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# UNITED KINGDOM WITHOUT INCINERATION NETWORK

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## PFI REFORM: CALL FOR EVIDENCE SUBMISSION FROM UKWIN

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## Introduction

1. This submission is made on behalf of the United Kingdom Without Incineration Network (UKWIN).
2. UKWIN was founded in March 2007 to promote sustainable waste management and inform environmental decision making. UKWIN currently has more than 85 member groups and regularly takes part in consultations run by various Government bodies.
3. UKWIN welcomes this opportunity to submit this response to HM Treasury's call for evidence made as part of the Government's fundamental reassessment of PFI.
4. This submission addresses the following matters, all of which pertain to funding waste infrastructure via Waste PFIs and their prospective replacement:
  - 4.1. What should and should not be supported;
  - 4.2. Addressing environmental externalities;
  - 4.3. Avoiding waste contracts that hamper waste minimisation, reuse, recycling, composting and anaerobic digestion (AD);
  - 4.4. Transparency, accountability, monitoring, and involving the public;
  - 4.5. Case studies; and
  - 4.6. General comments.
5. In summary, UKWIN's position is that there is no need for new incineration infrastructure and that it would be inappropriate for incineration infrastructure to be subsidised by the Government.
6. Municipal waste incineration has no place in a zero waste economy. True zero waste can only be achieved without incineration, as burning discarded material goes against the principle of zero waste.
7. Allowing for new incinerators runs contrary to the Government's commitments to a zero waste economy, and to following the waste hierarchy, achieving carbon reduction targets, and being the greenest government ever.
8. UKWIN provides detailed information regarding the reasons why incineration should not benefit from public subsidies in our submission to Defra's Waste Review, available from <http://ukwin.org.uk/resources/consultation-submissions/>
9. One of our member groups, the North Yorkshire Waste Action Group (NYWAG), provided written evidence to the Treasury PFI inquiry. Their submission was ordered to be published on Tuesday 17 May 2011, and is included as an appendix to this submission as it is relevant to your consideration of a PFI replacement.

## **What should and should not be supported**

10. It is the Government's preference that food waste is separately collected and sent for anaerobic digestion (AD).
11. Paragraph 196 of Defra's 2011 Waste Review states that: "Our evidence base shows that of the main options for the treatment of food waste, anaerobic digestion offers the greatest environmental benefit...To be treated by anaerobic digestion, it is best if food waste is collected separately at source...".
12. UKWIN hopes that any financing mechanism that is to replace Waste PFI will help fund the weekly separate collection of food waste, and will not be used to fund any scheme that does not include separate collection of food waste.
13. Separate collection would remove this valuable resource from the residual waste stream and would allow for the full benefits of anaerobic digestion to be realised; an opportunity that is currently being missed through Waste PFI-funded schemes that do not include separate collection of food waste because of their reliance on food waste as incinerator feedstock.
14. More should be done to ensure that PFI's replacement is used to encourage the following:
  - 14.1. kerbside sorting;
  - 14.2. educating householders and businesses about waste minimisation;
  - 14.3. increasing the types of Local Authority Collected materials accepted for recycling;
  - 14.4. educating householders about what is and is not recyclable to increase recycling rates and reduce contamination, thus improving recyclate quality;
  - 14.5. promoting re-use, including introducing re-use schemes at Household Waste Recycling Centres (HWRCs) as per the Waste Review; and
  - 14.6. further improving recyclate quality through increased waste segregation.
15. Public money should not be used to encourage increased incineration, as subsidising incineration perversely discourages waste minimisation and incentivises burning material that should be reused, recycled, composted or anaerobically digested.
16. Rather than funding incinerators to deal with genuinely residual waste, this ever-decreasing waste stream could be stabilised through high-quality MBT and sent to landfill, preferably in such a way as to encourage future landfill mining for plastics.

17. The replacement for Waste PFI should be used to encourage “invest to save” schemes in two-tier authorities, with Waste Disposal Authorities contributing towards funding collection methods that preserve and enhance the value of discarded material. For further details of a functioning invest to save scheme visit: [http://www.foe.co.uk/resource/event\\_presentations/somerset.pdf](http://www.foe.co.uk/resource/event_presentations/somerset.pdf)
18. There are several ways to achieve the improvements outline above, including by:
  - 18.1. Ensuring that reference projects for Waste Infrastructure support includes: ambitious waste minimisation efforts, high recycling targets (70%+), invest to save schemes (where appropriate), separate collection of food waste (for AD), and potentially MBT to biostabilise material prior to landfill;
  - 18.2. Ensuring that the default central reference project for Waste Infrastructure excludes waste incineration;
  - 18.3. Limiting funding eligibility to only those Local Authorities that will, for example, separately collect food waste for AD;
  - 18.4. Including the funding of operational expenditure, e.g. to help pay for improved collection systems (e.g. to support kerbside sorting and separate collection of food waste), rather than exclusively funding the building of new facilities; and
  - 18.5. Ensuring that value for money is based on the wider public purse and includes relevant externalities, so it captures the benefits resulting from “invest to save” schemes and avoids false economics such as saving the waste disposal authority money at the expense of waste collection authorities, neighbouring authorities or the environment.
19. UKWIN would prefer for schemes involving waste incineration, i.e. those including facilities covered by the Waste Incineration Directive, to be ineligible for any form of public funding or subsidies. However, if there were to be such financial support for incineration then we would hope that the following stipulations are applied:
  - 19.1. In line with current Waste PFI criteria, as expressed in Defra's Criteria for Securing Waste PFI Credits document (dated 16 August 2007), proposals should be required to demonstrate that other relevant authorities, the public, and interested parties have been consulted and that there is a broad consensus supporting a recognised long term waste management strategy which is reflected in the proposed solution.
  - 19.2. Any plans for waste incinerators must emerge only out of approved and up-to-date local waste strategies, so that all options for reuse, recycling and composting have been explored first (in line with Government statements).

- 19.3. No waste should be thermally treated unless separation of recyclables has taken place first (as per the criteria advocated by the Sustainable Development Commission (SDC)).
- 19.4. Schemes need to be developed in accordance with the proximity principle (as per the SDC), and it is therefore unacceptable to rely on importing waste to be used as incinerator feedstock.
- 19.5. The scale and technology used should be flexible (as per the SDC).
- 19.6. Planning for any incineration facility must only take place after proper engagement and consultation of local communities (as per the SDC).
- 19.7. Incinerators must qualify for Good Quality CHP status (in line with the advice in Paragraph 90 of Efracom's Third Report for Session 2009-10).
- 19.8. Applications for funding credits must demonstrate clear and explicit community consent for any incineration element of the proposal, i.e. the authority must credibly demonstrate that their proposal represents the preference of local people. If a scheme is to include incineration, explicit support for incineration must be shown, rather than relying on general support for "energy recovery", "energy from waste" or "landfill diversion".
- 19.9. Incineration scheme proposals must robustly demonstrate that they would in no way harm reduction, reuse, recycling, composting, or AD; indeed, public funding for incineration, if permitted at all, should be limited only to proposals where comprehensive schemes are already in place for reduction, reuse, recycling, composting/AD, and where recycling targets remain ambitious.
- 19.10. There should be no disincentives to following the waste hierarchy, therefore long-term waste contracts should not be permitted to include put-or-pay clauses or minimum tonne requirements for incineration. Under no circumstances should waste contract terms be allowed to include clauses that require or result in the local authority paying a penalty of any sort for a shortfall in the supply of waste, and neither should contracts be allowed to result in local authorities making up such shortfalls in incinerator feedstock with material that could otherwise have been recycled.
- 19.11. Any proposal must robustly demonstrate that it represents the best practicable environmental option, with emission of biogenic carbon included within the calculation of carbon emissions, as well as representing good (overall) value for money for the public purse when all environmental and social impacts are taken into account.

19.12. Both prior to contract signing and prior to construction comprehensive and independent assessments of the long-term need for the proposed incinerator must be undertaken, and contracts must include a ‘break out’ clause to allow for the incinerator element to be abandoned on a *force majeure* basis (i.e. without penalty) if it is found not to be needed.

19.13. Any incineration element must be capable, over the life of the contract, of meeting Government carbon targets, with the risk borne by the contractor (i.e. waste company) and with contract terms requiring the contractor be prepared to innovate accordingly with emerging technologies as appropriate. This stipulation would require a facility to produce less carbon than the Committee on Climate Change’s recommended 50g CO<sub>2</sub>e/kWh by 2030 and less carbon annually than the marginal electricity mix estimates produced by the Inter-departmental Analysts’ Group’s policy appraisal and evaluation guidance.

### **Addressing environmental externalities**

20. Subsidising waste infrastructure is a market intervention, and the Government should ensure that such interventions do not have adverse environmental consequences.

21. At Waste Review Para 239 the Government state that they “will provide the necessary framework to address market failures and deliver the most sustainable solutions”.

22. One of these market failures is acknowledged to be environmental externalities, which is explained in the inset on page 12 of the Waste Review as situations where “the environmental cost of different options is not included in market prices”.

23. The Economics of Waste and Waste Policy, produced by the Defra Economics Team and published alongside the Waste Review, lists three externalities for the treatment and disposal of waste:

23.1. Reduction and re-use - “On the whole, those treatment options which reduce embedded emissions by reducing energy associated with extraction, primary production etc., such as re-use and recycling, do not have their full external benefits reflected in the price of disposal.”;

23.2. Incineration - “The emissions from waste combustion of non-biogenic material (via any technology including mass-burn incineration) are also not comprehensively reflected in the price of disposal. Unless the installation in question is in the ETS (municipal solid waste incinerators are excluded) a negative externality persists – such installations are creating GHG emissions without paying the relevant price.”; and

- 23.3. MBT-Landfill - "Subject to proving its environmental performance, MBT-landfill does not have its environmental benefits reflected in the price of disposal."
24. The document goes on to explain how "non-biodegradable, combustible materials (plastics, some textiles) cause significant GHG emission impacts when combusted" and that "MBT (mechanical biological treatment)-landfill provides the best emissions performance in terms of the treatment/disposal of residual waste...".
25. As outlined in Paragraphs 10-12 of the Waste Review Impact Assessment:
- 25.1. Environmental externalities exist where "decisions to produce and consume do not take full account of the environmental consequences of waste generated as a result" and "failing to price in the environmental cost and benefit of generating waste leads to inefficient production and consumption patterns, and excess waste being produced"; and
- 25.2. "...Without government intervention, waste treatment options with better environmental performance may be penalised relative to treatments with poorer performance. Accounting for the environmental impact requires that the costs of various treatment options and levels of the hierarchy fully reflect the costs to society of each option"; and
- 25.3. "For example, government intervention such as the landfill tax raises the cost of sending waste to landfill, reflecting the environmental externality of disposing waste in this way. However, it does not reflect the relative scale of the environmental impact of treatment and disposal methods further up the hierarchy; for example, the externality associated with incineration, recycling or re-use. Although the recycling rate has risen, further intervention is required to further move waste to an efficient level amongst the various management options."
26. UKWIN hopes that the Government will promptly and effectively address the various externalities, possibly through changes in taxation. If the replacement for Waste PFI is introduced before this process has been completed, then it is necessary for the new approach to funding waste infrastructure to take account of the Government's commitment to addressing these market failures.
27. For example, assessments of "value for money" should include the negative environmental externalities of waste combustion and the positive environmental externalities of MBT-landfill, recycling and re-use in an integrated way so that local authority cannot ignore or downplay the cost to society of burning waste that should be managed otherwise.

## **Avoiding waste contracts that hamper waste minimisation, reuse, recycling, composting and anaerobic digestion (AD)**

29. UKWIN believes that funding residual waste infrastructure in circumstances where waste minimisation, re-use, recycling, composting and anaerobic digestion have not been maximised hampers efforts to pursue the best practicable environmental option.
30. UKWIN has direct experience of instances where the motivation of Waste Disposal Authorities (WDA) to maximise prevention, reuse, recycling, composting and AD are seriously undermined by long-term contracts entered into to pay for incineration facilities. For example, money invested in incinerators is not then available to pay for the construction and operation of AD facilities.
31. To be flexible, a contract would have to avoid put-or-pay clauses for incineration and obligations to deliver waste for incineration according to an input specification (e.g. calorific value or minimum throughput thresholds). The contract would also have to be responsive to advances in technology and increases in ambitions for waste reduction, re-use, recycling, composting and anaerobic digestion.
32. UKWIN does not believe that Government should offer any financial or policy support for increasing incineration capacity in the UK. However, where such support persists it should be strictly controlled in order to reduce the harm caused to waste minimisation, reuse, recycling, composting and AD.
33. On a macro level, incineration results in a barrier to investment in recycling and re-use, and in turn this barrier stifles innovations in recycling and re-using materials that are currently 'cheaper' to incinerate, thus hampering the opportunity for such materials to be more affordably recycled or re-used in the long term.
34. Because incinerators are very expensive to build, they typically require local authorities to enter into 25-30 year waste contracts. These waste contracts typically make it more expensive for local authorities to subsequently increase their reduction, re-use, recycling and anaerobic digestion ambitions in line with advances in technology.
35. Even where the actual total cost to society of incineration might be higher than alternatives, the marginal cost to the local authority of incineration may be less than that for reduction, re-use or recycling of certain types of waste, meaning that doing the right thing would effectively result in a financial penalty.
36. This could be due to a council paying for the availability of incineration capacity, either through direct spending on capital expenditure or through contracts with minimum tonnage guarantees or put-or-pay clauses.

37. These increase the fixed costs of incineration capacity availability and reduce the marginal price of actually using that capacity, as is illustrated by the Shropshire Case Study contained within paragraphs 7.19-22 of UKWIN's submission to the Waste Review call for evidence.
38. Alternatively, the discrepancy could be due to a facility supplying 'spare' capacity at below-market rates. For example, the Eastcroft incinerator in Nottingham provided capacity free of charge to meet a waste shortfall.
39. Local authorities that are locked-in to contracts with such clauses and payment mechanisms cannot always avoid the financial 'penalty' associated with shortfalls in incinerator feedstock through relying on the operator to 'top up' with waste from local business and/or from further afield. This is because, even if such waste is available, its use for incineration would not necessarily generate sufficient income to the local authority to offset the cost of their contractual financial disincentive for not providing anticipated quantities of waste.
40. Even if a council would have sufficient genuinely residual waste to send to an incinerator, this material would not necessarily be of the right calorific value. This could result in problems for that authority, for example in circumstances where an incinerator contract includes commitments regarding the nature (calorific value) of the waste that is to be provided to the facility (as is the case in Derby, for example).
41. The fact that incineration contracts can have a negative effect upon recycling rates was addressed as part of UKWIN's submission to the Waste Review call for evidence, and is recognised in the advice of the Audit Commission, the Environment Agency, the Local Government Improvement and Development group, and others.
42. The Audit Commission's September 2008 Well Disposed study makes the following observations:
  - 42.1. "WDAs [Waste Disposal Authorities] might buy too much disposal infrastructure if they: overestimate future volumes of waste arising (including other authorities' waste or trade waste). They may also achieve a worse environmental solution if, by building large disposal facilities, they reduce their own financial incentive to pursue waste reduction or recycling initiatives." [Paragraph 151];

- 42.2. "One of the common objections to Energy from Waste (EfW) facilities is that after they have been built they will discourage further improvements to recycling because the facility is designed to process a fixed amount of waste (between an upper and lower limit). WDAs therefore need to build ambitious forecasts for recycling and waste minimisation into business cases for disposal infrastructure if they are to avoid creating such a disincentive. Where possible they should design facilities and contractual terms to be flexible to changes that might occur in future..." [Paragraph 160]; and
- 42.3. "In procuring waste disposal infrastructure, WDAs should avoid creating disincentives to pursuing waste minimisation and recycling initiatives".
43. The House of Commons Environment, Food and Rural Affairs Committee's (Efracom's) Third Report of Session 2009–10 records Dr Paul Leinster, Chief Executive of the Environment Agency, stating that: "The objective for me would be that you should not have an incinerator which then destroys waste minimisation programmes or interrupts re-use and recycling".
44. In answer to the question: "...During the 25 years [of the Nottinghamshire Waste PFI contract] and in the next 25 years the way that we dispose of our waste will change radically. I do not think in 25 years' time there will be enough waste to feed this [proposed] incinerator. Is that a concern of yours?" Dr Leinster replied: "Absolutely. What we should not be doing is having incinerators which then mean minimisation, re-use, recycling get impacted and that has to be over the 25 year period. I do have concerns over locking technologies in on a 25 year basis when technologies are moving as fast as they do".
45. According to the Local Government Improvement and Development group (formerly known as I&DeA): "There is a danger that investing in large, inflexible EfW incineration facilities as a technical fix to divert waste from landfill can undermine efforts to prioritise minimisation and recycling".
46. Richard Benyon, Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs, told Parliament that: "Following the logic of the waste hierarchy, it is reasonable to ask whether, if we are burning waste, we need not recycle it. Worse, might we be providing incentives specifically not to reduce, reuse or recycle before recovering energy from waste?" and that: "It is important that any plans for waste to energy facilities emerge out of local waste strategies, so that all options for reuse, recycling and composting can be explored first".

47. Because incinerators are expensive to build, and therefore need to recoup their costs, and because mass burn incinerators are required to operate constantly at or near full capacity (to avoid emissions exceedances), and because of the environmental externalities (outlined above), and because the marginal cost of incineration does not reflect the true cost of incineration, it is not safe to assume that the waste hierarchy will be followed. This problem is made even worse in circumstances where incineration over-capacity exists at local, regional, national or even supranational levels.
48. To help avoid exacerbating the over-capacity of incinerators in the UK, projections of likely future waste arisings and associated treatment capacity requirements should be based on an expectation of successful waste minimisation, the maximising of reuse and recycling, and the anticipated growth in the use of anaerobic digestion, all as part of a trajectory towards zero waste.
49. This approach is broadly resonant with the assumptions underpinning the sustainability turn scenario within the Economics of Waste and Waste Policy document, with the 2007 Waste Strategy's One Planet Living goal, and the European Commission's Roadmap to a Resource Efficient Europe.
50. However, for the reasons outlined above UKWIN believes that, short of a moratorium on new incineration capacity, it would not be possible to create an environment in the UK where new incineration capacity would not compete with recycling.
51. To help counteract these negative impacts of incineration the Government would need to put measures in place, at all levels, which ensure that a proposed incinerator could operate throughout its lifetime on genuinely residual feedstock and that there would not be more incineration capacity at local, regional or national levels than genuinely residual waste available locally, regionally and nationally.
52. UKWIN is confident that if such an approach were properly implemented by Government then there would be no new incineration capacity permitted, because we already face an over-capacity of incinerators.
53. As the Government says: "Waste infrastructure has a long lifetime and therefore changes in the composition and potential volumes of waste in the future cannot be ignored in the development and selection of technologies now" (Waste Review, Paragraph 230).

## **Transparency, accountability, monitoring, and involving the public**

54. UKWIN supports the Government's commitment to the principle of increasing transparency in government and in the delivery of public services.
55. The shortcomings of PFI, in relation to democracy deficits and to the lack of transparency, accountability and opportunities for the public to be involved, are well documented.
56. UKWIN believes that greater transparency often results in better scrutiny, reducing the likelihood of project failure. UKWIN hopes that the replacement for PFI will fully address the need for greater transparency and greater community involvement to bring about improved decision-making, and to engender a greater sense of community ownership.
57. These improvements would be expected to reduce opposition to the introduction of new waste facilities, thus reducing associated costs, planning delays, court challenges, etc.
58. UKWIN agrees with the advice of the National Audit Office's January 2009 report on Managing the Waste PFI Programme that Government: "...should encourage local authorities to consult early with residents to identify issues which residents are likely to raise about different types of technical solution..."
59. One of the criteria for securing Waste PFI Credits was that: "Proposals should demonstrate that other relevant authorities, the public, and interested parties have been consulted and that there is a broad consensus supporting a recognised long term waste management strategy which is reflected in the proposed solution".
60. This is a great principle, but in practice has not been effectively enforced. Of all the numerous 'approved' PFI projects that include incineration, we cannot point to a single one and say that the solution reflected a long-term strategy that enjoyed broad consensus consistent with our interpretation of the criteria. This has given the public the impression that the Government is only paying lip service to the principles espoused, and demonstrates that having the right criteria is useless if these are not rigorously and transparently applied.
61. UKWIN also supports the principle that waste contracts should arise from sound waste plans. Where this is not the case, either because there is no up-to-date waste strategy or because the contract conflicts with the waste strategy, then the safeguards associated with developing a waste strategy, such as the examination in public, become somewhat meaningless.

62. Even where a waste strategy is subsequently agreed, the existence of a long-term waste contract can be highly prejudicial. Frustratingly, we are aware of instances where public confidence in the process of agreeing a waste strategy is undermined by the existence of a waste contract, around which waste officers appear to construct a proposed strategy.
63. The replacement for Waste PFI should address the shortcoming whereby long-term contracts can be entered into without proper community engagement.
64. In relation to PFI, we are aware of many instances where there has been no meaningful public engagement before, during or after the procurement. Indeed, in some instances, even elected representatives have been shut out of the decision-making process, and basic information has been withheld from them.
65. Unless the contract itself has been subject to comprehensive and meaningful consultation, the pre-consultation provisions of the Localism Act come across as hollow in circumstances where the location, capacity and technology have already been fixed within a waste contract.
66. The replacement for Waste PFI should require the provision of genuine opportunities for local citizens to influence decision-making where they can make a real difference, e.g. regarding the financing method to be pursued, the criteria used to evaluate the technology choice (including the weighting to be given to each criterion), the content of any Outline or Final Business Case (or equivalent), etc.
67. Before contracts are signed, the public should be supplied with sufficient detail to assess the value for money offered by the proposed contract, and the public should be empowered to make recommendations for improvements. It goes without saying that contracts should be made public without redaction once they have been signed.
68. Such transparency is central to the ability of communities to monitor the value they are deriving from the spending of their money. The current system of maintaining confidentiality in relation to bills, invoices, vouchers, receipts and contracts is incompatible with the principle of armchair auditing.
69. As waste is a rapidly changing sector it is important that there is careful monitoring of expectations versus reality. Predictions can soon become out of date, targets can easily become un-ambitious, and circumstances can alter which solution would be the best economically and environmentally to pursue. Contracts not only need to be flexible, but that flexibility must be utilised as appropriate.
70. Community involvement should not be limited to deciding the waste strategy and whether or not to enter into a contract, but should also extend to such decisions relating to extending, altering or terminating long-term waste contracts.

71. We note the Tolvik Consulting observation that: “The outline business case (OBC) for many waste PFIs currently in procurement were prepared several years ago using baseline tonnage data which predates the recent trends. This means that in some cases the RWTF [Residual Waste Treatment Facility] capacities assumed in the OBC reference cases need to be challenged by bidders. For example, Tolvik’s recent analysis of one project (currently only at the ISOS (invitation to submit outline solutions) stage) revealed that the actual MSW [Municipal Solid Waste] arisings in 2008/9 were over 9% lower than that in the OBC tonnage model” [*Designing for a changing feedstock supply*, by Adrian Judge, Director of Tolvik Consulting Ltd, July 2010, Chapter 07].
72. This analysis is resonant with UKWIN’s experience of Waste PFI, with waste projections used for procurement soon becoming out of date. When assessment of value for money for the contract is based on assumptions that prove to be inaccurate then it is not surprising that some contract terms result in poor value for money.
73. In some instances the problem is that the local authority agrees to pay for unnecessary infrastructure (e.g. incineration capacity) and/or because local authorities pay for Material Recovery Facilities (MRFs) that cannot handle material they subsequently wish to recycle.
74. One example of an arrangement that might have seemed to offer a fair deal in theory at the time the contract was signed, but that subsequently can be considered to deliver poor value for money to taxpayers in practice, was the use of the anticipated HWRC reject rate as a basis for calculating the ‘landfill tax payment’ rather than the actual landfill tax accruing from the landfill of HWRC rejects.
- 74.1. After the waste PFI contract was signed, the landfill tax escalator was introduced and practice/technology improved to allow for higher than anticipated recycling rates at HWRCs. This meant that not only was the council required to make ‘landfill tax payments’ (that did not go to HMRC) for waste that was not landfilled, but they were doing so at a rate that was significantly higher than expected.
- 74.2. This problem was identified by a member of the public, but because the public were not consulted in advance the issue was not identified until after the contract was signed.
- 74.3. Furthermore, the invoice for the contract simply lists these as ‘landfill tax payments’ and so, without access to the unredacted contract, the public would be unable to determine that the payments are not actually for landfill tax.

- 74.4. Unfortunately, due to commercial confidentiality concerns, and the lack of Government guidance requiring full disclosure, it is unlikely that in the future contracts or invoices will be accessible in a form that would allow for such observations to be made.
75. It is crucial that the replacement to PFI takes transparency, ongoing community involvement and monitoring seriously, to ensure value for money.
76. Furthermore, in relation to monitoring, UKWIN's experience indicates that District Auditors do not thoroughly investigate whether it would be better to continue with a waste contract in its present form, or whether it would deliver better value for money to amend or terminate the contract.
77. The fact that a contract has been awarded following a competitive tendering processes should not preclude district auditors (and others) from evaluating, based what is subsequently known, the extent to which the contract offers value for money.
78. Indeed, such an evaluation can provide an important feedback mechanism, offering valuable insights that can inform decisions regarding whether to continue with the contract in its current form, and valuable lessons that can be learned and applied elsewhere.
79. Therefore, the audit process put in place for the Waste PFI replacement needs to include arrangements for regular independent reviews to advise whether continuing with contracts in their current forms offer better value for money than renegotiating or terminating the contracts in light of changed circumstances. This is especially important in long-term contracts because local authorities may be reluctant to ask the hard questions when the answers may reveal that previous key decisions need to be revisited.
80. Whenever local authorities make decisions regarding extending, maintaining or walking away from existing contracts, e.g. when planning permission for a waste incinerator is refused, procedures need to be more robust to ensure adequate consideration is given to value for money. Such a robust mechanism should allow for interested members of the public to be fully and meaningfully involved.
81. Such a mechanism would be consistent with Government policy, as expressed in Paragraph 123 of the Waste Review: "[local authorities should] remain responsive to the needs and wishes of their householders and actively seek their views when designing and delivering waste services".

## Case studies

82. Brighton and Hove City Council, September 2007 – “The construction costs of a controversial incinerator project have more than doubled from original estimates...Last night Brighton and Hove City Council agreed to help Veolia meet its financial burden by extending the life of the contract from 25 to 30 years...Councillors feared that if they refused to extend the contract Veolia would walk away. The project would then have to be put back out to tender and be likely to cost even more” [*When the risk is that costs could increase Veolia offloads the risk onto the Council*, 28 Sept. 2007, [www.theargus.co.uk/news/1720827.incinerators\\_cost\\_doubles/](http://www.theargus.co.uk/news/1720827.incinerators_cost_doubles/)].

To quote Paragraph 179 of the Audit Commission’s Well Disposed report: “Some WDAs have found that they continued to bear risks they thought they had allocated to a contractor. Such risks include planning delays and technology failures – contractors were able to ensure the WDA bore the risk by threatening to walk away from the contract, leaving the WDA without waste disposal infrastructure”.

83. Kent County Council, August 2008 – Regarding the Allington incinerator contract, the Kent Messenger reported that: “...what was initially seen as a cash-saving opportunity has quickly turned into a money pit, as the council is forced to send increasingly valuable recyclable material to the incinerator in order to meet its annual quota”.

Kent County Council’s Environment Spokesman said of the decision to sign a long-term incineration contract: “What seemed a very wise decision a very long time ago is a very stupid one today. At the time, people were saying nationally that this was the only way ahead. But if you make a prediction for 10 years’ time, the only thing you can be certain of is that it will be the wrong decision. The current closure of the incinerator at the moment is good news, as I have cheaper methods of disposal. Financially, it’s much better for the tax payers if Allington doesn’t work, in fact I’d quite like it...” [*Kent’s waste contract could be money in the bin*, 12<sup>th</sup> Aug. 2008, [www.kentonline.co.uk/kentonline/newsarchive.aspx?articleid=46264](http://www.kentonline.co.uk/kentonline/newsarchive.aspx?articleid=46264)]. Also see *Incinerator is burning money, admits KCC*, 13 August 2008, available from: [www.kentonline.co.uk/kentonline/newsarchive.aspx?articleid=46328](http://www.kentonline.co.uk/kentonline/newsarchive.aspx?articleid=46328).

This case supports the insight of the Audit Commission that: “If WDAs overestimate the amount of waste they will need to process, both the overall cost and the cost per tonne of waste processed are likely to be higher than they would have been had estimates proved accurate...” (Well Disposed, Paragraph 159).

84. Hampshire, October 2009 – A key element of the business case for incinerators that have been funded through PFI is the accuracy of the projected quantities of municipal waste arising that could be burnt. In Hampshire, Project Integra and the Hampshire County Council Joint Municipal Waste Management Strategy (JMWMS) resulted in the construction of three large incinerators at Marchwood, Portsmouth and Chineham. The original planning consents were specific in allowing only waste from within the County of Hampshire to be burnt. As with Sheffield, these stipulations were subsequently amended because there was not enough waste generated to service these incinerators as originally envisaged, and there was a failure to source feedstock from local businesses. Such local over-capacity contributes to regional and national over-capacity.
85. Stoke-on-Trent City Council, October 2010 – Stoke-on-Trent City Council faced the prospect of a £645,000 fine resulting from a failure to meet minimum contracted waste tonnage levels at their local incinerator [*Stoke faces bill for sending less waste to EfW, 22 October 2010, available from [www.letsrecycle.com/news/latest-news/councils/stoke-faces-bill-for-sending-less-waste-to-efw](http://www.letsrecycle.com/news/latest-news/councils/stoke-faces-bill-for-sending-less-waste-to-efw)*].
86. Sheffield City Council, 2011 - Veolia's incinerator in Sheffield is some 50,000 tonnes short of waste from the city and environs due to higher than anticipated recycling rates. This shortfall gave rise to efficiency problems and to "the boiler being extremely unstable". It was originally thought that a shortfall such as this could be filled by local C&I waste, but according to Veolia there was an unexpected change in the composition of C&I waste from that assumed in 2001, and too few local businesses were prepared to pay the gate fees for the incinerator charged by Veolia.
87. Nottinghamshire County Council, 2011 – After the waste PFI contract between Nottinghamshire County Council and Veolia was signed, and after the planning application had been submitted, the "brownfield" site chosen for the proposed incinerator was determined to in fact be a greenfield site that supported populations of protected bird species. Planning permission was refused by the Secretary of State in 2011, and the site's status and the presence of protected bird species contributed to this refusal, as did the lack of robustness of the appraisal of alternative sites. This highlights the importance of due diligence in site selection, and would have been picked up at an early stage had the community been consulted or had the proposal emerged from an existing waste strategy.
88. York and North Yorkshire, 2006-2012 – Projections used for the 2006 Joint Municipal Waste Management Strategy (JMWMS) assumed a rising trend in waste arisings coupled with a projected increase in reuse and recycling to only 50%. Despite being old and in need of revision, these projections were used to determine the capacity of the proposed Allerton Waste Recovery Park and its 320,000 tonne incinerator.

The rising projections of waste arisings in the JMWMS are seriously out of line with both local and national trends which show the amount of waste produced is on a falling trend both as total waste produced and waste per capita. The projected total for 2009/10 was about 100,000 tonnes above the actual total of 460,000 tonnes arising, and this sort of inflated projection is used to justify numerous similar oversized Waste PFI projects.

Figures for the proposed Allerton Waste Recovery Park scheme for North Yorkshire also illustrate the effect of increased financing costs. According to the Yorkshire Post (*Tax cash to go up chimneys for waste disposal*, published on Sunday 4 December 2011): “The Government’s own public loans works board, which lends money to local councils, currently offers 25-year loans at rates of between 3.5 and four per cent. But documents released by the county council reveal the vast sums set to be borrowed by AmeyCespa under the PFI waste deal will be paid back at rates far above these levels – with local taxpayers ultimately footing the bill”.

As of January 2012, the cost of borrowing for the UK Government is just 2.13%. By contrast, when the two councils drew up their first PFI business case for the Allerton Waste Recovery Park project back in 2006, they assumed the interest rate payable would be around 6.8%. Since then, the Yorkshire Post have reported that the documents they have seen state that the actual price of the debt has “considerably increased” from this assumed level due to the ongoing credit crunch. While the actual cost of the financing has been withheld for commercial reasons, the Yorkshire Post article suggests debt financing now makes up more than 28% of the total cost of the scheme, potentially topping £400m.

It is an unreasonable imposition on taxpayers and council tax payers to add to financing costs in a way that is not necessary, especially at a time of austerity, and therefore public sector capital should be used when it is cheaper to do so. The cost of borrowing is more of an issue for capital-intensive infrastructure such as incineration. We do not believe that the Government should fund incineration, but it would be even worse for local authorities to enter into long-term contracts with waste companies that oblige the local authority to pay excessive sums of money because the infrastructure was constructed using private rather than public capital. The best solution would, of course, be to introduce a moratorium on long-term incineration contracts, and instead to offer public funding for waste management schemes that use Mechanical Biological Treatment (MBT) and Anaerobic Digestion (AD) as these are markedly cheaper than those reliant upon incineration and are associated with lower negative environmental impacts.

## General comments

89. UKWIN wishes to draw attention to the following observations and recommendations from the 2007/08 Essex Waste Management PFI Review Performance Summary Report, as we feel these are worth bearing in mind when considering the replacement for Waste PFI:

89.1. "...The Council therefore needs to ensure that there is scope for the contract to be varied with no onerous financial consequences if future innovations in regard to the treatment of waste are devised and that there will be appropriate incentives for the provider to adopt and utilise these. There is a significant risk that the waste market, legislation, or future waste demands may change over time making a proposed long-term solution less suitable...any PFI solution therefore also needs to ensure that it does not prevent the use of new technology as it becomes available and there is an appropriate transfer of risk to the provider in this regard..." [Paragraph 16];

89.2. "PFI contracts by their nature are not necessarily capable of being renegotiated substantially without potentially major financial consequences on both parties and the Council must include these issues in any cost/benefit evaluation" [Paragraph 17];

89.3. "...It will require a much more detailed analysis to evaluate whether or not the preferred solution offers an overall value for money solution for the wider public purse (considering national, regional or district level expenditures and the fact that PFI credits are funded from the public purse in any event). This is not unique to just the Council's waste management PFI proposal but for all authorities considering PFI as there is a balance to be achieved between affordability and theoretical value for money being achieved in the context of the whole public purse" [Paragraph 19]; and

89.4. "The Final Business Case will need to reflect the appropriate transfer of risks between the Council and the provider to ensure that the Unitary Charge is not only affordable but demonstrates value for money. Value for money in this context will not necessarily be just that which is appropriate to the Council but ought to have consideration to the overall public purse" [Paragraph 46].

90. The scope of the 2007/08 Essex Waste Management PFI Review was to assess the robustness of the assumptions on which the Council based its PFI proposal. The replacement to Waste PFI should, as a starting point for, require local authorities to publically address these same key issues, namely:

90.1. How has the aim of the Waste Strategy and the approach to waste management been factored into the consideration of a PFI solution?

- 90.2. What other alternative approaches have been considered to achieve the desired results and why does the PFI offer a better solution?
  - 90.3. How has the impact of new technologies available been incorporated into the PFI model?
  - 90.4. How has the potential impact of recent and possible future legislative changes been assessed and considered in the scenarios?
  - 90.5. What have been the key financial issues that have been modelled and how robust is the sensitivity analysis which underpins the PFI solution?
  - 90.6. How have transport and transfer station costs and issues together with the interface with the various District Councils been taken into account?
  - 90.7. How have current and future proposals in relation to housing growth and consumer behaviour with related implications of changes in waste volume been considered?
  - 90.8. What additional spare capacity is available and how has this been incorporated within the PFI Model?
  - 90.9. How has risk allocation been considered and managed?
  - 90.10. Does the PFI produce the appropriate solution to achieving the best environmental practical option?
91. These points, along with the financial and capacity problems highlighted by the Case Studies, suggest a more critical approach is needed in the evaluation of Business Cases presented to Treasury/Defra for approval. This should include critical examination of the various assumptions in the Business Case and the evaluation of realistic alternative assumptions. The justification offered for incinerators in existing/proposed Waste PFI contracts should also be reviewed, with particular scrutiny where separate collection of food waste is not part of the PFI.
92. UKWIN notes that the Audit Commission advises that: "...the less capital intensive elements of the contract do not need to be financed by a 25 year PFI deal, and some elements of the contract such as collection would need to be soft market tested periodically in order to maintain competitiveness..." (Well Disposed, Paragraph 176).
93. Getting private companies to borrow money at a higher rate than the public sector to buy infrastructure which the public sector then needs to pay a further premium on might not be the best way to achieve value for money.
94. Allowing for the private sector to come up with and provide solutions, and to assume those risks that they are best placed to manage, does not seem to require high levels of private borrowing to fund infrastructure. Removing the private borrowing element could both save money and allow for smaller businesses to become involved. If properly implemented, this would increase competition, promote innovation and drive down costs.

## Appendix

Written evidence to the Treasury PFI inquiry provided  
by the North Yorkshire Waste Action Group (NYWAG)

Available from:

[http://www.publications.parliament.uk/pa/cm201012/cmsel  
ect/cmtreasy/1146/1146vw02.htm](http://www.publications.parliament.uk/pa/cm201012/cmsel<br/>ect/cmtreasy/1146/1146vw02.htm)