, and is considered to be of increasing importance in the future. The department aims to develop a greater interchange of information between advisory or auditing departments, and those involved with sustainability issues. This approach is being partly led by activities in the US, where internal sustainable development advisors are increasingly required to look over other departmental audits or important contracts, as a form of internal company control and management.
In relation to public private partnership advisory departments, again, there is not necessarily an inclusion of a sustainability expert or advisor. It is mostly left to the client to suggest the incorporation of sustainability principles. However, as expressed by Mr. Molenkamp, advisors sometimes do prompt the inclusion of such issues, but this is mainly left to the discretion of the advisor.
KPMG do not see themselves as having a major role in endorsing the spread of sustainability criteria in the services they provide. PPP projects they term as being 'sustainable' are more from the aspect of the project having a 'sustainable' and worthwhile outcome, as opposed to embodying any particular environmental and social principles. An example given, was that of a public private partnership being developed in the Netherlands, to develop "Nature Areas". Such developments promote the conservation of biodiversity and landscape, while allowing the private sector to benefit through the development of leisure and tourist facilities. KPMG's role is "to coordinate the commercial environment in which these sectors operate, not to ensure that developments on site meet best practise environmental and social standards".

2.44 Price Waterhouse Coopers

PwC's role in the PPP Market

PwC work with governments to shape their projects and privatisation policy, develop frameworks and help them to implement PPPs, fund additional necessary infrastructure investment, accelerate delivery of infrastructure services, and transfer appropriate risk to the private sector. They reconcile investors need for profit with government's requirements to achieve high quality assets and services, value for money and transparency (www.pwcglobal.com/uk).

The Sustainable Development Agenda

For companies looking to improve their business performance and create long-term shareholder value, PwC helps by developing a sustainability strategy, performance management and reporting solutions. They assist their clients in the areas of corporate governance and business ethics, environmental health and safety management, social responsibility, strategy and economics, responsible supply-chain management, and reporting and assurance of non-financial information.

PwC presented it's first global corporate responsibility report in 2004. It is dedicated to "exploring sustainability issues that have a real impact on and within organisations and their stakeholders, as well as sharing news from the PwC sustainability network" (www.pwcglobal.com). It features client's business initiatives, discussions with PwC global practitioners and specific industry perspectives on the sustainability agenda.

PwC maintain that they have strived to implement sustainability practises in their organisation "we do our best to walk the talk" (www.pwcglobal.com/uk). They are involved in a broad range of voluntary programmes and activities that have a positive impact on their environment, value chains and communities.

However, how does Price Waterhouse Coopers sustainability and CSR agenda relate to their work in advising on PPPs?

Jon Sibson, UK Head of PPP Advisory Services, sees PwC's internal sustainability goals and beliefs, and their sustainability advice they give, as separate from the work they provide as advisors in PPP / PFI schemes. "Sustainability advice is a separate section in the firm, and is mostly provided to corporate clients who want sustainability audits, or reports."
In terms of PPPs, he does not see PwC as having a role in incorporating the sustainability agenda at any stage of the process. They offer merely financial and commercial advice to their clients. This is guided by best practice- set out in the Treasurys Green book, with no exact sustainability reference. What he did consider relevant in the sustainability debate, was the practice of investment and affordability appraisal, which PwC are actively involved in. "Through our investment appraisal role, we ensure long term economic sustainability of the project".
At the specifications stage, PwC develops the clients requirements, and maintains that it is not up to them to include the sustainability agenda. However, they realise that in a lot of cases, elements of the sustainability agenda are incorporated at this stage anyway, by the issuing authority. In this case, it is then up to PwC to develop this required agenda.
In the value for money exercise, Mr. Sibson states that it is up to the bidders to justify the extra cost or value, if relevant, in the inclusion of sustainability features. They will evaluate this on its own merits- not necessarily the cheapest bid wins. However, he maintains that the inclusion of sustainability criteria is gaining in importance, and is often seen as a "solid element in a part of the bid". This is particularly the case if sustainability is an essential deliverable in the case for planning permission.
In terms of their work with the private sector, it was stated that the consideration of sustainability is up to the company themselves, and advice on the issue should be gained from sustainability professionals. In the PPP advisory services for PwC, there is only a "laymans understanding of sustainable development." Their clients gain sustainability advice elsewhere, early on in the process, when dealing with physical aspects of the project eg: collaborations with architects, designers, construction engineers etc.
Regarding the future direction for sustainability in PPPs, Mr. Sibson maintains that sustainable development will become more important to public procurers in general, not just specifically the PPP market. He sees central government and the Treasury as having instrumental roles in this process- a process, that if to be fully realised, must be led by actual requirements, rather than voluntary codes and guidelines.

Similarly, Mr. Lloyd of PwC and the IFSL PPP working group, sees a clear distinction between the company's sustainable development policy, and their work in the PPP advisory market: "PwC has its own policies on sustainability but these are corporate wide rather than relating specifically to our PPP business." He doesn't see it as being directly applicable to the services they provide. "The sustainability agenda is only relevant where it is incorporated by the client". Therefore the extent to which PwC's advisors have to deal with sustainability depends on the client's specification for projects and the solutions developed by bidders for them. "Sustainability, where it is commercial, is key to our bid-side clients. Where it is not commercial it can nonetheless be an important component of a bid if the client proposes to evaluate the sustainability benefits of bids or if the bidder judges that there are other benefits of promoting a solution with a high sustainability content."

2.45 Opinions

4ps

In incorporating sustainability principles into a PPP / PFI process, Paul Kelly of 4ps, does not see it as the responsibility of financial or commercial advisors. "I don't think the financial or commercial advisers are the right people, they don't have the right skill sets. It needs to come from the service and technical experts not accountants or lawyers."

UNECE

Mr. Geoffrey Hamilton of the UNECE suggests that the private sector should not necessarily be relied to deliver sustainability- as their principles are bound to be "inconsistent according to financial and other motives". Neither do the UNECE see a strong role provided by the consultants, maintaining that "it is not a good idea" to let such organisations lead the sustainability agenda, as independent groups with no financial mandate are more reliable.

EC Guidelines for Successful PPPs

In their document on PPPs, the EC maintain that the 'paying public' has an integral future requirement for successful public private partnerships: "the consumer must also be integrated and given the power to influence PPP design and operation. This 'bottom up' influence is crucial to the sustainability of the PPP approach and will require coordination with NGOs, consumer associations and the public" (EC, 2003).

2.46 Overview

- Organisations such as KPMG and Price Waterhouse Coopers are actively promoting and developing PPP markets in the UK and abroad.
- The UK and other governments rely on the reputation and expertise of these accountancy firms to develop, promote and implement PPP / PFIs.

- They recognise the scope to incorporate good design and environmental principles, yet do not commit themselves to actively including them.
- The incorporation of sustainability principles depends largely on the client's attitude.
- The advice they offer is purely financial and commercial, which is guided by best practice in the Treasurys handbook (no sustainability reference).

- There is a clear separation between corporate sustainability policy and actual practice in other non-sustainability related departments.
- KPMG and PwC have their own policies on sustainability but these are corporate wide rather than relating specifically to their PPP business.
- Failing to "walk the talk".
- A contrast between how the 2 key private sector PPP players approach the sustainability agenda: case studies of PFI consortia having fully integrated their core sustainability principles into every aspect of operations, while PPP / PFI advisors do not.

Part 3 Conclusions and Recommendations

The following is an outline of conclusions and recommendations drawn from the report. The paragraphs describe the general conclusions, while the bullet points are the recommendations.

On the **Global and European** scale, public private partnerships are being heralded as a vehicle to deliver sustainable development. PPPs are seen as aiding the delivery of much needed services and infrastructure; decreasing regional disparities, improving access and public facilities. A truly integrated interpretation is not considered in the same documents- as they fail to consider other aspects of sustainable development in the delivery of the service or infrastructure.

- There is a need for a more integrated and holistic approach to the interpretation of 'sustainable development', when relating it to PPPs. This issue reflects the general ambiguities surrounding the term in the first place. The narrow interpretation is potentially harmful, as it allows PPPs to be considered 'sustainable', without the operation truly embracing sustainability principles.

On a **Global, European and National** level, guidance discusses 'greening' procurement. Very little attention is placed on the social or socio-economic aspect of procurement. Social aspects are considered more difficult to include in procurement activities. However, even in interviews and analysis of secondary data, 'sustainability' is often interpreted solely in terms of the environmental sphere. Again, the interpretation of what is meant by 'sustainable development' may limit the spread of true 'sustainability' principles in the PPP process.

- There needs to be a focus on 'sustainability' issues, rather then just 'green' issues in procurement and PPPs.

On a **European level**, the biggest driving force in including sustainability criteria in PPPs is, significantly, not any public procurement or PPP rules, laws or interpretive communications, but the new EU SEA Directive. Even though the will is there to promote sustainability through procurement (EU Sustainable Development Strategy, 2001), EC guidance on incorporating green and social considerations have very little punch, and in most cases, are unknown by procuring authorities. This is a major obstacle in incorporating sustainability into PPPs on a European level. This issue also translates to the national sphere. In the **UK** example, guidance exists on incorporating green issues in PPPs. Again, however, such guidance has a low profile.

- It is acknowledged throughout interviews, questionnaires and secondary data, that guidance has little value. The consideration of sustainability principles must be made mandatory, in order for it to be consistently included.

On a **European and National level**, NGOs and interest groups are starting to realise the importance of incorporating sustainability into PPPs. Groups like the UNECE are aiming to establish guidelines for sustainable development in European PPPs. However, it is noted that the process is being held back by an information deficit of current practice in the PPP market. Similarly, according to Green Alliance, the UK National Audit Office stated that they are interested in evaluating PFI projects based on sustainability criteria, but are first keen to identify examples of best practice (2004).

- There is a need for a widespread dissemination of best practice information of sustainability in PPPs on a European and national scale, in order to facilitate the development of appropriate guidelines and promote the adoption and understanding of sustainability in public private partnerships.

As each PPP player in the process is, as yet, not required to included sustainability criteria, there is a very inconsistent approach to its inclusion.

Contracting Authority

Even though the onus is on the public sector to promote the sustainable development agenda, it is acknowledged that they are generally lagging behind in their commitment to implementing it. The consideration of sustainability criteria in PPPs is very inconsistent, and usually depends on how well the authority itself understands the concept of sustainable development, and are committed to implementing it throughout their work.
However, there is now a push on public authorities to become more informed regarding the sustainable development agenda and PPPs, through the introduction of the new EU SEA Directive. Authorities are beginning to realise that they have to link their sustainable development strategy to other aspects of their work, for example: procurement of PPPs.

- There is a need for sustainable development advisors, to help the contracting authorities ensure that sustainability considerations will be consistently included in PPPs.

Sustainability needs to be considered from inception and integrated into the earliest strategic decisions. The whole team from client to contractor must 'buy in' (BRE, 2002). The contracting authority have an important role to play in promoting the uptake of sustainability principles by the private sector.

- The contracting authority must send a clear signal to the private sector that sustainability will be rewarded in evaluation bids and in the award of contract. There must be a consistent interpretation of value for money based on whole life costing, and not cheapest bid wins. This would be aided by expert sustainability advisors, and led by national or European requirements.

- It is evident then, that the importance of whole life costing needs to be fully understood. To develop properly, the methodology of WLC needs to benefit from feedback on how predicted costs work out in practice. Partnerships for Schools, for instance, is investing £1 million on gathering evidence on the links between standards and educational standards (Green Alliance, 2004). More studies need to be carried out in order to illustrate the benefits of WLC, and hence promote its uptake.

For the efficient and effective delivery of sustainability principles in a PPP, there needs to be vision and commitment to sustainability from all parties...

Private Sector

Perhaps surprisingly, it is this sector that seems to be leading the way in advancing true and integrated sustainability principles in PPP / PFI programmes. This is not driven from top-down policies relating to public procurement or PPPs, on a global, EU or national scale. Instead, the incorporation of sustainability principles is based on a company's internal core policy. Corporate social responsibility and sustainable development strategies are fully integrated into every operation of the company. Companies outlined in the report, voluntarily include sustainability criteria into their project bids, and schemes.

- A strengthening and further promotion of CSR and global business social and environmental accountability will facilitate the consistent incorporation of sustainability in public private partnerships.

Companies surveyed had a comprehensive understanding of sustainability. They actively include social, socio-economic as well as environmental aspects in their PPP operations. This makes an interesting contrast to how sustainability is often interpreted by public bodies (on a European, national and contracting authority level), who tend to focus on environmental sustainability.

- Much could be learned by the public authorities, on how the private sector approach sustainability. Sharing of private sector sustainability expertise would facilitate a more holistic and streamlined interpretation of sustainability in PPP projects.

However, there seems to be a large range of private sector opinions regarding the incorporation of sustainability principles into PPP projects. While the 3 companies surveyed for the report maintain that there is a strong business case for sustainability, others in the private sector perceive it to be too risky.

- There needs to be a much wider dissemination of best practice case studies, and a sharing of information among private sector PPP professionals, as to the reality of incorporating sustainability principles into PPP bids and operations. This would bridge the existing perception gap, and aid in a consistent implementation of sustainability criteria in public private partnerships.

It must be noted that the construction sector are currently playing an important role in promoting the value of good design in public procurement contracts. Organisations such as BRE, CABE, as well as the UK government's construction clients panel for sustainability in procurement construction, have an important role in dissemination of best practice throughout the public and private sectors.

Advisors

Organisations such as Price Waterhouse Coopers and KPMG have a central role to play in developing PPPs on a global and European scale. While they have an internal business CSR policy and sustainable development strategy, this is not integrated into their work involving PPP markets. This provides an interesting contrast to the core business ethic of corporate social responsibility and sustainable development, portrayed by some of the major players in the PPP private sector.

- Realising their influence in developing foreign PPP markets, it would be highly beneficial to the spread of sustainable development principles, if these advisors actively incorporated sustainability criteria throughout their work with PPPs. This could be achieved through the strengthening of their internal CSR and SD policies, and meaningfully integrating these ideals as core business policy throughout all of their firm's activities.

While there is a move to more fully integrate their current 'fragmented' sustainability policies to other aspects of their operations, firms such as KPMG and Price Waterhouse Coopers do not see themselves as having a major role in initiating or promoting sustainability in PPP projects. It is accepted by other organisations interviewed, that financial advisors instrumental in developing PPP markets, will not lead the PPP sustainability agenda, and that this is, in fact, better left up to the voluntary and public sector.

The advisors will respond to what their client demands; so hence a boost to the pan-European sustainable development agenda through the incorporation of sustainability principles in public private partnerships, will be realised through a mutual strengthening of all the contributing factors that ensure a consistent uptake of sustainability in the public and private PPP sector. Refer to figure 6 for a summary.

Figure 6: Summary of some Conclusions and Recommendations

Global

EU

Member State
UK

-Need to strengthen polices regarding consideration of sustainability in PPPs /public procurement.

-Only guidance based: therefore inconsistent delivery of sustainability within PPP Process.

-New EU SEA Directive probably has most potential impact at present.

-Guidance tends to focus on 'green' issues rather then truly integrated sustainability principles.

The **PPP Process**: Inconsistent delivery of sustainability…

Recommendation:
share SD expertise

Public Sector
"don't know how to walk the talk"

- Not sufficiently driven from EU or national level.
- Inconsistent: depends on knowledge or dedication of contracting authority to SD principles.
-Growing market for SD advisors.

Recommendation:
Give signal to private sector, that SD will be rewarded.
(SD considerations in bid evaluation and award of contract)

Private Sector
"walking the talk"

-Sustainability, internally driven through CSR and SD commitments.
-Further potential to spread best practice throughout private PPP sector, by sharing of information.

Advisors
"not walking the talk"

-No integration of organisation's internal CSR and SD policies, to activities in PPP market.
-Sustainability principles unlikely to be led from here.
-Will facilitate SD principles if led by their clients.

NGOs

- Have important role to drive sustainability.
- Act as SD advisors, or promotion of sustainability guidelines.
- Process being held back by lack of data on best practice in the PPP market.

Bibliography and for Further Information

Global

Braga de Macedo, J. May 2003. 'Public Private Partnerships for Development'. ABCDE Europe. World Bank. Available: http://www.worldbank.org

International Chamber of Commerce (The World Business Organisation). March 2004. 'Public Private Partnerships, International Forum on Partnerships for Sustainable Development: Notes'. Rome.

The Global Government-Industry Forum on International Developments in PPP. November 2004. 'The 5th Annual Public Private Partnerships Global Summit: Pre-Conference Notes'.

The International Project Finance Association. 'Private Finance'. Available: http://www.ipfa.org

OECD. 23rd Jan 2002. 'Recommendation of the Council on Improving the Environmental Performance of Public Procurement'.

Stigson, B. October 2004. 'Paper on Partnerships involving the Private Sector'. OECD and WBCSD. Conference of EECCA Environment Ministers and their partners.

United Nations. 2002. 'Partnerships for Sustainable Development'. Johannsburg World Summit. Commission on Sustainable Development. available: http://www.johannsburgsummit.org or http://www.un.org.esa.sustdev

United Nations. 2000. 'Millennium Development Goals'. Available: www.developmentgoals.org

World Trade Organisation. 1996. 'Government Purchasing Agreement'. Available: http://www.wto.org

European

Actnow Broadband Cornwall.2002. 'A Public Private Initiative to promote broadband communications in cornwall'. Available: http://www.actnowcornwall.co.uk

Coalition for Green and Social Procurement. 15th May 2002. 'Broad base of groups call for EU procurement rules amendment'.

Commission of the European Communities. July, 2004. 'Proposal for a Council Regulation laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund'. Brussels.

Commission of the European Communities. April, 2004. 'Green Paper on Public Private Partnerships and Community Law on Public Contracts and Concessions'. Brussels.

Commission of the European Communities. October, 2001. 'Commission Interpretative Communication on the Community law applicable to public procurement and the possibilities for integrating social considerations into public procurement'. Brussels.

Commission of the European Communities. July, 2001. 'Commission Interpretative Communication on the Community law applicable to public procurement and the possibilities for integrating environmental considerations into public procurement.' Brussels.

Commission of the European Communities. May, 2001. 'Communication from the Commission. A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development. Brussels. (Commission's proposal to the Gothenburg European Council)'. Brussels.

EurActiv.com. 2002. 'Coalition for Green and Social Procurement.' Available: http://www.euractiv.com

European Commission. 2003. 'A European Initiative for Growth-Investing in Networks and Knowledge for Growth and Jobs'. Brussels.

European Commission. DG Regional Policy. March 2003. 'Guidelines for Successful Public Private Partnerships.' Brussels.

European Commission. Directorate General Regional Policy. 'EU Regional Funds'. Available: http://www.europa.eu.int

Price Waterhouse Coopers. 2004. 'Developing PPPs in New Europe'. Price Waterhouse Coopers, Adrian Howcroft, Director of PwC

The Global Government-Industry Forum on International Developments in PPP. 2002. 'The 3rd Annual Public Private Partnerships Global Summit: Speech by Commissioner Frits Bolkestein'. DG Internal Market.

United Nations Economic Commission for Europe. 2004. 'Governance in Public Private Partnerships for Infrastructure Development'. Geneva. United Nations (draft) www.unece.org/ie/ppp

WWF. 2004. 'Regional Policy and Sustainable Development-Briefing by WWF for Members of the European Parliament'. www.panda.org/epo

WWF, Greenpeace, EEB, Climate Network Europe. November 2001. 'Environment and Public Procurement: Briefing paper for the current debate on public procurement.'

UK

Carillion. 'Corporate Sustainability Objectives and Targets'. Available: http://www.carillionplc.com

Collins, J. and Hill, J. 2004. 'PFI: Meeting the Sustainability Challenge'. Green Alliance

DEFRA and OGC. 30th October 2003. 'Joint Note on Environmental Issues in Purchasing'.

DEFRA. 'Green Guide for Buyers'. Available: http://www.defra.gov.uk

EC. The New SEA-Directive. Available: http://www.europa.eu.int or http://www.sea-info.net

Equion plc. 'About Equion'. Available: http://www.equion.plc.uk
and John Laing plc. 'Corporate Social Responsibility'. Available: http://www.laing.com/equion.htm

Forum for the Future. 'Public Private Partnerships and Public Service Agreements'. Available: http://www.forumforthefuture.org.uk

Garwood, R., Logan, S., Mills, K. and Willoughby, N. 2002. 'Sustainability lessons from private finance and similar private initiatives'. BRE PFI Unit, Energy Division.

International Financial Services London. 2003. 'Public Private Partnerships. UK Expertise for International Markets.' KPMG, PwC, PUK, Norton Rose.

Jarvis Projects Limited. 'Company Strategy'. Available: http://www.jarvis-uk.com/

KPMG. 'Project Finance, Public Private Partnerships and the Private Finance Initiative'. Available: http://www.kpmg.co.uk

KPMG. Oct. 2003. 'KPMG and Corporate Social Responsibility'. Available: http://www.kpmg.co.uk

KPMG Global Sustainability Services. 2002. 'International Survey of Corporate Sustainability Reporting'. The Netherlands.

Office of the Deputy Prime Minister. ‘Creating Sustainable Communities’. Sustainable Development in the Office of the Prime Minister. Available: http://www.odpm.gov.uk

Office of the Deputy Prime Minister, Office of Government Commerce. ‘Green Public Private Partnerships: A guidance note on how to include environmental considerations within PPPs and PFI projects’. Treasury Taskforce. July 2002

Office of Government Commerce, UK Government. ‘Introduction to EC Procurement Rules’. OGC Service Desk. Available at: http://www.ogc.gov.uk

Office of Government Commerce. ‘The Procurement Policy- A Government Update’. Available at: http://www.ogc.gov.uk

Price Waterhouse Coopers. 2004. ‘The Corporate Responsibility Report’. Available: http//www.pwcglobal.com

Price Waterhouse Coopers. ‘Public Private Partnerships’. Available: http//www.pwcglobal.com/uk

Public Private Finance. ‘The Ultimate one-stop information service for anyone involved in PPP / PFI.’ Available: http://www.publicprivatefinance.com

The PFI Journal. ‘The leading Private Finance Initiative News Source’. Available: http://www.thepfi.net

Sustainable Development in Government. ‘Framework for Sustainable Development on the Government Estate. Part F: Procurement’. Available: http://www.sustainable-development.gov.uk.

Sustainable Procurement Group. 2002. ‘Report and Recommendations of the Sustainable Procurement Group’. Framework for Sustainable Development on the Government Estate.

Unison. June 2002. “A Web of Private Interest: how the big five accountancy firms influence and profit from privatisation policy.” Positively Public campaign

Annexes

Annexes 1 – 7 outlines how sustainable development is defined and interpreted throughout the report.

Annex 1 United Nations Millennium Development Goals

(source: www.developmentgoals.org)

1) Eradicate extreme poverty and hunger
2) Achieve universal primary education
3) Promote gender equality and empower women
4) Reduce child mortality
5) Improve material health
6) Combat HIV / AIDS, malaria, and other diseases
7) Ensure environmental sustainability
8) Develop a global partnership for development

Annex 2 A European Union Strategy for Sustainable Development

(source: European Commission)

In the European Union's sustainable development strategy (2001): "A Sustainable Europe for a Better World" it set out long term objectives and targets, and identified priorities for action. These are as follows:

-Limit climate change and increase the use of clean energy
-Address threats to public health
-Manage natural resources more responsibly (noting the problems of loss of biodiversity, increasing waste volumes and soil loss)
-Improve the transport system and land-use management (noting regional imbalances)

The commitments made at the Lisbon, Nice and Stockholm summits are also included as relevant in the sustainable development strategy. These are as follows:

-Combat poverty and social exclusion
-Deal with the economic and social implications of an aging society

Annex 2 UK's Sustainable Development Strategy: A Better Quality of Life.

(source: http://www.odpm.gov.uk)

Four key objectives:

-social progress which meets the needs of everyone
-protection of the environment
-prudent use of natural resources
-maintenance of high and stable levels of economic growth and employment.

Annex 3 UK Framework for Sustainable Development on the Government Estate.
Part F: Procurement

(source: http://www.sustainable-development.gov.uk)

It states that most Headline and Core Quality of Life Indicators are relevant to procurement issues, but particularly notable are:

-materials recycling
-primary aggregates per unit of construction value
-construction and demolition waste going to landfill

-pesticide residues in food
-area converted to organic production
-chemical releases to the environment
-world and UK material consumption levels per head

Annex 4 Green Public Private Partnerships: Issues for Contractors to Consider when drawing up their tender

(source: Treasury Taskforce. July 2002)

Design of Buildings:
- Smaller is better
- Design for easy maintenance
- Design an energy-efficient building
- Design buildings to use renewable energy
- Optimise material use
- Design water-efficient, low maintenance landscaping
- Make it easy for occupants to recycle waste
- Recycle greywater if feasible
- Design for durability
- Design for future reuse and adaptability
- Design for recovery

Location and Planning Site
- In-fill and mixed use development
- Minimise car dependence
- Value site resources
- Promote biodiversity
- Provide responsible on-site water management
- Situate buildings to benefit from existing vegetation

Material
- Avoid ozone-depleting chemicals and those with a high global warming potential
- Use durable products and materials
- Choose low-maintenance building materials
- Choose building materials with low embodied energy
- Use building products made from recycled materials
- Use salvaged building materials when possible
- Use good wood
- Avoid materials that will give off gas pollutants
- Minimise packaging waste

Equipment
- Install high-efficiency heating and avoid air conditioning
- Install energy efficient lights and appliances
- Install water-efficient equipment

Site Development
- Protect trees and topsoil during site work
- Avoid use of pesticides and other chemicals that may leach into the groundwater
- Minimise site waste
- Make education a daily practice
- Sustainable demolition practices

Annex 5 New EU SEA Directive

(source: www.europa.eu.int)

Environmental assessment is a procedure that ensures that the environmental implications of decisions are taken into account before the decisions are made. In principle, environmental assessment can be undertaken for individual projects (EIA: Environmental Impact Assessment) of for plans, programmes and policies (SEA: Strategic Environmental Assessment).
With the adoption of the SEA Directive, effective since 21st July 2004 (UK), a wide range of plans and programmes begun after this date now require an environmental assessment.

The purpose of the SEA Directive is to ensure that environmental consequences of certain plans and programmes are identified and assessed during their preparation and before their adoption. It is expected that SEA will contribute to more transparent planning by involving the public and by integrating environmental considerations. This will help to achieve the goal of sustainable development.

Annex 6 Carillion Corporate Sustainability Objectives and Targets

(source: www.carillionplc.com)

Social Progress

-Communicate and share Carillion's sustainability strategy, vision and policy with all and continually improve the way in which Carillion engages with its stakeholders
-Create a community strategy for Carillion.
-Contribute at least 1% of profits to community activities (cash and in-kind support).
-Demonstrate competency improvement in chosen populations of Carillion people.
-All Carillion employees to have an appraisal at least once a year.
-Raise awareness and improve our occupational health performance.
-Ensure "Safety By Design" is applied to mitigate hazards at source where we have design input.
-Business groups to develop action plans to address behavioural safety

Protection of the Environment

-Minimise negative impacts of Carillion's services and activities on the environment
-Promote awareness and benefits of our sustainability performance through our corporate communications strategy.
-Create a "restricted list" of products that should not be used on our contracts.
-Include sustainability in the employee performance review process.
-Investigate the feasibility of a biodiversity action plan for Carillion.

Prudent use of Natural Resources

-Reduce waste production across Carillion
-Implement waste management plans and site-specific transport plans developed in 2002 where appropriate.
-Investigate the feasibility of a zero waste strategy for Carillion.
-Reduce energy consumption across Carillion
-Reduce energy consumption in Carillion's Head Office's measured by kWh/m2, by further 5% over baseline figures.
-Reduce average unit CO_2 emission per litre of combusted fuel by 10% across the car fleet.

Economic Growth and Prosperity

-Demonstrate the business case for sustainability
-Develop and communicate the business case for sustainability in Carillion.
-Establish a process for assessing customer satisfaction for key customers
-Engage Carillion's supply chain in the sustainability programme to improve supplier sustainable development performance and assist in achieving Carillion's targets
-Roll out new supply chain performance improvement tool across Carillion's managed categories.

Annex 7 Jarvis' Corporate Sustainability Objectives

(source: www.jarvis-uk.com)

Jarvis co-ordinates its environmental management issues through a dedicated corporate Environment working group, set up to identify and spread best practice across the Company.
The group focuses on a number of key performance indicators (KPIs) for environmental management, particularly:

-reducing emissions of greenhouse gases now and planning for further reductions
-assessing the environmental impact of the Company's business activities, setting targets and producing reports
-greater energy and resource efficiency
-moving away from disposing of waste towards waste minimisation, recycling and recovery.

Within each of these areas, there are specific targets and indicators against which the Company measures its performance. Jarvis is developing a programme that includes the following:

-setting and monitoring KPIs for environmental management
-implementing certified ISO 14001 environmental management systems across all business units
- introducing specialist environmental management tools, such as utilities management software
- promoting and recognising good environmental management in the field, by rewarding local depots and offices for good practice
- moving increasingly towards renewable energy resources and reducing water and energy consumption
- implementing programmes to reduce waste and emissions
- actively protecting endangered wildlife and environmentally important sites
- encouraging better environmental management throughout the Jarvis supply chain

Annex 8 List of Interviewees

UNECE (United Nations Economic Commission for Europe)
Geoffery Hamilton, Senior Economic Affairs Officer for UNECE PPP Alliance, Switzerland.
Geoffrey.Hamilton@unece.org +41 (0) 22 917 2838
General enquiries +41 (0) 22 917 4444 info.ece@unece.org
(Telephone interview)

Actnow broadband cornwall: BT
Dr Ranulf Scarbrough, Programme Manager, Actnow Broadband Cornwall
+44 (0) 7736 476448 info@actnowcornwall.co.uk
(Questionnaire response via e-mail)

Forum for the Future
A charity organisation who, among other things, is involved in helping local authorities include sustainable development into procurement.
Vicky Bull, strategic advisor in forums local and regional programme. v.bull@forumforthefuture.org.uk +44 (0) 1242262400
(Telephone interview)

4ps
"Preparing Professionals for Partnership with the Public". 4ps offers a comprehensive range of innovative, accessible and affordable programmes to help build local government corporate capacity. Among their work, is offering procurement support to local authorities.
Paul Kelly, senior executive. +44 (0) 20 7808 1483 paul.kelly@4ps.gov
(Questionnaire response via e-mail)

Green Alliance
An independent charity with a central role in the UK environmental movement. Their mission is to ensure that the environment is at the heart of decision making.
Julie Hill, co-author of "PFI: Meeting the Sustainability Challenge"
+44 (0) 20 72337433 jhill@green-alliance.org.uk
(Questionnaire response via e-mail)

Carillion
+44 (0) 1 902316600 PFI Unit privatefinance@carillion.plc.com
Stuart Mee, Environmental Advisor in Carillion
(Telephone interview)

Robin Herzberg, Managing Director, Carillion

(Questionnaire response via e-mail)

KPMG
Prof. George Molenkamp, head of global sustainability services with KPMG (The Netherlands)
globalsustainability@kpmg.com +31 (0) 306581801
(Telephone interview)

Price Waterhouse Coopers
Jon Sibson, UK Head of PPP Advisory Services
Jon.sibson@uk.pwc.com +44 (0) 20 78048068
(Telephone interview)

Charles Lloyd, of PwC and the IFSL
Charles.Lloyd@uk.pwcglobal.com +44 (0) 20 7804 5130
(Questionnaire response via e-mail)