SD/FMO/IMS

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Institute Members in Scotland

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Scottish Executive
Consultation Exercise
PFCU
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Dear Sir

CONSULTATION ON USE OF JOINT VENTURES TO DELIVER PRIMARY CARE/JOINT PREMISES

On behalf of The Institute of Chartered Accountants in England and Wales Members' in Scotland Group please find comments in respect of the above consultation document.

We apologise for missing the deadline but hope you will consider our comments.

Overall Concept

The ICAEW-IMS is supportive of the concept of public private partnership. We consider that a range of methods from direct government investment, direct third party development, PFI and PPP create choices from which to identify the best way for the taxpayer of delivering value for money infrastructure for our public services.

Attractiveness of LIFT for Joint Premises

We consider that the demand for LIFT is driven by the following factors:

(1) Long-term arrangements providing exclusivity for the private sector partner/(s) provide the opportunity for a stable stream of earnings and some upside from property portfolio growth.

(2) Long-term partnership arrangements allowing strategic alliance will benefit communities, the NHS and the contracting industry.

(3) The potential use of LIFT as a community regeneration agent provides significant opportunity for local economic development and attractive upside for earnings and portfolio growth.

(4) The investment potential and property aspects are attractive to funding institutions.

(5) Overtime, strategic alliance and certainty should allow a reduced cost of capital and increased risk taking and innovation. This should be a major attraction to the public sector in addition to the basic requirement to leverage investment capability in the short to medium term.

(6) Strategic alliance should reduce current transaction costs and bureaucracy involved in establishing PPP arrangements.

We are broadly supportive of the LIFT concept and consider that it will be a useful addition to the methods of infrastructure delivery in Scotland.

Lessons to learn from the NHS LIFT experience in England/ Suggestions for Improvements

(1) In England, the LIFT process has had direct management by Partnerships for Health (PfH). This has proved beneficial to identifying and solving implementation difficulties both locally and nationally. Any Scottish model should have a similar involvement. The PfH equity stake in the LIFT Co should not need to be at the same 20% level, it is the involvement in the process and the existence of an equity stake to back it up that has been the key factor not the level of the stake.

(2) Initial LIFT has been opportune in England. The development of partnerships has been driven at a local level to respond to tight government timescales for Primary Care development. The approach to inclusion of all partners has therefore not been the main focus. In Scotland, where there appears to be more time, this aspect of inclusion should be carefully considered. We consider this especially important in respect of a Health focused LIFT, which may require to be National, and a Community focused LIFT covering wider service structure in a defined area which is likely to be local. We consider that a local model is likely to be more appropriate to maximise the benefits of community development and holistic infrastructure development. We believe that this model is likely to be more attractive to contractors and financial institutions over the long-term. The Scottish Executive should consider any legislative powers and delivery model with this in mind.

(3) Deal flow is the key factor in establishing an effective LIFT; it is critically dependent on the Strategic Partners (“Strategic Partnering Board” in the LIFT model) developing an effective strategic plan for the activities under its remit. We are concerned that without clarity on the scope and focus of LIFTs and improved clarity around Community Planning in Scotland that the structured planning and deal flow that is required for success may not be delivered. Initial LIFT Cos in England have commenced with opportune developments. As time has progressed planning has grown to meet the requirements. We suggest that the Scottish Executive address planning requirements across the NHS and Local Authorities in advance of and separately to the introduction of LIFT to ensure its success.

(4) In England, LIFT is based on delivery by a LIFT Company limited by share capital with clear allocations of share ownership – 60% Private Sector, 20% PfH and 20% Local Health Economy. We consider that the PfH stake in this model should be reduced and that a higher level of local stake holding be encouraged. This change will allow increased stakes for Health Boards and

importantly Local Authorities to promote greater involvement. A suggested split would be Private Sector (55-60%), Local Public Sector (30-35%) and National (5-10%). We consider that Board appointment should continue to be structured but changed to reflect greater local involvement. A suggested representation would be Private Sector (3-4), Local Public Sector (1-2) and National (1). The wider Board membership should also promote a broader skill base that we believe is somewhat arbitrarily restricted at 5 in the current NHS LIFT model in England.

(5) In Scotland, it is important that small local authorities are not left out of the potential for LIFT. The difficulties likely to be encountered with the dilution of the interests of incumbent parties when other partners join at a later date suggest that inclusion at the outset is preferable to complex flexibility arrangements – especially when relationships are developing. We suggest that the Scottish Executive retain the right to withdraw national support for any LIFT Scheme unless it is satisfied that localities in an area that are not covered by LIFT have sufficient alternative means to deliver the appropriate infrastructure for their area. We consider this important for the success of LIFT within the inclusive approach to partnership working being adopted in Scotland.

(6) The ability of a LIFT co to leverage investment through the combination of its own equity funds (supplied by the partners) and debt financing is both a power and a responsibility. We consider that the normal market evaluation of corporate gearing and financial strength will determine appropriate gearing limits for LIFT cos through banking covenants and scrutiny by investment analysts. Nevertheless, we consider that due to the significant level of public sector stake in LIFT (40%), the Scottish Executive should consider setting limits for LIFT Co gearing taking these factors into account. Regardless of limit setting, we consider that information on financial gearing should be expressly disclosed to ensure that stakeholders and the public are fully informed of the financial risks to which the LIFT co is exposed.

(7) Following from our points on gearing, we believe that full and adequate accounting treatment and disclosure should be developed for LIFT in Scotland that satisfies the highest international standards of accountability and governance. The existence of a 40% public sector stake is of such significance that the Scottish Executive should lead this work in conjunction with the CCAB and Audit Scotland.

(8) Enabling the transfer of property ownership and assignment of lease rental streams could enhance the attraction of LIFT to financial institutions allowing initial bank funding to be transferred or turned into asset backed securities. We suggest this should be considered to broaden as far as possible the investment base.

(9) In England, LIFT has not involved “Soft FM” arrangements; this has avoided staff side opposition. Given the strength of staff side influence in Scotland we consider that “Soft FM” arrangements should similarly be excluded in Scotland to underpin the partnership nature of joint delivery from the NHS and Local Authorities.

Corporate Governance

We believe that Conflict of Interest may arise. There may be some concern that an SPB (directing business opportunities) and a LIFT Co (delivering and profiting from such opportunities) may on occasions have differing interests. The LIFT Co in taking on the most profitable developments, the SPB in delivering strategy and service improvement.

A Public sector body who is a member of both may begin to anticipate earnings from a LIFT to offset running costs through plough back of financial benefits this could indirectly compromise its main business focus. This needs to be addressed by the development of a complementary code of conduct to go with any new arrangement.

The director of the LIFT Co is beholden to protect the interests of the Company under company law. An official of a public sector body is required to uphold the public servant code of conduct and the interests of the public body stakeholders and ultimately the Executive or Council.

Provisions concerning the directorship of LIFT Co by NHS employees should be considered openly and carefully as part of the development of a model with a LIFT Co limited by share capital.

Remuneration arrangements for directors' of LIFT companies require to be considered very carefully.

Public Accountability

We consider the structure and operating arrangements must be open and transparent for all the partners and the Public and the organisation may require a greater degree of disclosure than currently required for limited companies. This consideration may also apply to Accounting treatment with respect to "substance over form".

Context

Scotland has a relatively small population (circa 5m) with respect to its geographical area. It has a diverse range of community profiles at a regional level which have specific needs.

Integrated Strategic Framework

We consider it should be a key requirement that there is a clear cross cutting, locally focused strategic plan(s) to underpin the objectives of any LIFT organisation, without this there will be insufficient focus and prioritisation for delivery of a rolling programme. This will increase both risk and cost for partners.

Value for Money

In order to maximise value for money we consider LIFT could either have a national coverage with a relevant local focus for one sector e.g. Health or Education, or a regional focus with coverage of a full range of services underpinning community planning. The latter may deliver a greater degree of integration of projects at local level and promote greater joint working. These options we suggest be considered in the context of an optimum critical mass to achieve the best financing rates and portfolio size and mix to attract suppliers.

ICAEW Members in Scotland

In 2001, the ICAEW established the ICAEW Members in Scotland Group to conduct the normal functions of participation and representation of its members available to ICAEW Members elsewhere in the UK. The Group represents over 1,200 Chartered Accountants, 75% of which work in Scottish business organisations covering financial services, oil, media and the public sector. The Group can draw on the extensive resources of the ICAEW a professional body of 125,000 members world wide.

The Group welcomes circulation of Scottish Executive consultations to allow these members to contribute to policy thinking. We hope that the comments on the joint ventures consultation above are useful and help in developing an improved LIFT Scotland model.

Yours faithfully

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Executive
On behalf of Institute Members in Scotland

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