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Long contracts... 10 Key questions

**Dr Michael Warhurst,
Friends of the Earth
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Why are long contracts important?

- **We have heard a lot today about opportunities to increase reuse, recycling, composting etc.**
- **We also know that 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 talk poses 10 key questions to ask if you are getting into that situation....**
- **...and looks at some key risks**



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Why a long contract?

- **Long contracts - 20-30 years - are usually suggested because of the need to pay for large, expensive infrastructure**
 - Residual waste facilities 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 - e.g. an incinerator needs to run continuously, with limited variation in quantity of waste per day. Other techniques (e.g. some MBT plants) can be much more flexible.
- **Shorter contracts - 5-10 years - give greater flexibility**
 - You are more able to adjust 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)?***



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A. Predicting municipal waste?

- **What's happening now?**
 - There was a 1.9% drop in MSW in England in the last DEFRA audited figures from last year [1] – before the economic crisis.
- **What happens next?**
 - In a recession we would expect further drops in waste quantities.
- **Policy changes**
 - The EU parliament were pushing for waste prevention targets in the debate on the Waste Framework Directive.
 - The final Directive obliges:
 - (i) Member States to produce Waste Prevention Plans
 - (ii) The Commission to report on the potential for waste prevention by the end of 2011, with the aim of setting 2020 targets in 2014.
- ***Q2: Is your council modelling a reduction in municipal waste?***



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B. Predicting residual waste?

- **The amount of residual waste will depend on point A, and on how much reuse, recycling and composting there will be in the future**
 - The 50% target that England has adopted for 2020 is now the legal EU minimum.
 - The Commission will review this target by the end of 2014
 - Wales has already agreed 60% by 2020, 70% by 2025. Flanders has been recycling over 70% for several years.
- **The environmental and economic pressures outlined at the start of the day will push for waste prevention and recycling**
 - What will recycling targets be in 2020 - 2025 or 2030?
- ***Q3: Has your council modelled the impact of recycling and composting rates of 70% and above?***



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C: How much C&I waste?

- **It is sometimes argued that over-large residual waste facilities will be OK because there will be plenty of Commercial & Industrial (C&I) waste to dispose of.**
- **How much total C&I waste is there?**
 - The government only knows 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.
- **How much could be recycled?**
 - Some companies (e.g. Coca Cola) already have 'zero waste' factories
- **What could change in the future?**
 - A recycling target 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, but opposed by Governments – this will be reviewed in 2014.
 - Landfill and incineration bans on recyclables - DEFRA is investigating.
- ***Q4: Are there real figures for how much C&I waste there is in your area, and how much could be recycled?***



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D: An anaerobic digestion explosion?

- **Anaerobic digestion (AD) takes food, agricultural waste and sewage sludge and makes biogas, which can be:**
 - Burnt to make 100% renewable electricity & heat on-site
 - Used as a transport fuel
 - Piped into the gas grid
 - National Grid: Biogas could produce 50% of domestic gas use [2]
- **AD is now finally on the agenda, with funding, ‘task groups’ and incentives.**
- **But will the waste be available?**
- **..... or will it be heading into the local incinerator?**
- ***Q5: Is your council assuming separate collection of food waste and expansion of anaerobic digestion?***



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E) Who pays for changes?

- **Long contracts are legally complex, as the world will change during the contract - but who will pay the costs?**
 - The contractor or the local tax payer?
- **If there are planning delays, legal challenges?**
 - Councils may indemnify contractors against these costs
- **If there are regulatory/tax changes?**
 - E.g. landfill tax on bottom ash, incineration tax, or new CO2 charges?
- **If there is not enough waste?**
 - Will the council have to pay for not producing waste?
- ***Q6: Who pays in the event of (i) planning delays or legal challenges; (ii) not enough waste; (iii) tax changes.***



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F) Who takes the risk?

- **If there are changes in the economic environment, the contractor may claim that it will go bankrupt without contract changes**
 - NB: The multinational wouldn't go bankrupt; just the company they have set up for the contract
- **This is reported to have happened in Newhaven [3] :**
 - *“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 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 Commission [4]
- ***Q7: What procedures has the council put in place to prevent later forced re-negotiation of the contract?***



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G) Democratic process?

- **Long private contracts often force councillors to take decisions in private**
 - And to keep key documents out of the public domain
 - With 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.” [3]
- ***Q8: Are councillors and the public able to access enough information to make informed judgements?***



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H) The climate driver

- **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**
 - If you are planning to build an incinerator, expect the incentives to move against you
 - As DEFRA says - incineration of plastic is a bad idea.:
 - *“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”*
 - English Waste Strategy, May 2007, Annex E: Summary guidance on energy from waste (EfW) technology
- ***Q9: Has the council got the evidence to show that it has adopted the best environmental option?***



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I: Looking back...

- **When local people look back on the signing of this contract...**
- **.. after, say, 20 years – 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?
- **e.g. How will public spending cuts have affected the money left over after paying for the PFI?**
- ***Q10: Is the council confident that future council tax payers will look back on this contract as a good use of taxpayers money?***



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Long contracts and residual waste

- **Long contracts and inflexible residual waste treatments are a serious threat to maximising prevention, reuse and recycling**
 - Danish data [5] shows how recycling is held back by incineration
- **Any residual waste technology should support the aim of gradually phasing out residual waste**
 - This is easier to achieve with more flexible facilities, and shorter contracts.



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References

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- [4] *“European Commission to scrutinise East Sussex contract”*, Lets Recycle, 24th April 2009
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- [3] *“Stopping the Waste”*, Friends of the Earth Europe, 2007. (Data from Waste Centre Denmark):
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