



# Briefing

## Long waste contracts...

## 10 key questions

## Does your council know what it is signing up to?

**It is difficult to predict the future - and environmental and economic challenges will mean moving goalposts. Yet in many places there is a drive to sign long contracts of 20-30 years. This briefing poses 10 key questions to ask if your council is considering signing up to a long contract...and looks at some key risks, for example:**

- **Your council could be signing up to pay out millions of pounds to a private waste company – for up to 30 years.**
- **The taxpayer may also have to pay the company's costs in the event of public opposition – or pay for processing waste that doesn't exist.**
- **New facilities – like incinerators – could prevent your area recycling as much as you could.**
- **Read on to find out more...**

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## **Executive Summary**

Across the country, councils are successfully increasing their recycling rates, beginning to end the UK's embarrassingly low position in the European league table of recyclers.

However, there is now a new danger that threatens to put a ceiling on the recycling of household and business wastes – and to cost council tax payers millions of pounds - through new long contracts with the waste industry. And this will not just affect current taxpayers – these contracts are often for 25 or 30 years, so our children will also have to pay up.

These long contracts are usually put in place due to a perceived need to build a very expensive residual waste treatment facility – often an incinerator – which requires long term income to be economical.

This briefing lists ten key questions that you should ask councillors or council officials if your council is planning to sign up to a long contract:

**Q1: Has the council considered smaller, cheaper, facilities on shorter term contracts (e.g. 5 - 10 years)?**

**Q2: Is your council modelling a reduction in municipal waste?**

**Q3: Has your council modelled recycling and composting rates of 70% and above?**

**Q4: Are there real figures for how much Commercial & Industrial waste there is in your area, and how much could be recycled?**

**Q5: Is your council assuming separate collection of food waste and anaerobic digestion?**

**Q6: Who pays in the event of (i) planning delays or legal challenges; (ii) not enough waste; (iii) tax changes?**

**Q7: What procedures has the council put in place to prevent later forced re-negotiation of the contract?**

**Q8: Are councillors and the public able to access enough information to make informed judgements?**

**Q9: Has the council got the evidence to show that it has adopted the best environmental option?**

**Q10: Is the council confident that future council tax payers will look back on this contract as a good use of taxpayers' money?**

## 1) Why a long contract?

Long contracts for residual waste treatment facilities - of 20-30 years - are usually arranged because of the need to pay for large, expensive infrastructure. Thermal treatment plants, such as incinerators, usually need to be large (for economies of scale), and are very expensive to build.

This infrastructure may also be very inflexible - an incinerator needs to run continuously, with limited variation in quantity of waste per day. In contrast, other technologies such as some mechanical biological treatment (MBT) plants can be much more flexible.

Shorter contracts of 5-10 years give greater flexibility. They allow future adjustments in response to changes in waste volumes, composition, recycling rates and regulation.

### Q1: Has the council considered smaller, cheaper, facilities on shorter term contracts (e.g. 5 - 10 years)?

- See briefing on **Mechanical biological treatment**  
[www.foe.co.uk/resource/briefings/mchnical\\_biolo\\_treatmnt.pdf](http://www.foe.co.uk/resource/briefings/mchnical_biolo_treatmnt.pdf)

## 2) How much waste?

Municipal solid waste (MSW – the waste collected by councils) volumes are reducing - there was a 1.9% drop in England in 2008 [1]. The recession has accelerated these reductions, and is also impacting on non-MSW waste streams.

This needs to be taken into account in waste treatment plans. If future waste growth is overestimated, expensive capacity will be procured for predicted waste that will not materialise.

When forecasting high waste growth, it is often assumed that planned increases in population will lead to more waste. However, it is likely that much of that increase will often be due to increased numbers of older people. Retired people are generally on lower incomes, and are therefore likely to produce less waste.

In addition, the new European Union (EU) Waste Framework Directive obliges governments to do more to prevent waste. All EU governments – including the UK – must produce Waste Prevention Plans, and the European Commission is going to investigate the potential to set binding waste prevent targets. The Commission will report on the potential for waste prevention by the end of 2011, with the aim, in 2014, of setting waste prevention targets for 2020.

### Q2: Is your council modelling a reduction in municipal waste?

## 3) How much residual waste?

The amount of residual municipal waste there will be in the future will depend on the amount of MSW, and on how much reuse, recycling and composting take place.

The 50% target for recycling MSW that England has adopted for 2020 is now the legal EU minimum in the Waste Framework Directive (WFD). The European Commission will review this target by the end of 2014.

Wales has already agreed a recycling target of 60% by 2020 and 70% by 2025. Flanders in Belgium has been recycling over 70% MSW for several years.

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Environmental and economic pressures, such as the need to cut climate emissions and improve resource efficiency, will create a push for more waste prevention and recycling.

Another driver will be future recycling targets that will be set for 2025 or 2030, though no-one knows at the moment what these will be.

### **Q3: Has your council modelled recycling and composting rates of 70% and above?**

See briefings on:

- **Recycling** – why it's important and how to do it  
[www.foe.co.uk/resource/briefings/recycling.pdf](http://www.foe.co.uk/resource/briefings/recycling.pdf)
- **Sorting residual waste**: a guide for councils to save money and help the environment by cutting back on residual waste [www.foe.co.uk/resource/briefings/residual\\_waste.pdf](http://www.foe.co.uk/resource/briefings/residual_waste.pdf)
- **Landfill Allowance Trading Scheme** - how LATS works and the best way for councils to meet these targets, both financially and environmentally  
[www.foe.co.uk/resource/briefings/lats.pdf](http://www.foe.co.uk/resource/briefings/lats.pdf)

## **4) How much C&I waste?**

It is sometimes argued by those planning overly-large residual waste facilities that any short fall in MSW to the facility can be made up with commercial and industrial (C&I) waste – this is waste from businesses, collected by private contractors not councils.

The government does not actually know how much C&I waste there is, only how much is landfilled. The last survey (which is often criticised) was carried out by the Environment Agency in 2002, before the big growth of manufacturing in China and the growth in recycling.

C&I waste is generally easy to recycle, and this is by far the most beneficial option. There may be very little 'residual' waste for incinerators - some companies (e.g. Coca Cola) already have 'zero waste' factories.

Incinerators require feedstock to have a certain calorific value, that of the mixture of materials the designers expect to be in residual municipal waste. Because C&I waste is often less of a mixture, it may have the wrong calorific value. For example, Veolia's incinerator in Sheffield started taking waste from McDonalds in order to top up a shortfall in MSW – but it has been reported that this waste caused problems for the incinerator<sup>2</sup>.

A number of future measures may lead to higher rates of C&I waste recycling, including:

- 1) Recycling targets for C&I waste, either in the UK or from EU level. An EU target of 70% recycling by 2020 was supported by the European Parliament in the 2008 revision of the WFD, but opposed by Governments. Introduction of a target will be reviewed in 2014. The Government is under increasing environmental pressure to set such a target as it makes no climate or resource efficiency sense to be dumping or burning this waste.
- 2) Landfill and incineration bans on recyclables - options are currently being investigated by DEFRA
- 3) Increases in the cost of incineration due to increased landfill tax on incinerator ash, as proposed by the Treasury, or a future incineration tax.

### **Q4: Are there real figures for how much commercial and industrial waste there is in your area, and how much could be recycled?**

## 5) Is anaerobic digestion being encouraged?

Anaerobic digestion (AD) takes food, agricultural waste and sewage sludge and makes biogas, which can be burnt to make 100% renewable electricity on-site, used as a transport fuel or piped into the gas grid. This would significantly decrease residual waste requiring treatment and the National Grid have suggested biogas could produce 50% of domestic gas use [3].

AD is now receiving political support, including funding and incentives. However there is concern among civil servants and industry about whether the food waste will be available for processing by AD, or will be required to feed the nearest incinerator.

### Q5: Is your council planning separate collection of food waste and anaerobic digestion, rather than wasting food waste by sending it to an incinerator?

See briefings on:

- Food waste collections [www.foe.co.uk/resource/briefings/food\\_waste.pdf](http://www.foe.co.uk/resource/briefings/food_waste.pdf)
- Anaerobic digestion [www.foe.co.uk/resource/briefings/anaerobic\\_digestion.pdf](http://www.foe.co.uk/resource/briefings/anaerobic_digestion.pdf)

## 6) Who pays for changes?

Long contracts are legally complex as the world will change during the contract. There are many resulting potential costs that will fall to either the contractor or the local tax payer to pay.

These costs may result from planning delays or legal challenges. Councils may agree to cover these costs for the waste contractor.

There is also the possibility of regulatory/tax changes, such as landfill tax on bottom ash, incineration tax, or new CO<sub>2</sub> charges.

Contracts will often oblige councils to deliver a certain amount of waste to the incinerator every year. This is done by either compelling the council to pay for waste processing even if they don't use it, or to pay a minimum amount, however little waste they send to the incinerator.

### Q6: Who pays in the event of (i) planning delays or legal challenges; (ii) not enough waste; (iii) tax changes?

## 7) Who takes the risk?

If there are changes in the economic environment, the contractor may claim that it will go bankrupt without contract changes. Large companies set up local subsidiaries that can be bankrupted to allow this get out clause.

This is reported to have happened in Newhaven [4]:

*"A copy of the papers, leaked to Lewes MP Norman Baker, suggests that Veolia claimed that the waste contract, agreed four years ago, was no longer profitable and would have to be extended by five years.*

*Under the contract Veolia is liable for all increased costs to the project but councillors feared*

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*that without help the contractor would go bankrupt causing the project to collapse.*

*Veolia faces a rise in construction costs from £71.7 million to £145.7 million. The longer contract will give Veolia an extra £35 million in income. Councillors feared that if they refused to extend the contract Veolia would walk away.”*

This decision is now under investigation by the European Commission [5].

**Q7: What procedures has the council put in place to prevent later forced re-negotiation of the contract?**

## 8) Is the process democratic?

Long private contracts often force councillors to take decisions in private. To keep key documents out of the public domain and undermine Freedom of Information requests, it is often claimed the information is commercially confidential.

With private finance initiative (PFI) funding, the inability to fully examine background documents raises the risk that the PFI credit makes the project look better value than it really is.

The Newhaven experience is particularly worrying:

*“And even though the project has a £1 billion price tag almost nothing is known about the financing or the costs of the buildings or services.” [4]*

**Q8: Are councillors and the public able to access enough information to make informed judgements?**

- See briefing on **Private Finance Initiative (PFI) funding for waste infrastructure** [www.foe.co.uk/resource/briefings/waste\\_pfi.pdf](http://www.foe.co.uk/resource/briefings/waste_pfi.pdf)

## 9) Is this the best climate – or environmental – option?

In a time of public spending cuts, combined with ever-stronger climate targets, government incentives are most likely to be directed towards the best climate solutions.

Anyone contracted to build an incinerator could expect the incentives to move against them.

As DEFRA says - incineration of plastic is a bad idea [6]:

*“where fossil fuel based products are incinerated (e.g. plastics) they tend to generate energy less efficiently than using fossil fuel directly, hence are associated with an overall carbon cost”*

If food waste is source separated for composting or anaerobic digestion, there will be less food waste in the residual, meaning that the remaining residual waste will have a higher percentage of fossil carbon (e.g. plastic).

More flexible and climate friendly options than incineration are available, which are much cheaper and faster to build and so can be procured on shorter contracts (5-10 years). For example the best mechanical biological treatment (MBT) technologies removes the bulk of the biological activity (in case the output is landfilled), removes further recyclables and creates a low-grade compost output<sup>7</sup>.

**Q9: Has the council got the evidence to show that it has adopted the best environmental option?**

See briefings on:

- **Dirty Truths** – the climate impacts of energy from waste and residual waste treatment: [www.foe.co.uk/resource/briefings/dirty\\_truths.pdf](http://www.foe.co.uk/resource/briefings/dirty_truths.pdf)
- **Up in Smoke** – why Friends of the Earth opposes incineration [www.foe.co.uk/resource/media\\_briefing/up\\_in\\_smoke.pdf](http://www.foe.co.uk/resource/media_briefing/up_in_smoke.pdf)

**10) Will people look back in anger?**

In 20 years time, when local people look back on the signing of this contract – 2031 if you signed the contract in 2011 - will they be impressed with what the council did then, or will they believe that the councillors and officials at that time made a serious mistake?

This is particularly significant following the economic crisis, as everyone is predicting many years of tight public spending.

**Q10: Is the council confident that future council tax payers will look back on this contract as a good use of taxpayers' money?**

- See briefing on **Private Finance Initiative (PFI) funding for waste infrastructure** [www.foe.co.uk/resource/briefings/waste\\_pfi.pdf](http://www.foe.co.uk/resource/briefings/waste_pfi.pdf)

**Conclusion**

Many councils are in the process of signing long contracts (e.g. 25 years) for waste management as a result of:

- (i) the availability of PFI funding and
- (ii) a perceived need to build large residual waste facilities, which require long pay-back periods (e.g. incinerators), and are inflexible, requiring a constant large waste stream.

These contracts must include assumptions on MSW waste volumes, recycling rates and other waste streams. If real world outcomes are different, there is limited opportunity to re-negotiate once a contract is signed. Such changes can radically change the financial basis of the PFI, even before the signing of contracts – as has happened with the Coventry Warwickshire and Solihull PFI, where reductions in waste volumes are forcing changes in plans.

Councils that sign up to such long contracts are:

- (i) committing to substantial public spending in the future;
- (ii) limiting their ability to increase recycling and anaerobic digestion, and to cope with declines in waste volumes, and
- (iii) shutting out any chance of adopting new technologies during the contract period.

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The following briefings may also be of interest:

- **Autoclaving** [www.foe.co.uk/resource/briefings/autoclaving.pdf](http://www.foe.co.uk/resource/briefings/autoclaving.pdf)
- **Pyrolysis, gasification and plasma**  
[www.foe.co.uk/resource/briefings/gasification\\_pyrolysis.pdf](http://www.foe.co.uk/resource/briefings/gasification_pyrolysis.pdf)
- **Recycling collections** – source separated or commingled?  
[www.foe.co.uk/resource/briefings/recycling\\_collections.pdf](http://www.foe.co.uk/resource/briefings/recycling_collections.pdf)

For more briefings on incineration, recycling and waste, see Friends of the Earth's website:  
[www.foe.co.uk/campaigns/biodiversity/resource/campaigners.html](http://www.foe.co.uk/campaigns/biodiversity/resource/campaigners.html)

For reports, see [www.foe.co.uk/campaigns/biodiversity/resource/experts.html#reports](http://www.foe.co.uk/campaigns/biodiversity/resource/experts.html#reports)

**UK Without Incineration Network** of anti-incineration groups (UKWIN) -<http://ukwin.org.uk/>

## References

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<sup>5</sup> "European Commission to scrutinise East Sussex contract", Lets Recycle, 24th April 2009,  
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<sup>7</sup> "A changing climate for energy from waste?", Eunomia Consulting, May 2006.  
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