

York and North Yorkshire Waste Partnership

Waste PFI Project Outline Business Case

September 2006

Foreword

North Yorkshire County Council and the City of York Council have set out their vision for a sustainable future for waste management in the York and North Yorkshire Joint Municipal Waste Management Strategy "lets talk less rubbish". The joint strategy sets out the proposed approach to managing municipal waste across York and North Yorkshire until 2025, and aspires to meet and exceed statutory obligations and the expectations of stakeholders and the public. Implementation of the strategy will significantly reduce the environmental impacts associated with waste management in the area, and contribute substantially to national waste strategy diversion and recycling targets. The proposed Reference Project detailed within this Outline Business Case also shows how implementation of the Joint Municipal Waste Management Strategy can make significant contributions towards implementation of national energy strategy targets through the generation of electricity from the combustion of waste. The major capital investment required to realise this vision far exceeds the funding capability of the Councils and therefore, private sector funding under a long-term partnership arrangement is viewed as being an essential element to the process.

This Outline Business Case sets out the case for securing PFI credits as a contribution towards the funding required to deliver an affordable and sustainable waste management system for York and North Yorkshire. Formal support has been given with the endorsement of this Outline Business Case by the Executives of both Councils on 12 September 2006 as well as the public (through consultation) and the Waste Management Partnership (which comprises the seven districts and boroughs together with City of York Council and North Yorkshire County Council).

It is accepted that a procurement of this nature will present a significant challenge, however, the necessary resources have been identified and made available both from within the Councils and externally. This, coupled with government support in the form of funding through PFI credits, will enable York and North Yorkshire to adopt a sustainable approach to waste management.



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Ernst & Young LLP statement

In accordance with our Agreement dated 15 December 2004, we have collated and assisted in the preparation of an Outline Business Case in support of North Yorkshire County Council and City of York Council's ("the Councils") application for Private Finance Initiative credits.

Purpose of our report and restrictions on its use

This Outline Business Case has been collated and prepared solely for the purpose of submission to the Department for Environment, Food and Rural Affairs ("Defra") and should not be relied upon for any other purpose. In carrying out our work and collating the report, we have worked solely on the instructions of the Councils.

Scope of our work

The scope of our work has been to collate and assist in the preparation of an Outline Business Case to support the preferred option for submission to Defra. This has included:

- The development of a PFI Tariff model to forecast the costs of the project to the Councils under a private sector funded solution;
- Performing value for money analysis to compare the private sector funded solution against the Public Sector Comparator;
- An assessment of the PFI Credit for the project and related Revenue Support Grant; and
- An initial accounting treatment assessment for the project.

Ernst & Young is responsible only for these elements and shall have no responsibility for the other aspects of the Outline Business Case. In preparing these aspects of the Outline Business case, we have relied on cost and waste data provided by the Councils. We have not sought to verify the accuracy of this data or the information and explanations provided by the Councils nor has Ernst & Young carried out any audit on this information included in the Outline Business Case. Accordingly, Ernst & Young LLP accepts no responsibility or liability to you in relation to the report (other than for those elements referred to above).

In addition, the report may not have considered issues relevant to any third parties. Accordingly, any use any such third party may choose to make of the report is entirely at their own risk and we accept no responsibility to liability to any such third parties for any such use.

Abbreviations

The following abbreviations are used in this report:

| | |
|----------------|---|
| 4ps | Public Private Partnerships Programme |
| AD | Anaerobic Digestion |
| BMW | Biodegradable Municipal Waste |
| BPEO | Best Practicable Environmental Option |
| BC | Borough Council |
| BVPIs | Best Value Performance Indicators |
| Capex | Capital Expenditure |
| CCT | Compulsory Competitive Tendering |
| CFT | Call for Final Tenders |
| CHP | Combined Heat and Power |
| City Council | City of York Council |
| CNEA | Clean Neighbourhoods and Environmental Act |
| Councils | North Yorkshire County Council and City of York Council |
| County Council | North Yorkshire County Council |
| CPI | Consumer Price Index |
| DCLG | Department for Communities and Local Government |
| Defra | Department for Environment, Food and Rural Affairs |
| DBFO | Design, Build, Finance and Operate |
| DC | District Council |
| DPD | Development Plan Document |
| DLO | Direct Labour Organisation |
| DSO | Direct Service Organisation |
| EIA | Environmental Impact Assessment |
| EiP | Examination in public |
| EA | Environment Agency |
| EfW | Energy from Waste |
| Enviros | Enviros Consulting Limited |

Abbreviations

| | |
|----------|---|
| Eoi | Expression of Interest |
| EPA | Environmental Protection Act 1990 |
| EU | European Union |
| EWG | Environmental Waste Controls Ltd |
| FBC | Full Business Case |
| Guidance | HM Treasury Value for Money Assessment Guidance |
| HIPS | Household Incentive Pilot Scheme |
| HWMS | Household Waste Management Strategy |
| HWRC | Household Waste Recycling Centres |
| IAA | Inter Authority Agreement |
| IRR | Internal Rate of Return |
| IVC | In-Vessel Composting |
| ISDS | Invitation to Submit of Detailed Solutions |
| ISOS | Invitation to Submit Outline Solution |
| ITPD | Invitation Participate in Dialogue |
| JMEMDAG | Joint Members Decision and Advisory Group |
| JMWMS | Joint Municipal Waste Management Strategy |
| JWA | Joint Working Agreement |
| KPI | Key Performance Indicator |
| LATS | Landfill Allowance Trading Scheme |
| LAWDC | Local Authority Waste Disposal Company |
| LDF | Local Development Frameworks |
| LDS | Local Development Scheme |
| LG(C)A | Local Government (Contracts) Act 1997 |
| LGA | Local Government Act 1997 |
| LPSA | Local Public Service Agreement |
| MEL | Management Evaluation Learning Research Limited |
| MCC | Market Capacity Constraint |

Abbreviations

| | |
|-------------------|--|
| MBT | Mechanical Biological Treatment |
| MEMJAG | Members Joint Advisory Group |
| MMC | Market Capacity Constraint |
| MoU | Memorandum of Understanding |
| MRF | Materials Recovery Facility |
| MSW | Municipal Solid Waste |
| MTFS | Medium Term Financial Strategy |
| MWMF | Municipal Waste Management Framework |
| MWMS | Municipal Waste Management Strategy |
| NWC | National Waste Composition |
| NPC | Net Present Cost |
| NYMWDF | North Yorkshire Minerals and Waste Development Framework |
| OBC | Outline Business Case |
| ODPM | Office of the Deputy Prime Minister |
| OGC | Office of Government Commerce |
| OJEU | Official Journal of the European Union |
| Opex | Operating Expenditure |
| Partnership | York and North Yorkshire Waste Partnership |
| PFI | Private Finance Initiative |
| PPP | Public Private Partnership |
| PPS | Planning Policy Statement |
| PQQ | Pre-Qualification Questionnaire |
| PRG | Project Review Group |
| PSC | Public Sector Comparator |
| RDF | Refuse Derived Fuel |
| Reference Case | The residual waste treatment services which are proposed to be procured using the PFI |
| Reference Project | Transfer, recycling, composting, the treatment of residual waste and landfill disposal services. |

Abbreviations

| | |
|----------------|--|
| ROCs | Renewable Obligation Certificates |
| RSG | Revenue Support Grant |
| SDP | Service Delivery Plan |
| SLA | Service Level Agreement |
| SOAP | Statement Of Agreed Principles |
| SoPC 3 | Standardisation of PFI Contract version 3 |
| SPV | Special Purpose Vehicle |
| SRF | Solid Recovered Fuel |
| SSSI | Site of Special Scientific Interest |
| SU2003 | The Strategy Unit Report 2003 |
| tpa | tonnes per annum |
| Treasury model | PFI Value for Money Quantitative Assessment generic model |
| TUPE | Transfer of Undertakings (Protection of Employment) Regulations 1981 |
| UA | Unitary Authority |
| VfM | Value for Money |
| WCA | Waste Collection Authority |
| WDA | Waste Disposal Authority |
| WET Act | Waste and Emissions Trading Act |
| WLP | Waste Local Plan |
| WPEG | Waste Performance and Efficiency Grant |
| WREN | Waste Recycling Environmental Trust |
| WRG | Waste Recycling Group |
| WS 2000 | Waste Strategy 2000 |
| Yorwaste | Yorwaste Ltd |

Executive Summary

1.1 Introduction

This document presents the North Yorkshire County Council (“the County Council”) and City of York Council (“the City Council”) (together “the Councils”) Outline Business Case (“OBC”) for investment in waste management services in North Yorkshire, on behalf of the York and North Yorkshire WMP (“the Partnership”). Whilst this is a joint procurement between the Councils, the contracting and decision-making arrangements have been clearly defined, with North Yorkshire County Council acting as the lead authority, and hence single contracting entity, for the procurement.

The Reference Project

The Reference Project encompasses the services associated with managing municipal waste including transfer, recycling, composting, the treatment of residual waste (recovery) and landfill disposal, but not collection, and will be procured and delivered through a number of separate service contracts. Waste collection is to remain the responsibility of District Councils and the City Council. The Reference Project is a solution which satisfies the aims and objectives of the JMWMS, rather than a specification for future delivery of the service and is not necessarily the solution which will be delivered by the procurement.

The strategic aims and objectives of the Reference Project are to:

- Meet waste reduction targets across the Partnership area;
- Meet/exceed recycling and composting targets;
- Reduce the amount of waste sent to landfill (i.e. meet diversion targets);
- Show preference for the treatment of residual waste using a combination of thermal and biological processes;
- Realise the value of waste as a natural resource; and
- Secure capacity for dealing with the projected waste levels.

These aims and objectives complement the objectives and targets of the Joint Municipal Waste Management Strategy (“JMWMS”). The Partnership consider these strategic aims and objectives are specific, measurable, agreed, realistic and timely, and may be implemented within the proposed timetable. The project objectives fit with the outcomes of Best Value and Strategic service reviews.

Whilst this OBC covers the ability of the Reference Project to achieve the JMWMS, the document sets out the Councils’ application for Private Finance Initiative (“PFI”) credits for the joint procurement of the Recovery Contract (‘Reference Case’) that is proposed to be awarded under the PFI. The Reference Case infrastructure comprises a Mechanical Biological Treatment (“MBT”) facility and an Energy from Waste (“EFW”) facility.

The proposed Reference Project has been fully consulted on, is consistent with the objectives set out in the JMWMS and is ultimately designed to exceed the Councils’ known statutory obligations for recycling, and diversion under the Landfill Allowance Trading Scheme (“LATS”) . A summary of projected performance under the Reference Project compared to national and local targets is given below:

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Table 1.1 Reference Project performance compared with JMWMS and Waste Strategy 2000 targets

| | 2009/10 | 2014/15 | 2019/20 |
|---|---------|---------|---------|
| Recycling and Composting | | | |
| Reference Project (using 2005/06 data and National Waste Composition analysis) | 35.6% | 46.3% | 46.3% |
| JMWMS 2006 | 40% | 45% | 50% |
| Waste Strategy 2000 targets | 30% | 33% | 33% |
| BMW Landfill Diversion | | | |
| Reference Project (using 2005/06 data and National Waste Composition analysis) | 34.0% | 76.6% | 76.6% |
| JMWMS 2006 | - | 75% | 75% |

Waste composition is clearly an important factor in the deliverability of future targets and obligations. Table 1.1 indicates the recycling and BMW landfill diversion rates which the Reference Project could achieve if the Council's latest 'actual' waste composition figures for 2005/06 were combined with the National Waste Composition ("NWC"), which compare favourably with both the JMWMS and Waste Strategy 2000 targets.

Indications are that the outcome of the waste analysis previously undertaken on waste within York and North Yorkshire (which was used for the Reference Project) underestimates the proportion of waste available for recycling and composting. The Partnership therefore believes that the waste composition data analysis currently being undertaken will provide evidence that an overall recycling rate of 50% by 2020, in line with the JMWMS, is achievable.

Further options and actions will be pursued by the Partnership to improve performance against joint targets. These include:

- Recycle greater amounts of bottom ash - the Reference Project currently assumes that 0% of bottom ash will be recycled. Increasing this amount to 100% will improve the overall proportion of waste diverted to 83.3% (using 2005/6 and NWC analysis data); and

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- Increase and properly account for, the role of the community and voluntary sector in recycling and composting – charities and community groups currently recycle or compost approximately 2,222 tonnes per annum of household waste. The JMWMS identifies the importance of increasing the role of this sector although the relevant increase in performance has not been accounted for within the waste flow model. Recycling and composting within the community and voluntary sectors will provide a key opportunity to the Partnership to improve overall performance and achieve its long term targets.

The Reference Project model has provided a projection of the Councils' LATS position from 2008, over a 25-year period. Whilst the Reference Project is projected to meet the longer-term LATS targets, the realistic timeframe adopted for the Reference Case infrastructure becoming operational is critical because it results in the Councils not meeting their LATS obligations prior to 2013. In view of this, the Councils have developed a LATS strategy which includes a range of measures to mitigate the impact of its LATS exposure including:

- Managing waste volumes by improved waste minimisation;
- Commercial waste minimisation and preferential pricing mechanisms to encourage schemes that facilitate bio-diversion from landfill;
- Trading (buying) allowances;
- Bringing forward recycling plans; and
- Considering and implementing interim bio-diversion/treatment proposals.

The project will place a significant financial burden on the Councils, requiring investment in new infrastructure and ongoing increases in operating expenditure. PFI Credits of £65m are required to assist in mitigating this impact. The project has the full support of the Partnership, which comprises the City Council (a Unitary Authority), the County Council as the Waste Disposal Authority ("WDA") and the District Councils as the Waste Collection Authorities ("WCAs").

1.2 Strategic context

1.2.1 North Yorkshire

North Yorkshire is England's largest County and is home to around 576,000 people in an area covering about 2 million acres. The population is rapidly growing – it increased by 0.5 per cent per year between 1991 and 2001. At only 0.7 persons per hectare, the County is one of the most sparsely populated areas in England. The County Council was responsible for the management of 384,620 tonnes of municipal waste in 2005/06, achieving a recycling rate of 29.5%. The County Council area is two tier with 5 Districts – Craven, Hambleton, Richmondshire, Ryedale and Selby, and 2 Boroughs – Harrogate and Scarborough, who are responsible for the collection of the majority of Municipal Solid Waste ("MSW").

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1.2.2 City of York

The City Council is a Unitary Authority (“UA”) in the north of England covering approximately 27,200 hectares with a population of around 185,000 (expected to rise by 4.2% between 2001 – 2011). Population density in York averages 670 people per square mile compared to an average of 323 in the region and 380 for England. The majority of the population resides within the urban area, the remaining being located in the numerous villages surrounding the City. The City is divided into 22 administrative Wards. The City Council as a UA, has responsibility for both the collection and disposal of waste, and in 2005/06 managed 120,870 tonnes of municipal waste and achieved 24.1% recycling, providing services to 81,217 households in the City of York area.

1.2.3 York and North Yorkshire Waste Partnership

The County Council, its 7 District and Borough councils and the City Council have worked together to develop waste management services across North Yorkshire since the Partnership was formed in 1999. The Partnership has a track record of achievement, including the development and adoption of a JMWMS in 2002. This partnering arrangement is engendered through a Statement of Agreed Principles (“SOAP”), which is being further strengthened through the joint development of Service Level Agreements (“SLAs”) between the County Council and each WCA. The WCAs fully support the proposed procurement and are represented at Project Team meetings.

1.2.4 Joint Municipal Waste Management Strategy

The JMWMS between the Partnership was agreed and adopted in 2002. However, the Partnership recognised the need to ensure that the existing Strategy reflected the increasing integration of waste management services across the County and impending legislation. In view of this, a revised Joint Strategy has been developed which was informed by a Best Practical Environmental Option (“BPEO”) analysis, together with consultation and stakeholder dialogue, to produce a common set of objectives and targets for the period to 2020 as set out in Section 1.1. The revised JMWMS was adopted in July 2006.

1.2.5 Public consultation

The Councils have undertaken a number of consultations with stakeholders to provide information and seek feedback on its proposals for the development of waste management services across North Yorkshire. The County Council carried out an extensive consultation in 2004, through a Citizen’s panel, to confirm the Partnership’s vision and objectives. The City Council has also undertaken consultations at a local level for the same purpose. Additionally, consultation was undertaken by both the Councils on the revised JMWMS with the public. The results of this exercise indicated strong agreement with the proposed JMWMS and the proposed approach to managing waste within North Yorkshire. In addition, there was a majority support for the Reference Case adoption of combined technologies for the treatment of residual waste.

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1.3 Analysis of existing service provision

1.3.1 Analysis of waste arisings

In 2005/06, around 426,000 tonnes of household waste was produced in York and North Yorkshire. The annual percentage increase in waste growth peaked in 2001/02, as shown in table 1.2 below.

Table 1.2 Growth of household waste¹ in North Yorkshire

| Description | Authority | 2000/01 | 2001/02 | 2002/03 | 2003/04 | 2004/05 | 2005/06 |
|--|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Total amount of household waste (tonnes) | City Council | 93,020 | 96,860 | 98,870 | 98,610 | 100,670 | 97,560 |
| | County Council | 311,942 | 327,537 | 327,821 | 327,448 | 335,911 | 328,750 |
| | TOTAL | 404,962 | 424,397 | 426,691 | 426,058 | 436,581 | 426,310 |
| Combined Growth Rates % | | 3.17 | 4.8 | 0.54 | (0.15) | 2.47 | (2.35) |

From this it can be seen that waste growth for North Yorkshire and the City of York between 2000 and 2005 was *circa 1% per annum*. Although the figure for 2005/06 shows negative waste growth, the Councils do not view this as being sustainable, particularly given the Councils prudent assessment of population growth, and have therefore incorporated a reducing scale of waste growth (2% to 2008, 1% to 2012 and 0% from 2013) into their models for future waste services. This allows for the anticipated growth in population. However, the reduction in waste arisings demonstrates the success to date which the Councils have achieved in reducing the waste as a result of the initiatives undertaken. Based on these trends, future planned waste minimisation campaigns, coupled with the work which will be required of the recycling, composting and recovery contractors; it is considered that growth rates will decrease over the contract period to 0% from 2012/13 onwards.

1.3.2 Collection arrangements

Residual waste collections are made by Direct Labour/Service Organisations (“DLO/DSOs”), with the exception of Selby District Council (“DC”) who contract out their service. Recycling collections are carried out either by the DLO/DSOs or by a private sector provider. Discussions with the District Councils have indicated that the majority of North Yorkshire households will move to a three stream collection service of green garden waste, dry recyclate and residual waste during the period of the project, whilst the City of York is reviewing its waste collection arrangements over the next 3 years.

¹ Please note that household waste is total municipal waste less commercial and building and construction waste.

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1.3.3 Contractual arrangements

The County Council has recently tendered a 10-year contract to provide disposal points for landfill/composting, elements of which have been won by Yorwaste Limited (“Yorwaste”) and Waste Recycling Group Limited (“WRG”). It recently let three two-year Household Waste Recycling Centre (“HWRC”) contracts, the largest of which was won by Environmental Waste Controls Limited (“EWC”), with Yorwaste winning the others. The City Council is now in the process of tendering a 15 year landfill/composting/dry recycling contract. It has recently tendered a 10 year HWRC contract won by Yorwaste. The District and Borough Councils also have a number of contracts in place with Yorwaste.

1.3.4 Current infrastructure

The City Council owns the freehold of Harewood Whin landfill site and 3 HWRCs, all of which are leased to Yorwaste for operation. The County Council owns the freehold of Seamer Carr landfill site (leased to Yorwaste) and 14 HWRCs. It also leases land for 6 HWRCs from landowners. The management of HWRCs is contracted to EWC (17 sites) and Yorwaste (3 sites). Significant investment is currently being made by the City Council to upgrade and replace existing HWRCs. Yorwaste also own and operate two Materials Recovery Facility (“MRFs”) (at Scarborough and Hessay), a transfer station at Tancred and a HWRC at Seamer Carr.

However the existing infrastructure is insufficient to meet the recycling and diversion targets set for the Councils.

1.3.5 Performance of existing services

The performance of both Councils against Best Value Performance Indicators (“BVPI”) 82a and b has improved steadily over the past four years. In 2005/6 the County Council and City Council achieved recycling rates of 29.5% and 24.1% respectively compared with 21.7% and 17.8% in 2004/05. Despite a steady increase, the recycling rates across the Partnership still fall short of the long-term 2020 target of 50% set out in the JMWMS detailed in Section 2.3 of this OBC. In order to address this shortfall, the Partnership members are working closely together to develop coordinated and integrated plans for the future.

1.3.6 Service costs

The existing 2006/07 waste management budgets for the County Council and City Council were £14,856,000 and £4,247,000 respectively. These revenue budgets have increased by 46% and 25% respectively from 2002/03 which is significantly in excess of inflation. This reflects the priority of waste management for the Councils as initiatives have been implemented to encourage waste reduction and recycling (including the expansion and improvement of HWRCs). The budgets have also been increased to accommodate Landfill Tax and contract costs.

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1.3.7 Local Authority Waste Disposal Company – Yorwaste Ltd

The City Council (22.27%) and County Council (77.73%) jointly own a Local Authority Waste Disposal Company (“LAWDC”) called Yorwaste Limited. It was established in 1993 as a response to the requirements of the Environmental Protection Act 1990 (“EPA”). Yorwaste deals with approximately 75% of the County Council's waste for disposal and 100% of the City Council's waste.

It provides collection services for some recyclable materials on behalf of WCAs; waste and recycling collections to private sector companies; and services to the Councils. These include the provision, operation and management of HWRCs, operation of transfer stations, haulage of wastes, windrow composting operations and operating landfill sites across the City and County area. In addition, Yorwaste is also involved in developing a treatment technology (in partnership with other companies) under the Department for Environment, Food and Rural Affairs (“Defra”) New Technologies Demonstrator Programme.

1.4 Options appraisal

In order to meet the JMWMS targets and objectives and develop the required waste infrastructure in North Yorkshire, the Councils determined that the scope of services to be included within its Reference Project should comprise transfer, recycling, composting, the treatment of residual waste and landfill disposal. The option of including collection services with the Reference Project was considered by the Councils who concluded that on Best Value grounds, collection arrangements should continue to be provided and procured under the existing arrangements, which will complement the private sector's skills in developing and managing recycling, treatment and disposal facilities and services.

In order to assist with the determination of the Reference Project (for the waste management service) and Reference Case (for residual waste treatment services to be procured under the PFI), the Councils have each undertaken extensive BPEO analysis, which has been further refined through a joint procurement options study and subsequent risk assessments. This process identified the preferred solution which best meets both Councils' appetite for risk and the objectives of the Partnership.

Alongside this process, a range of contract packaging and funding options have been considered to inform the Councils' procurement strategy. This evaluation considered the provision of services on both a semi-integrated and disaggregated basis, funded using the PFI, PPP and Prudential Borrowing.

BPEO

As part of the development of the joint procurement strategy, a BPEO assessment for MSW arising in North Yorkshire and York was jointly commissioned by the Councils in June 2004. The BPEO assessment considered (which was subject to stakeholder and public consultation at workshops held during November 2004) a range of technology options, which were assessed against pre-agreed criteria and which addressed environmental, socio-economic and operational impacts. A total of 11 integrated waste management options were assessed for North Yorkshire and 7 for the City of York.

The performance of each of the options was assessed against different weight sets and the BPEO identified for each authority. For York, the BPEO assessment identified a

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single MBT plant (Option 5a) treating all of the MSW and producing SRF, which it was assumed would be sent to a power station (Option 5a). The BPEO identified for North Yorkshire was an EfW facility (Option 1a), which was marginally favourable to MBT (Option 5a).

Joint procurement options appraisal and risk assessment

Following the completion of the BPEO assessment for each authority, a joint procurement options appraisal was carried out to build upon and refine the individual BPEOs. The two technologies (MBT and EfW) that had outperformed the others in the individual assessments were combined into 9 options in order to determine the best fit solution for the Authorities working in partnership. The joint procurement options appraisal identified a single EfW facility (Option A) as ranked first, closely followed by 1EfW and 1MBT with the SRF output being disposed of via EfW (Option F).

The Councils then subjected the outcomes of the joint procurement options appraisal to further evaluation of what they considered to be the key strategic risks and to test the sensitivity of the assumptions used in the appraisal. The result of this work broadly confirmed the technology rankings observed in the joint procurement options appraisal and tested positively against the BPEO.

Procurement Strategy review

Reflecting the then existing focus of PFI criteria for waste projects, the Councils were in the process of developing an OBC based on a semi-integrated contract, when they became aware of emerging alternative views of procuring waste management contracts, notably the Kelly Report and the strong emphasis by Defra for PFI applications to focus on residual waste treatment services. The Councils concluded that a review of their procurement strategy should be undertaken immediately.

The procurement strategy review involved identification and consideration of a combination of semi-integrated and disaggregated contract packaging options and funding approaches, with each option being subjected to a qualitative and financial appraisal, including an assessment of relative risks. The benefits and opportunities of greater regional working were also evaluated.

The results of this evaluation confirm that the procurement options present a complex array of issues, benefits and disadvantages. All options appear viable with no single option markedly more advantageous than all the others.

However, the Strategic Project Board concluded that the procurement of waste management services included within the Reference Project on a disaggregated basis, with residual waste treatment services and facilities procured through the PFI, offer Best Value. The Councils will seek to fund waste handling, recycling and composting services from internal resources. This may include PPP (effectively a charge to revenue), capital receipts, supported capital borrowing or Prudential Borrowing.

Therefore, the PFI Reference Case will encompass the development and subsequent operation of residual waste treatment facilities only. However, the Councils recognise that the eventual choice of technology will be in response to market proposals on how to deliver output targets. No one option is more or less likely to deliver a particular technology. Following the results of this evaluation and assessment a short-list of five options was compiled for further appraisal as described below.

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Option appraisal overview

Based on the process outlined above, the following five options have been short-listed for a detailed economic and performance appraisal for this OBC:

Table 1.3 Short-list of options

| Option | Technology | Recycling/composting and landfill strategy |
|--|--|---|
| 1 – Status Quo | Continue with existing service provision | N/A |
| 2 – EfW only | 1 EfW from 2010 in the County Council area | 45% recycling by 2013 Landfill to max. allowed |
| 3 – Combined technologies (with SRF to market between 2011 – 2013) | 1 MBT from 2010 in York area 1 EfW from 2013 in the County Council area SRF sent to market 2011-2013 | 45% recycling by 2013 Landfill to max. allowed |
| 4 – Combined technologies (with SRF to landfill between 2011 – 2013) | 1 MBT from 2010 in York area 1 EfW from 2013 in County Council area SRF sent to landfill 2011-2013 | 45% recycling by 2013 Landfill to max. allowed |
| 5 – Combined technologies with more thermal treatment | 1 MBT from 2010 in York area 1 MBT from 2010 in County Council area 1 EfW from 2013 in County Council area | 45% recycling by 2013 Landfill to max. allowed |

1.4.1 Performance of the short-listed options

The recycling/composting and BMW diversion performance of each of the short-listed options is set out in table 1.4 (page 10).

Table 1.4 Recycling/composting and BMW diversion performance of the short-listed options from 2015 (using MEL waste composition data)

| Option | Recycling rate | Overall BMW diversion achieved (tonnes) by 2019/20 |
|------------------------|----------------|--|
| Option 1 - Status Quo | 29.2% | 91,863 |
| Option 2 - 1 EfW | 40.1% | 321,986 |
| Option 3 - 1 MBT/1 EfW | 41.1% | 325,522 |
| Option 4 - 1 MBT/1EfW | 41.1% | 325,522 |
| Option 5 - 2 MBT/1EfW | 41.5% | 326,901 |

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All of the ‘Do Something’ options achieve approximately the same recycling/composting performance. The options with more MBT treatment deliver marginally better recycling rates due to more opportunity for recycling to occur. The recycling performance of the various options demonstrates that recycling rates can be enhanced through the District Councils’ planned co-ordination of collection arrangements.

The BMW performance of the various options has been assessed against the final LATS allowances issued by Defra in August 2005, as shown in Section 4.8.1, table 4.4. The Reference Project modelling projects a LATS deficit for all of the options for each year up to the second target year. This is because the Councils have assumed a realistic timeframe for the commissioning of the EfW facility, which is crucially not operational until 2013/14. However, all of the Do Something options achieve LATS compliance in the longer term, through the provision of PFI support for the development of residual waste treatment facilities.

It should be noted that the Reference Project model is based upon 2003/04 waste flows and MEL waste composition data. However, more up to date waste flow information is continually becoming available to better inform the Councils’ projected recycling and LATS position and has confirmed that the Councils’ 2005/06 performance is in excess of the performance modelled for the Reference Project. The Councils have run initial sensitivities using a combination of 2005/06 waste flows and the NWC data, which indicate that the Councils could achieve a recycling rate of 46.3% and a BMW diversion performance of 76.6%.

Whilst the Councils have not updated the Reference Project model to reflect this position (because the position is continually likely to change as more up to date data becomes available), the Councils will continue to use the latest information in projecting their budgetary position in the short term and in establishing their LATS mitigation strategy. As outlined in Section 1.1, the Partnership believes that the waste composition data analysis currently being undertaken will support its view that an overall recycling rate of 50% by 2020, in line with the JMWMS, is achievable.

1.4.2 Economic appraisal of options

The Net Present Cost (“NPC”) to the Councils of the short-listed options are summarised in the table below:

Table 1.5 NPC of short listed options

| Net Present Costs | Option 1 | Option 2 | Option 3 | Option 4 | Option 5 |
|------------------------|----------|----------|----------|----------|----------|
| | £000’s | £000’s | £000’s | £000’s | £000’s |
| Total Net Present Cost | 706,523 | 509,303 | 560,374 | 578,461 | 622,272 |
| Rank | 5 | 1 | 2 | 3 | 4 |

1.4.3 Options appraisal summary

The modelling of the ‘Status Quo’ option indicates that it fails to meet the recycling and composting targets set out in WS 2000 of 33% by 2015 and the targets set out in the JMWMS of 40% of household waste by 2010, 45% by 2013 and 50% by 2020. It would

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also fall significantly short of the JMWMS landfill diversion target of 75% by 2013 and LATS allowances are exceeded in all years.

Although Option 2 (maximum diversion achieved through EfW) represents the lowest cost option and performs well with respect to recycling/composting rates and BMW diversion, Options 3 and 4 (which produce similar levels of recycling/composting and BMW diversion) are more consistent with the Partnership's waste strategy and preference for treatment of waste using a combination of thermal and biological means and score highest in the non-financial appraisal. Whilst there is still market uncertainty for SRF produced by MBT in the short term, Option 4 is considered to be a lower risk option than Option 3 and for these reasons Option 4 has been defined as the Reference Project with residual waste treatment services being defined as the Reference Case. The Reference Case (Recovery Contract) element of the Reference Project will be procured through the use of PFI and thus forms the basis of this OBC. The Councils will, however, continue to explore market opportunities which may be available in the short term to process the SRF output.

It is recognised that significant investment in new residual waste treatment infrastructure will be required to support the delivery of the Reference Project and, more specifically, the Reference Case. Prudent provision in capital, lifecycle and operating costs has been made in this business case.

1.5 Value for money

This OBC assumes that Defra has already undertaken a Stage 1 programme level assessment for waste PFI projects as part of the Comprehensive Spending Review completed in 2004 demonstrating that waste, as an investment programme, is likely to achieve value for money under PFI. This OBC details the Stage 2 project level assessment aimed at verifying whether this initial decision to use PFI to fund the Reference Case is valid for the Councils.

Following the approach as outlined in the 'HM Treasury Value for Money Assessment Guidance' ("Guidance") issued in 2004, the project level assessment has considered both quantitative and qualitative factors, the results of which have been considered in Section 5. The quantitative analysis uses a prescribed methodology and electronic model provided by the Treasury to determine whether the Reference Case represents indicative value for money when compared to a Public Sector Comparator ("PSC").

The qualitative assessment produced a clear indication that in terms of viability, desirability and achievability the Councils are well positioned to deliver a PFI procurement. The quantitative assessment has produced a high indicative PFI value for money percentage of 14.4% on the Reference Case, the robustness of which has been demonstrated through sensitivity testing. Taken together these assessments have provided a clear indication that verifies the outcome of the programme level assessment that PFI represents value for money for the Councils' Reference Case.

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1.6 Affordability

Two ‘affordability’ analyses have been undertaken: a comparison of the cost of the Reference Project with the ‘Status Quo’ option; and the identification of the ‘affordability gap’ between the estimated cost of the Reference Project and the commitment the Councils have made in relation to planned budgets for waste management and the anticipated level of Revenue Support Grant. The affordability analysis is based on 2003/4 waste flow data.

1.6.1 Comparison of the ‘Status Quo’ option and Reference Project

Table 1.6 below shows the cost of the Reference Project (including WCA transport costs for a like-for-like comparison) and the cost associated with the ‘Status Quo’ option over a 25 year period, based on a trading profile of landfill allowances, which assumes their value increases up to 2012/13 and then starts to decline as Tradable Permits become more plentiful in line with increases in diversion infrastructure. For comparison, the ‘Status Quo’ option where LATS penalties of £150/tonne are payable has also been included to demonstrate the worse case scenario.

Table 1.6: Reference Project and ‘Status Quo’ cost comparison

| | Option 4 Reference Project (including WCA transport costs) | Option 1 Status Quo – LATS profiled | Option 1 Status Quo – LATS at £150/t |
|--|---|---|--|
| | £000’s | £000’s | £000’s |
| Project costs | 1,398,967 | 785,749 | 785,749 |
| Landfill tax | 192,607 | 588,014 | 588,014 |
| Landfill Allowance costs | (27,262) | 385,846 | 746,143 |
| Total nominal costs | 1,564,312 | 1,759,609 | 2,119,906 |
| Difference to next most expensive option | (195,297) | (360,297) | n/a |

This indicates that the cost saving to the Councils of implementing the Reference Project rather than the comparable “Status Quo – LATS profiled” option is approximately £195m. The graph below demonstrates the position on an annual basis.

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Figure 1.1 Reference Project Vs Status Quo

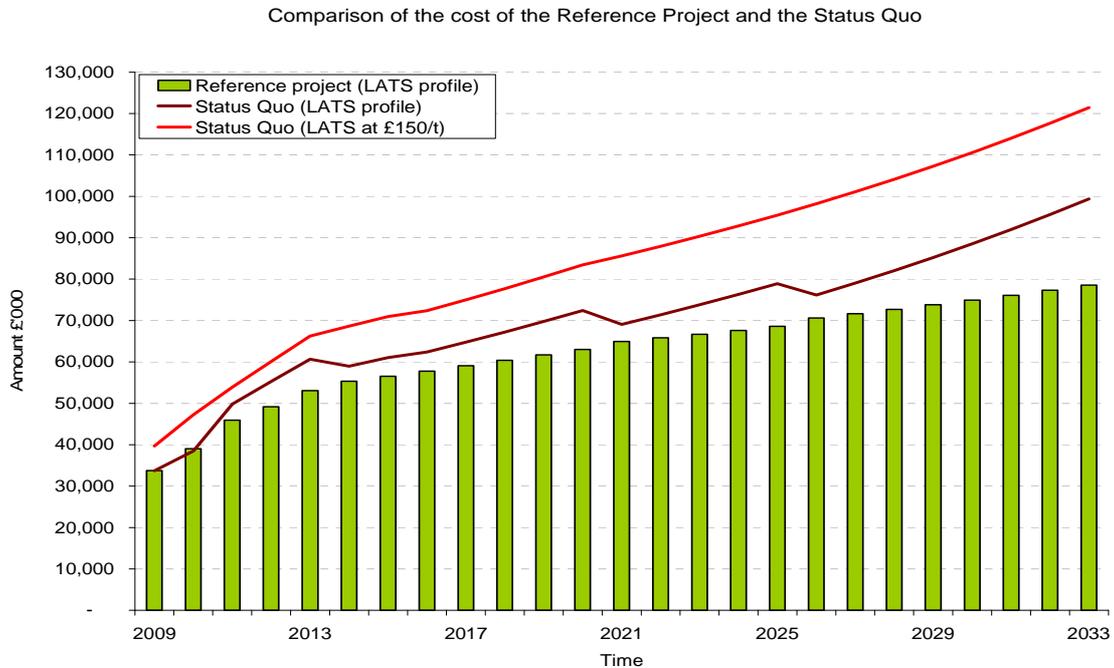


Figure 1.1 demonstrates that, on an annual basis, particularly in later years, the projected costs of the Reference Project are likely to be significantly less than the comparable “Status Quo – LATS profiled” option and also demonstrates the benefit of adopting a LATS trading strategy.

1.6.2 Determination of the ‘affordability gap’

The table below shows the affordability gap for the Reference Project of circa £845m, taking into account the anticipated level of Revenue Support Grant (based on a PFI Credit of £65m) and the Councils’ combined existing budget (inflated at 2.5%) that is available to help fund the project cost.

Table 1.7 Affordability analysis – including PFI credit revenue support

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | 25 year total |
|------------------------|---------------|---------------|---------------|---------------|---------------|---------------|------------------|
| | 2008/9 | 2009/10 | 2010/11 | 2011/12 | 2012/13 | 2013/14 | |
| Nominal | £000’s |
| Reference Project cost | 28,446 | 31,840 | 32,771 | 37,730 | 38,829 | 61,446 | 1,552,306 |
| Projected Budgets | 17,292 | 17,724 | 18,167 | 18,622 | 19,087 | 19,564 | 590,657 |
| PFI Support | - | - | - | 2,408 | 2,408 | 5,547 | 115,756 |
| Affordability Gap | 11,154 | 14,116 | 14,604 | 16,700 | 17,334 | 36,335 | 845,893 |

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The affordability gap in year 1 (2008/09) between the Reference Project and projected existing budgets is anticipated to be approximately £11.1m. This increases to around £36m in year 6 (2013/14). The Reference Case Unitary Charge has been profiled to reflect that the Councils will not pay for residual waste treatment services/infrastructure until they are provided by the PFI Recovery Contractor. This means that the service costs will increase significantly in 2013/14 when all Recovery Contract infrastructure is in operation. The year one impact of £11.1m equates to a Council Tax increase of approximately 4.2% for the County Council and 4.6% for the City Council.

Given the above position, the Councils therefore believe that the Reference Project represents the most economically advantageous option for the individual Councils in order to ensure compliance with the EU Landfill Directive, other requirements and to deliver the best possible waste strategy.

As set out in table 6.9 above the Councils are facing an affordability gap of around £845m (including the benefit of PFI revenue support) over the life of the contracts, covering all aspects of the Reference Project (residual waste treatment, recycling, composting and landfill).

The Councils have a history of providing high value for money services to their taxpayers. It will, however, be very difficult for the Councils to bridge the affordability gap as both Councils have a combination of very low Council Tax and extremely low spending, relative to other comparator authorities. The required additional funding will therefore be a bigger proportion of the Councils' budgets than other higher spending Authorities. Consequently, there is a bigger percentage impact on Council tax because of the Councils' current low Council Tax base. It must be noted that the Councils individually have other statutory obligations which may compete for resources and the Government has established financial parameters that constrain the ability of Local Authorities to raise funding, for example Council Tax capping.

However, because of the significance of this issue both Councils:

- have identified the procurement of waste facilities as a key priority in the respective Council Plans. The funding required features prominently in the Councils' respective Medium Term Financial Strategies ('MTFS');
- have spent and committed significant amounts of additional resources to waste management in recent years', ranging from capital on landfill sites, and infrastructure to additional, collection, transfer and recycling costs; and
- are committed to waste and LATS strategies that are aimed at improving waste management performance with a view to minimising the future volume of residual waste that they are required to deal with.

The Councils may also seek to profile the Unitary Charge for the PFI Contract in order to 'smooth' the increase required year on year and ensure that Council Tax increases are proactively managed.

Notwithstanding the funding constraints identified above, the Councils recognise the necessity to allocate resources sufficient to make the project affordable over the life of the contracts, subject to any further obligations and financial parameters as directed by DEFRA or any other Government department. This commitment is demonstrated by

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the approval of this OBC by the Executives of the County Council and City Council respectively, on 12 September 2006.

1.7 Delivering the project

The Councils have been proactive in addressing issues that are important to the delivery of the project. Work is well progressed in developing the technical, financial and legal mechanisms i.e. Output Specification, Payment Mechanism and Project Agreement; which underpin the project. The Public Private Partnership Programme (“4Ps”) model documentation and guidance has been used in the preparation of these documents. The work undertaken in addressing the key deliverability issues to facilitate a successful project is set out below.

1.7.1 Output specification

The Councils are in the process of drafting an Output Specification, in line with the 4Ps documentation, which will be further developed prior to the Official Journal of the European Union (“OJEU”) Notice and updated as required during the procurement process. As previously confirmed the range of services to be procured under the PFI scheme will include residual waste treatment only. Other services, which will be procured separately, comprise the following;

- HWRC management;
- Reception facilities and transfer;
- Material Recycling Facilities (“MRF”);
- Composting; and
- Landfill disposal.

The packaging of these other services is under consideration and will be determined following a full options appraisal. However the Councils recognise that the eventual choice of technology will be in response to market proposals on how to deliver output targets. No one option is more or less likely to deliver a particular technology.

1.7.2 Key Performance Indicators (“KPIs”)

KPIs will be developed during the procurement to reflect those aspects of waste management which the County Council and City Council require the PFI Contractor to deliver.

The KPIs will be structured to manage fundamental aspects of the project, to ensure that key aspects are delivered for the duration of the project, whilst allowing flexibility to adapt to changes in the service over the life of the contract. Some examples of potential KPIs can be found in Section 7.2.9.

1.7.3 Payment Mechanism

The Payment Mechanism is based on 4Ps draft guidance, linked to the service outputs defined in the Output Specification with deductions made when those outputs are not achieved. It is underpinned by the principles of payment for services in line with availability and performance; transfer of risk in line with service obligations; and financial incentives to perform in accordance with the Output Specification.

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The Payment Mechanism will include the following:

- Tonnage adjustments specific to individual waste management processes;
- Landfill and BMW diversion adjustments to provide incentive to the PFI Contractor to divert from landfill in accordance with the waste hierarchy and to mitigate the Councils' exposure to LATS;
- A performance bonus and deduction system that is based on an equitable share of upside and downside risk; and
- An excess profit share mechanism that differentiates between profits derived through performance of the contract and those resulting from market economics, eg windfall gains from Renewable Obligation Certificates ("ROCs").

The Payment Mechanism will be supported by a performance management system, linked to the KPIs, which will levy deductions where under or non-performance is achieved.

1.7.4 Financial Allocation mechanism

The Councils have jointly developed a financial allocation mechanism to ensure an equitable allocation of financial and legal obligations to each Council under the PFI contract. Areas considered include apportionment of payment obligations and PFI Credits and the allocation of site costs. The mechanism, once finalised, will form the basis of a Schedule to the Joint Working Agreement between the Councils which is currently being drafted.

1.7.5 Balance Sheet treatment

An initial view of the balance sheet treatment prepared by the Councils' financial advisors Ernst & Young concludes that the transaction could achieve off balance sheet treatment for the public sector under the Treasury Guidance Note "Private Finance Technical Note 1 (Revised)."

1.7.6 Market interest

The Councils are fully aware of the current capacity constraints within the waste management market and of the need to maximise market appetite and interest for their project. In view of this, two "industry days" with potential bidders were held to allow a two-way discussion and debate of the key project issues which are likely to drive the project. Attendees at both the Financial Providers and the Waste Management Sector industry days indicated broad agreement with the approach which the Councils are proposing to adopt for their project.

1.7.7 Market for process outputs

The Councils are aware of the current difficulties in securing market outlets for the outputs from MBT processes, and have identified the potential lack of market outlet as a key project risk. Consequently, the Councils do not wish to rely on the market to deliver an outlet for the SRF, particularly given the long-term nature of the proposed contract. The Reference Project therefore envisages that the MBT facilities will be configured to maximise the production of SRF for combustion in a dedicated thermal treatment plant, delivered as part of the Reference Case.

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The Councils have also adopted a prudent and realistic timeframe for the delivery of the treatment facilities, meaning that it is envisaged that there could be up to two years where there is no in-county SRF processing capacity (2011-2013). The Councils are exploring alternative disposal routes for SRF produced during this period as part of the overall LATS strategy. Options include the potential for taking advantage of regional short-term processing capacity and/or procurement on a short term basis of alternative processes which maximize bio-degradation of waste prior to landfilling.

1.7.8 Planning

The Councils wish to take all reasonable steps possible to mitigate planning risk for the contract. In view of this, the Waste Planning Authorities have reviewed their programmes for the preparation of new Minerals and waste planning policies in North Yorkshire Minerals and Waste Development Framework (“NYMWDF”) and are seeking to integrate these programmes with the PFI procurement project timetable so far as possible. Both the York Local Development Framework (“LDF”) and the NYMWDF will set out a clear spatial strategy for the planning of new municipal waste management facilities and will, so far as practicable, seek to identify specific sites or locations for the full range of facilities needed. Site allocations will be supported by criteria based policies for site development to enable a degree of flexibility within the framework and to allow for the development of non-allocated sites where necessary in order to deliver an adequate network of sites. Close contact is being maintained between the planning teams in York and North Yorkshire and with staff directly involved in the procurement exercise to ensure that a high degree of co-ordination is achieved.

1.7.9 Sites and Planning Permissions

The Councils are aware of the need to maximise competition and ensure a level playing field for all bidders. In view of this, the Councils are undertaking a site search exercise to identify sites within the Councils’ ownership and potential sites owned by the private sector. In the case of the latter, this may require their acquisition from the private sector, either by securing options, long term leases or purchasing land.

The Councils’ intention is to make sites available to all bidders for the PFI recovery contract. The Councils’ strategy is to ensure, as a minimum, that two strategically-located sites are available to house residual waste treatment facilities, in line with the assumptions made in the Reference Project. Based on the site identification work undertaken, it is highly unlikely that any suitable sites will be identified in the York area. However, the Councils will continue with the site search and form a view as to the way forward after this work is complete.

In order to limit potential delays caused by protracted planning considerations post procurement completion, the Councils propose to progress work on planning applications as soon as possible. This is likely to entail the preparation and submission of planning applications for smaller facilities (i.e. transfer stations) but is likely to stop short of submitting planning applications for the proposed residual waste treatment facilities. This is due to the need for specific and detailed design information to satisfy Environmental Impact Assessment (“EIA”) requirements, which is particularly an issue for EfW facilities, and which is unlikely to be available until a preferred PFI contractor has been selected. However, it is intended, where possible, to undertake environmental baseline assessment work on the preferred treatment sites in order that planning application work pre and post contract completion can be accelerated.

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1.7.10 The role of Yorwaste in the project

The Councils have considered the position of Yorwaste and have concluded that the company should not bid for the PFI Recovery Contract.

Waste Handling and Recycling Service

The Councils recognise the expertise of Yorwaste in providing waste handling and recycling services. It is anticipated that Yorwaste will therefore participate in the competition for such services.

It is acknowledged that the company has a strong position in the local market and the Councils will therefore ensure that any Yorwaste assets of value to competitors will be made available in order to ensure a level playing field and best value through maximising competition.

1.7.11 LATS Strategy

The Reference Project model has provided a projection of the Councils' LATS position from 2008, over a 25-year period. This projection is based upon 2003/04 waste flows combined with the waste growth projections for the Reference Project (as set out in Section 3.1.1), which predicts that the Councils will not meet their LATS obligations prior to 2013 without some additional interim bio-diversion measures or external allowance trading. This position, crucially, arises because of the realistic timeframe adopted for the residual waste treatment facilities becoming operational (in 2013/14).

The Councils have developed a LATS strategy which includes a range of measures to mitigate the projected LATS exposure in the years to 2013, including:

- Managing waste volumes by improved waste minimisation;
- Commercial waste minimisation and preferential pricing mechanisms to encourage schemes that facilitate bio-diversion from landfill;
- Trading (buying) allowances;
- Bringing forward recycling plans; and
- Considering and implementing interim bio-diversion/treatment proposals.

1.7.12 Bankability

The project has been structured to ensure it is bankable. The funding structure of the Reference Case is based on a typical PFI structure comprising 85% senior debt and 15% equity.

The programme for construction of the key facilities is aligned to the Councils' need to access waste treatment facilities in order to achieve its BMW diversion obligations. However, whilst it is assumed that planning for the MBT and EfW facilities will be pursued in parallel, based on experience on other waste management projects, the delivery timeframe adopted is prudent and realistic and assumes that the EfW will not be delivered until 2013. Nevertheless, this allows for the provision of only one senior debt facility that is able to be committed on contract signature.

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Furthermore, there have been an increasing number of banks showing strong interest in the waste management sector over the last twelve months given the level of investment required in this sector over the short to medium term, as evidenced by the high level of interest and attendance at the Financial Providers' Market Testing Day on 25 July 2006.

1.7.13 Competitive Dialogue

Whilst the Councils have an agreed JMWMS that has been informed by the BPEO, risk assessment, performance and economic cost appraisal exercises that have been carried out, there is not necessarily one solution to deliver that strategy. Consistent with PPP/PFI principles regarding the transfer of risks, the Councils do not wish to be prescriptive about the technology to be used in delivering their solution. In view of the complexity of the Reference Case (Recovery Contract) the Councils expect to follow the Competitive Dialogue procedure for its procurement. However, the Councils are mindful of the market's concerns about the practicalities of adopting the Competitive Dialogue approach (as set out in Section 1.7.6 above and Section 7.7a of the main document).

1.7.14 Project Management

Both Councils have extensive experience of managing major procurement projects including the current contracts for waste disposal, composting and HWRC management and have concluded successful PFI projects with others currently in progress. Working alongside its advisors, the procurement team is well placed to effectively manage a project of this nature and is familiar with PFI as a procurement route. The day to day work is carried out by the joint project team of senior professionals from waste management, finance and project management. The Joint Procurement Project Manager has overall responsibility as project manager, and works in conjunction with the City Council's PFI Project Officer (Assistant Project Manager).

External consultants have been appointed to prepare the OBC and provide advice on the procurement process to include assisting with the development of the Invitation Participate in Dialogue ("ITPD"), finalisation of the Output Specification, preparation of evaluation framework, selection of short-listed parties and preferred bidder, negotiations and agreement of contracts. The consultants are in effect part of the joint procurement project team and participate in all project team meetings. A joint procurement budget of approximately £1.9m has been set aside for this project.

1.7.15 Contracting and decision making arrangements

It has been determined that an 'inter-authority' style legal agreement will be developed to demonstrate to Defra and the market, the full commitment of the Councils to their partnership. The legal agreement as currently drafted secures an agreement from the County Council and the City Council to work together to draw up a new strategy and to negotiate and agree a legally binding Joint Working Agreement, which will act to underpin the successful delivery of the project.

As part of the legal agreement, the Councils have already established a Joint Working Agreement ("JWA") which includes a robust and efficient decision-making structure where one authority (the County Council) is demonstrably (by use of its casting vote) the lead authority. This approach is, essentially a delegation (in accordance with the scheme of delegation of each Council) to Assistant Director level.

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The contracting structure which the Councils will enter into with the Contractor's SPV will be for the County Council to be the lead authority. This means that the Contractor will be contracting with one party only.

Certain decisions (e.g. long listing, short listing, contract award) are reserved to the respective Councils (acting through their executives) and cross party, political support is afforded through the involvement of the Members Joint Advisory Group ("MEMJAG"). Examples of Council Reserved Matters include:

- Approval of the revised JMWMS;
- Approval of the OBC; and
- Award of the Contract(s).

The joint procurement project team, whose members are listed in Section 7.12, table 7.2 are authorised to make and put into effect all decisions relating to the project, other than any matter which is a Reserved Matter or is a Council Reserved Matter. Decisions which are 'Reserved Matters' will be referred to MEMJAG for resolution.

MEMJAG (consisting of three Members from each Authority and supported by officers from both authorities) will be chaired by the County Council. The function of this group is to provide guidance and advice only, to officers on key decisions in relation to the Partnership, and to recommend which decisions in addition to those 'Council Reserved Matters' should be referred to the Executive.

1.7.16 Timetable

A high level procurement timetable is provided below which assumes OBC approval at the Project Review Group ("PRG") meeting in January 2007. To achieve this approval the Councils intend to submit their OBC in September 2006. Given the progress which has been made to date, this timeframe is deemed achievable by the Councils.

Table 1.8 Procurement Timetable

| | Stage | Date |
|---|---|----------------|
| 1 | Submission of OBC to DEFRA | September 2006 |
| 2 | OBC approval | January 2007 |
| 3 | OJEU notice published | February 2007 |
| 4 | Information Pack and PQQ issued | March 2007 |
| 5 | Issue Invitation to Participate in Dialogue | July 2007 |
| 7 | Call for Final Tenders | November 2007 |
| 8 | Announce Preferred Bidder | June 2008 |
| 9 | Contract sign-off | November 2008 |

Strategic context

2.1 Profile of York and North Yorkshire

2.1.1 North Yorkshire

North Yorkshire is England's largest County and is home to around 576,000 people in an area covering about 2 million acres. The population is rapidly growing – it increased by 0.5 per cent per year between 1991 and 2001. At only 0.7 persons per hectare, the County is one of the most sparsely populated areas in England. The County Council was responsible for the management of 384,620 tonnes of municipal waste in 2005/06, achieving a recycling rate of 29.5%.

The area is largely rural, with Harrogate and Scarborough being the only towns above 20,000 in population. The County includes the North York Moors and the Yorkshire Dales National Parks, the whole of two areas of Areas of Outstanding Natural Beauty and part of a third, together with 244 Sites of Special Scientific Interest ("SSSI"). In addition, the County has 45 miles of coastline which forms its eastern boundary.

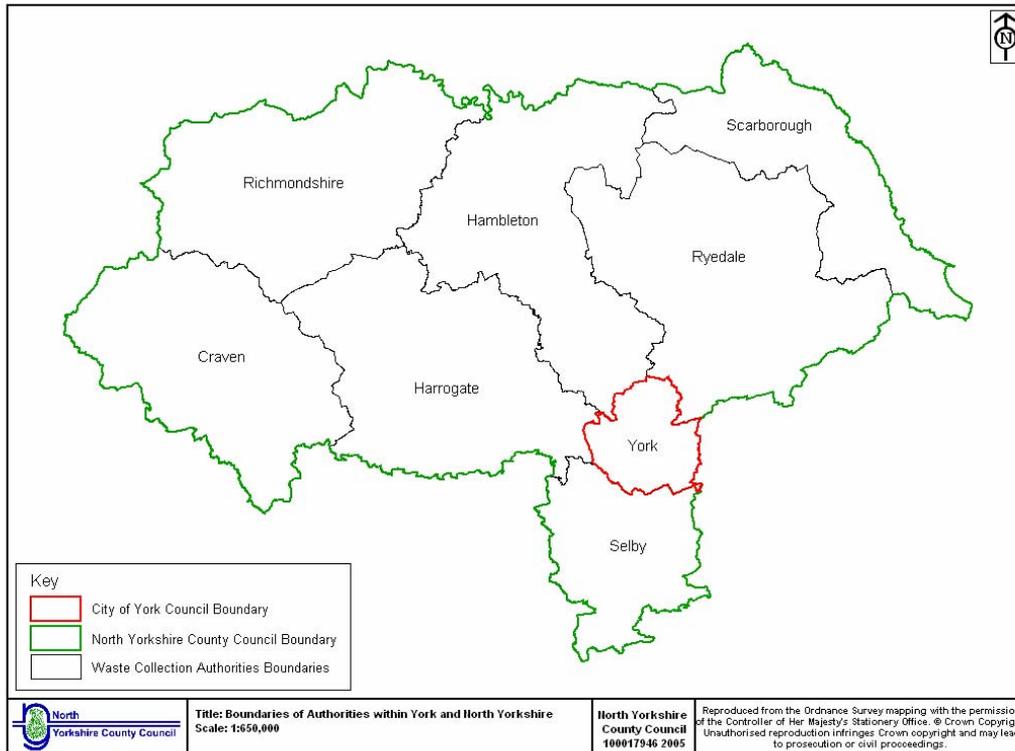
The area overall is above average in affluence compared to the rest of England, with all districts, except Scarborough, being above average. Unemployment is below the national average. The mix of employment sectors is similar to the national average, though with more employed in distribution, hotels and restaurants and fewer in the financial sector. Tourism, providing 12% of jobs and agriculture at 3%, are important sectors. The area is well served for communications, with the East Coast Main Rail Line, the A1 and the M62 running through the County.

The County Council area is two tier with 5 Districts – Craven, Hambleton, Richmondshire, Ryedale and Selby, and 2 Boroughs – Harrogate and Scarborough. A map of the North Yorkshire Districts and Boroughs and the City Council is shown in Figure 2.1.

Waste in North Yorkshire is currently managed through 20 HWRCs and 2 MRFs with disposal of residue to 9 landfills, 75% of the waste is dealt with by the WCAs with 25% through the HWRCs.

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Figure 2.1 Map of North Yorkshire and City of York



2.1.2 City of York

The City Council is a Unitary Authority ('UA') in the north of England covering approximately 105 square miles with a population of around 185,000 (rising by 9.1% between 1991 – 2001 and expected to rise further by 4.2% between 2001 – 2011). Population density in York averages 670 people per square mile compared to an average of 323 in the region and 380 for England.

York is identified as part of the Leeds City Region and also is part of a wider 'York sub area' which covers the City of York and its wider hinterland or 'area of influence'. This includes up to Malton, some of the East Ridings, west to the A1 and south to Selby. The nearest towns are Selby (14 miles), Harrogate (21 miles) and Malton (19 miles) and the cities of Leeds (24 miles) and Hull (37 miles).

The City Council area is made up of the historic city centre and the surrounding urban area along with a number of villages, semi-rural settlements and surrounding countryside.

York can be reached directly by rail from London, Edinburgh, Glasgow, Birmingham, Bristol, Leeds, Manchester, Newcastle, Nottingham, Liverpool and Manchester International Airport. York has excellent motorway links to all regions of the UK. Situated midway between Edinburgh and London, just 20 minutes from the M1/M62 motorway network, York is within comfortable travelling times of most regions in the UK.

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The City Council as a UA, has responsibility for both the collection and disposal of waste, and in 2005/06 managed 120,870 tonnes of municipal waste and achieved 24.1% recycling, providing services to 81,217 households in the City of York area.

The City of York covers an area of approximately 27,200 hectares. The majority of the population resides within the urban area, the remaining being located in the numerous villages surrounding the City. The City is divided into 22 administrative Wards. The main landfill site is Harewood Whin, located just outside Rufforth village and the MRF at Hessay Industrial Estate is located within the Upper Poppleton Ward on the west of the City. There are three Household Waste Recycling Centres (“HWRCs”) in York, at Beckfield Lane (Acomb Ward), Towthorpe (Strensall Ward) and Hazel Court (Heworth Ward) - above the national average coverage of HWRCs for the population. There are also over 60 bring recycling sites across the city.

The City Council underwent a Best Value review of its waste management service in September 2004 which recommended that it develop a fully costed waste strategy to achieve its objectives. Subsequently, the City Council has developed a revised waste strategy and a series of seven action plans for the service designed to address this shortcoming. Approval of several of the action plans has been received and work is progressing well to achieve the desired outcomes.

2.2 History of the Partnership

The County Council as a WDA and the City Council as a UA have a statutory duty under the EPA and its attendant subordinate legislation to make arrangements for the disposal of municipal waste collected by the WCAs within their area. Within North Yorkshire, waste is collected by the seven District and Borough councils as WCAs, whose functions as a WCA are governed by section 48 of the EPA. The City of York, as a UA, also has responsibility under section 48 for waste collection within its area.

An assessment of options and alternatives for joint procurement (between the City Council and the County Council, and between the County Council and the WCAs) has been carried out and determined that joint working is most cost effective across the county area and also provides most benefit to all partners (eg security of markets for recycle). This is largely as a result of economies of scale but there are also added advantages in that a consistent service can be offered to residents of the county area and there can be better integration of collection, recycling, recovery and treatment processes

The decision to pursue a joint procurement between the City and County Council was influenced by the benefits outlined above but also by a number of other factors. These included the shared ownership of the Local Authority Waste Disposal Company (“LAWDC”) (Yorwaste Limited) and the geographical issues of proximity of the Councils to one another and the local availability of landfill sites. Other options within the region and beyond were explored but did not offer the more obvious benefits and synergies afforded by the Partnership.

Evidence of the Councils’ decision to pursue a joint procurement can be found in Appendices 1a, 1b and 1c.

Strategic Context

Following the decision to manage services across north Yorkshire on an integrated basis, the County Council, City Council and the seven District and Borough councils have now been working together on waste management issues under the banner of the York and North Yorkshire Waste Partnership (“the Partnership”) since 1999. The Partnership has a track record of achievement, for example developing and adopting a JMWMS containing a range of targets and commitments for the Partnership. The JMWMS was adopted in 2002 following a joint consultation with over 300,000 residents. The JMWMS has been revised in accordance with the latest Defra municipal waste management strategy guidance; this updated version was adopted by all authorities in July 2006.

It is fully recognised by the Councils that whilst the District Councils would not be formal partners to the contracts being procured by the County Council and City Council to deliver waste management services, they nevertheless have a vital role in their operation and successful delivery. In 2004, the North Yorkshire authorities began to formalise their partnering arrangements through the adoption of a Statement of Agreed Principles (“SOAP” see Appendix 2); which defines the principles that will guide future joint working between the partners.

To this end, much work has been carried out to build on the existing SOAP and to develop the details of the SLAs between the County Council and each WCA. Representatives of the WCAs are fully involved in the procurement process. In addition to this, the officers of the Councils have each agreed to support the development and agreement of documents in a timely manner, to ensure that the procurement process for the provision of the necessary long term infrastructure is not adversely affected.

Relationships with the WCAs have been managed through the following structure:

- **York and North Yorkshire Waste Partnership (Members):** Chaired by the County Council’s Executive Member for Environmental Services with Portfolio for Waste, this is a joint panel of elected members from all nine authorities (including the City Council). It meets quarterly and receives proposals from the Officers group (see below). It does not currently have any executive powers but it has a vital role in securing support across all nine authorities.
- **York and North Yorkshire Waste Partnership (Officers):** Chaired by Harrogate Borough Council’s Head of Environment, this is the grouping of all Directors or Head of Service at each of the nine authorities with responsibility for waste in North Yorkshire and York. It meets bi-monthly and identifies all issues, finds solutions and implements change for the Partnership.
- **Waste Minimisation and Recycling and Campaigns Group:** Chaired by the County Council’s Waste Minimisation and Outreach Manager, this is a group of recycling and waste minimisation officers from each authority. It meets quarterly and takes on the practical implementation of all minimisation, reuse, and recycling initiatives and campaigns.
- **Waste Operations Group:** Chaired by the County Council’s Waste Contracts Manager, this is a group of officers responsible for waste operations from each authority (including the City Council). It meets quarterly and responds to policy or legislative drivers which result in a need to change operational methods across the County.

Strategic Context

- **PFI Project Management Group:** Chaired by the Project Manager, the group consists of the core project team including North Yorkshire officers, City of York Officers, advisors to the project and representation from the Partnership/Districts. The group meets monthly and is responsible for the day-to-day management of the project. Its activities are directed and controlled by the Project Board which (through the chairmanship of the Project Owner) provides a link to the Strategic Project Board.
- **Strategic Project Board:** This group consists of the Chief Executives and Financial Directors of the County Council and the City Council and is responsible for the overall strategic direction of the project.

There have been some changes to the Waste Minimisation and Recycling Group and Waste Operations Group as a result of Partnership development work and there is further need to prepare for the PFI Contract and ensure that the new arrangements account for policy and strategy issues at a practical level.

Each of the Councils recognises the importance of joint or collaborative working and the benefits this can bring and are keen to enhance this wherever possible. To this end, the Councils have developed and agreed a decision-making framework which will underpin the procurement of the PFI Contract (details of which are included in Section 7.10). It is intended that the County Council will act as the lead authority for this procurement.

2.3 Joint Municipal Waste Management Strategy

The original JMWMS entitled “Let’s Talk Rubbish!” was agreed by all York and North Yorkshire authorities in 2002 and was based on encouraging waste reduction and maximising recycling. However, with increasing integration of waste service across the County and in response to impending national and European legislation the Partnership expressed a collective desire, in 2004, to review, update and revise the JMWMS to cover the period to 2026. Various pieces of work were undertaken to inform a common set of objectives and targets which form the basis of the revised strategy. This included a BPEO appraisal for residual waste management, wide stakeholder dialogue and public consultation, all of which were incorporated into the revised JMWMS which was adopted in July 2006. A copy of the revised JMWMS can be found at Appendix 3. The main key objectives and targets being:

Objectives

- To reduce the amount of waste produced in York and North Yorkshire so as to make us one of the best performing areas in the country by 2013 – (currently York and North Yorkshire residents produce more waste per person than in most other areas). By 2008, we aim to produce less per person than the average for England and Wales;
- To promote the value of waste as a natural and viable resource, by:
 - Re-using, recycling and composting the maximum practicable amount of household waste;
 - Maximising opportunities for re-use of unwanted items and waste by working closely with community and other groups; and

Strategic Context

- Maximising the recovery of materials and/or energy from waste that is not re-used, recycled or composted so as to further reduce the amount of waste sent to landfill.

Waste Reduction Targets

- Contain average household waste arisings so that residents of the Partnership area generate less per head than the average for Shire counties by 2008;
- To be amongst the lowest 25% of these by 2013; and
- Specifically, annual average growth per head is to be reduced to zero % by 2008. These targets are supported by a revised Waste Minimisation Strategy developed in parallel with this Strategy, to help to tackle the problem of waste growth.

Recycling and Composting Target

- To recycle or compost 40% of household waste by 2010, and 45% by 2013 and 50% by 2020.

Diversion target and technology

- To divert 75% of municipal waste from landfill by 2013.

The results of the public consultation carried out on these targets are analysed in Section 2.4 below.

2.4 Public consultation

The nine councils of York and North Yorkshire have carried out a number of joint consultation exercises, including:

- The JMWMS (Summer 2001);
- The BPEO process (throughout 2004 and 2005);
- HWRC policy including recycling priorities; and
- The revised JMWMS in December 2005.

Within North Yorkshire, an extensive consultation was carried out through the Citizen's Panel in 2004 on waste issues to confirm the Partnership's vision and objectives and to identify priorities.

In York, a range of consultations have been undertaken at a local level covering a number of waste management issues including satisfaction with services, trends in use of recycling services and facilities, suggestions for new services/improvements etc.

In general, the public has been receptive to both the Councils' proposals for waste minimisation and increased recycling and has shown increased awareness of the Councils' initiatives for achieving these objectives.

As part of the major consultation undertaken on the revision of the JMWMS for York and North Yorkshire, the public has been engaged via continuous stakeholder consultation and by issuing a leaflet to every house in the strategy area at the end of

Strategic Context

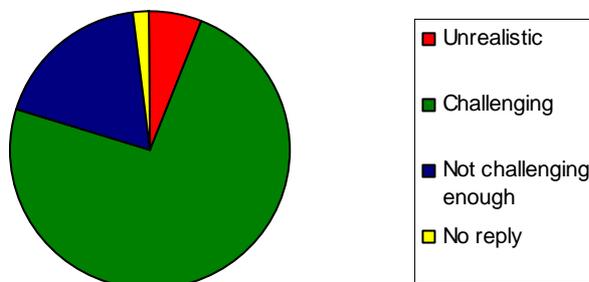
November 2005. The leaflet summarised the main strategic challenges and asked residents for their comments on a number of key waste issues facing the Councils. In addition, a comprehensive consultation document was available along with a summary document, the latter being sent out to a number of consultees including, amongst other stakeholders, parish councils. The consultation process was completed in January 2006. A copy of the questionnaire sent out by the County Council and City Council can be found in Appendices 4 and 5, respectively. The key issues consulted on included:

- The Partnership's vision, aims and objectives;
- Waste reduction targets;
- Revised recycling and composting targets;
- Residual waste treatment technology; and
- Numbers of facilities, cost and environmental impact.

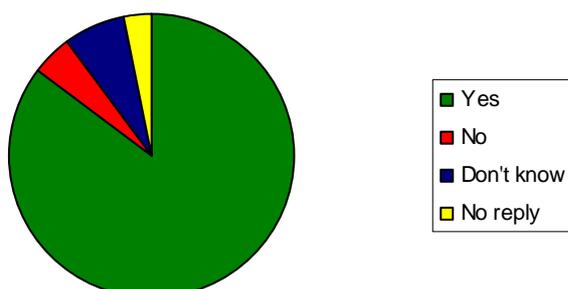
A summary of the results of the consultation is set out in figure 2.2 below.

Figure 2.2 Public consultation results

1) Do you think that the targets to produce less waste per head than the average for England and Wales by 2008, and be amongst the best by 2013 are:

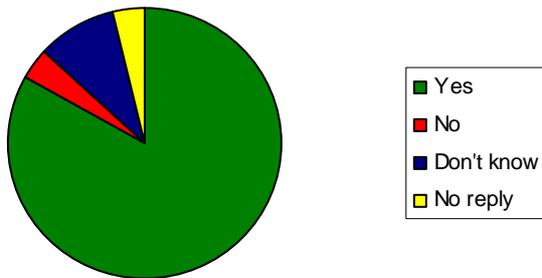


2) The Partnership's vision is to 'work with the community and stakeholders of York and North Yorkshire to meet their waste needs and deliver a high quality, sustainable, customer-focussed and cost-effective waste management service'. Do you think this vision sets out what we should be aiming to achieve?

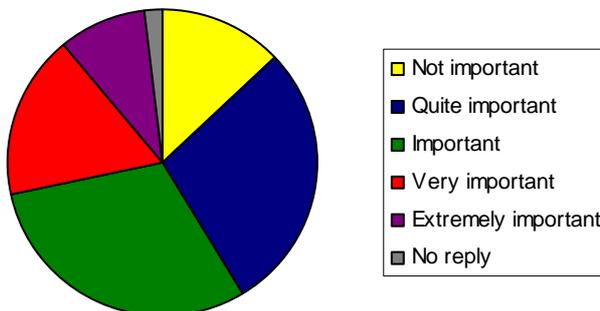


Strategic Context

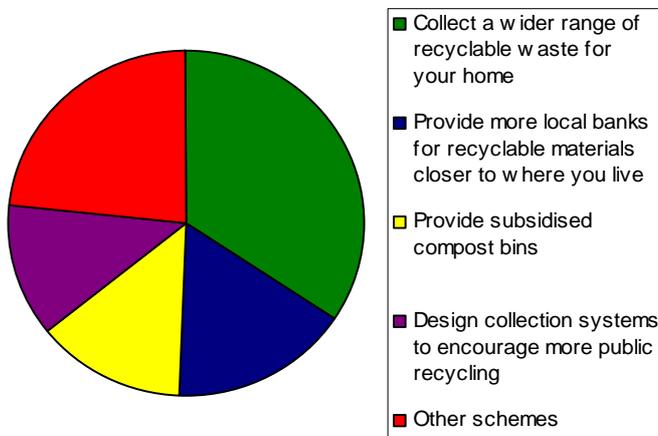
3) Do you think the Partnership's aims and objectives described in this leaflet are the right ones?



4) This year we expect to recycle about 26% of our household waste. We know that it will be cost effective to recycle up to 50%. More than that becomes increasingly expensive. Given the environmental benefits of recycling, how important should cost be in deciding how much we recycle?

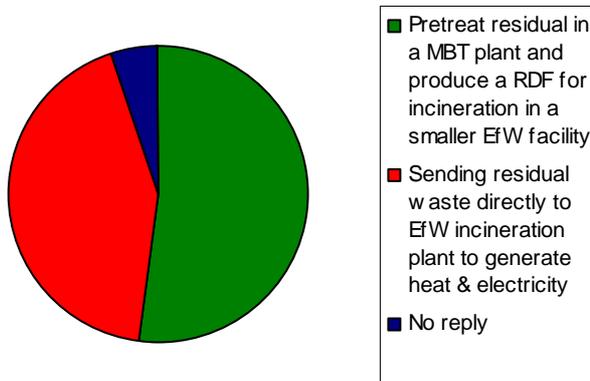


5) What should we be doing to help you recycle and compost more?

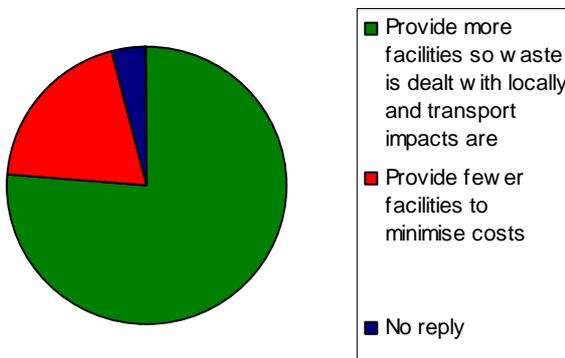


Strategic Context

6) Which option do you consider offers the best solution taking into account cost and environmental impact:



7) By working together as a Partnership, waste will need to be transported across local authority boundaries to a number of waste treatment facilities. A small number of facilities (one or two) is likely cheaper, but means that the facilities will be bigger than if we had three. Should we...?



The response rate was not as high as it has been in previous cases but it is still statistically significant and therefore relevant to the process. Broadly speaking, there is clear and overwhelming support for the strategy, its aims, targets and the profile of the support is consistent across the region. In terms of technology choice, the picture is slightly less clear. This will be subject to further consultation as the project moves through the procurement phase and market preference becomes more evident.

2.5 Drivers for change

In order to achieve the objectives of the JMWMS and meet the aspirations of the residents of York and North Yorkshire, there is a clear need for greater investment in waste management infrastructure and services. The emergence of key legislation in recent years underpins the strategic context within which the Reference Project has been developed, and concentrates the need for investment and improvement in both Councils' waste management services. In particular, recent government policy is promoting the use of Energy from Waste as a significant part of the national plan to meet EU targets.

Strategic Context

2.5.1 Waste Strategy 2000

Waste Strategy 2000 (“WS2000”) sets out the UK Government’s vision for delivering sustainable waste management in England and Wales. It sets the following national targets for the recycling and recovery of waste:

National Recycling Targets

- 25% of household waste to be recycled or composted by 2005;
- 30% of household waste to be recycled or composted by 2010; and
- 33% of household waste to be recycled or composted by 2015.

National Recovery Targets (includes recycling and composting)

- 40% of municipal waste to be recovered by 2005;
- 45% of municipal waste to be recovered by 2010; and
- 67% of municipal waste to be recovered by 2015.

Within WS2000 the Government established national waste recovery and recycling and composting targets. These targets have been supplemented by statutory performance standards for recycling and composting (BVPI 82a + b) for each local authority, for the years 2003/04 and 2005/06, to ensure that the 25% recycling and composting rate is achieved across England as a whole. The Strategy Unit Report 2003 (“SU 2003”), “Waste not, Want not” has also provided a framework for the development of medium term waste management targets, proposing stretch recycling targets for 2010 and 2015 of 35% and 45% respectively. To ensure further progress towards the WS2000 target of 30% by 2010, the Government has consulted on statutory performance standards for 2007/08. The Government response to the consultation states that it will adopt consultation ‘Option 3’. This option is:

“Set standards in 2007/8 for all local authorities equal to the level of their targets in 2005/6, except for those local authorities with a target of 18% in 2005/6 who would be required to raise their performance to 20%”. (Richmondshire, Scarborough, Selby and York had 2005/06 targets of 18%).

Capping at 30% - authorities who were originally given a target of over 30% for 2005/6 will be capped at 30% for 2007/8. (Ryedale had a 2005/06 target of 33%).

Alongside this, a review of WS2000 is being carried out which will consider the future direction of local authority and wider waste streams, including the role of statutory targets.

2.5.2 European Union (“EU”) Landfill Directive 1999

Within WS2000 the Government confirmed its commitment to achieving the BMW targets set out in the European Union (“EU”) Landfill Directive 1999. These challenging targets aim to reduce the amounts of BMW sent to landfill by each of the member states to:

- 75% of that produced in 1995 by 2010;

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- 50% of that produced in 1995 by 2013; and
- 35% of that produced in 1995 by 2020.

These targets include for the 4 year derogation period allowed to the UK due to its heavy reliance on landfill at the time the targets were set.

2.5.3 Waste Emissions and Trading Act 2003

In 2003, the UK Government enacted the Waste Emissions and Trading Act 2003 (“WET Act”) which is now viewed as the key driver for change in national waste management practice. The WET Act has set allowances for each authority for the amount of BMW that can be sent to landfill by each WDA for every year up to 2020, based on the challenging levels of reduction outlined in the EU Landfill Directive. The allowances for most authorities reduce annually from 2005/06 to reflect the national targets. Allowances can be traded between WDAs to provide flexibility in the way the obligations are met in accordance with the LATS. Authorities who landfill more waste than they have allowances for will have the option of buying allowances at the market price (subject to their availability) or incurring a penalty of £150 for each tonne in excess of their allowance. If the Country as a whole exceeds the amount permitted to be landfilled, it is the intention of Government that failing authorities also have to pay their share of the penalty that will be applied to the UK by the EU. Coupled with the implications of escalating Landfill Tax rates and the pressure for efficiency savings required under the Gershon agenda, management of landfill allowances is a key driver for the waste service.

The risks of failing to reduce the Councils’ reliance on landfill in accordance with the provisions of the WET Act are therefore extreme. In light of this, the provisions of the WET Act together with the increasing rates of Landfill Tax should make options such as recycling, composting and treatment, more cost effective than landfill disposal. The Councils have developed a LATS strategy to mitigate the risks of the LATS scheme, details of which can be found in Section 7.7h.

2.5.4 Sustainable Development

The UK Government identifies five principles of sustainable development:

- Living within environmental limits;
- Ensuring a strong, healthy and just society;
- Achieving a sustainable economy;
- Promoting good governance; and
- Using sound science responsibly.

Living within environmental limits means respecting the planet’s natural resources and making sure we manage and protect them for future generations. Unfortunately, our inefficient consumption patterns result in the production of waste, which the Reference Project as a whole is seeking to manage more sustainably. The Partnership authorities are implementing waste minimisation, recycling and composting initiatives and have a common objective of achieving an overall recycling rate of 50% by 2020. For the remaining waste, treatment technologies will be required to ensure the LATS targets

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are met and energy recovery is optimised. These combined efforts will reduce the burden of waste on the environment, recovering material resources & energy and reducing carbon emissions.

2.5.5 Household Waste Recycling Act

In addition to the WET Act which principally affects WDAs, a measure aimed at improving WCA recycling performance was also introduced in 2003. The Household Waste Recycling Act received Royal Assent in November 2003 and requires all English WCAs to provide kerbside collections to all householders for a minimum of two materials by 2010. The two materials must be collected separately at the kerbside and not separated later from residual waste. This means that investment in either collection or sorting infrastructure in an area such as North Yorkshire and York will be needed to ensure that this requirement can be fulfilled. By working together, the Councils intend to fulfil this duty without the need to take significant advantage of the derogation which could be applied for whilst providing ‘comparable’ recycling facilities, such as a bring bank or civic amenity site within 100 metres of the household not served by a kerbside collection.

The Joint Municipal Waste Strategy identifies the intention of the Councils, together with the District and Borough Councils, to collect paper, magazines, card, plastic bottles, glass and cans from all suitable households by 2010. In accordance with the SOAP between the County and District Councils, the cost of fulfilling each Council’s statutory duties in respect of this duty will be met by each Council separately. However, the County Council will provide the opportunity for reducing costs by procuring MRF capacity on behalf of all the WCAs wishing to collect dry recyclables for later separation. The SLAs between the County Council and the associated WCAs commits the parties to meeting minimum performance obligations and provides an incentive system to share avoided LATS costs where WCAs exceed their minimum standards as described in Section 7.7.f.

2.5.6 Clean Neighbourhoods and Environment Act 2005

The Clean Neighbourhoods and Environment Act (“CNEA”) 2005 has also impacted on both collection and disposal authorities in a number of different ways. Most pertinently, the 2005 Act repeals the requirement in section 32 of the EPA 1990 for WDAs to divest their waste disposal function. Section 47 of the CNEA 2005 commenced on 18 October 2005 and has specific interest to the Councils in terms of their relationship with and the future role of the jointly-owned LAWDC, Yorwaste. The Councils have decided that Yorwaste will not be involved in the process of bidding for residual waste treatment services. The Councils are under a duty to demonstrate their waste services deliver Best Value and achieve effective performance management and continuous improvement in line with their responsibilities under the Local Government Act 1999. As a consequence, waste reception, acceptance, treatment and disposal contracts are likely to continue to be procured through a competitive tendering regime that complies with all EU requirements.

Strategic Context

Table 2.1 below sets out the Partnership’s JMWMS targets to aid comparison of how these relate to the national waste strategy targets as set out in table 2.2 (there are no statutory targets for the County Council or City Council in partnership):

Table 2.1 Partnership waste targets (July 2006)

| Local | 2005/06 | 2009/10 | 2012/13 | 2019/20 |
|--|---------|---------|---------|---------|
| Household waste recycling and composting (BV82a + BV82b) | N/A | 40% | 45% | 50% |
| Landfill allowances (tonnes of BMW) | 286,342 | 188,241 | 125,382 | 87,734 |

Table 2.2 Waste Strategy 2000 targets

| National | 2005/06 | 2009/10 | 2014/15 | 2019/20 |
|---|---------|---------|---------|---------|
| Recovery of MSW ² | 40% | 45% | 67% | 67% |
| Household waste recycling and composting (WS2000) | 25% | 30% | 33% | 33% |
| Household waste recycling and composting (SU2003) | N/A | 35% | 45% | 45% |

2.5.7 Energy Policy

There is now overwhelming scientific opinion that greenhouse gas emissions from human activities are raising the Earth’s temperature. In the White Paper ‘Our Energy Future - Creating a Low Carbon Economy’ (2003), the Government set out a long-term strategic vision for energy policy combining environmental, security of supply, competitiveness and social goals. The incineration of RDF and residual MSW offer considerable climate change benefits, principally by avoiding methane emissions from landfill, a significant greenhouse gas. This will also displace the use of fossil fuels used in conventional power generation. Should a facility be located near suitable industrial and commercial premises then there will be opportunities to further increase overall energy efficiency by supplying heat as well as electricity directly to end-users.

2.6 Legal Powers

The County and City Councils are both WDAs for their respective areas for the purposes of Part II of the EPA and the City Council is also a WCA for the purposes of the EPA. The vires context in which this procurement is being conducted is as follows:

By virtue of s51(1) of the EPA both the County Council and City Council are under a duty to arrange for the disposal of the controlled waste collected in its area by the waste collection authorities.

In statute, the duties, under s51 of the EPA, on an authority are often referred to as its functions, and in the context of considering the powers of an authority “functions” refers

² Municipal Solid Waste, in this context recovery includes recycling, composting, other material recovery (e.g. anaerobic digestion) and energy recovery.

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to the multiplicity of specific statutory activities an authority is expressly or impliedly under a duty to perform.

S 111(1) of the Local Government Act 1972 provides:

“Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do anything ...which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.”

The provisions of s111 of the Local Government Act 1972 (“LGA”) are generally taken as an authority that a waste disposal authority has power to enter into a long term waste disposal contract. However the matter is further addressed by the provisions of s1 Local Government (Contracts) Act 1997 (“LG(C)A”) which provides:

“(1) Every statutory provision conferring or imposing a function on a local authority confers power on the local authority to enter into a contract with another person for the provision or making available of assets or services, or both, (whether or not together with goods) for the purposes of, or in connection with, the discharge of the function by the local authority”

A long term waste disposal contract would be a contract [between the Councils] and another person for the provision...of...services...for the purposes of, or in connection with, the discharge of the function (or duty) imposed on the Councils by s1 EPA and accordingly, by virtue of s1 LG(C)A, the Councils would have power to enter into a long term waste disposal contract.

If there were any further doubt as to the power of the Councils to enter into a long term waste management contract then, subject only to the obligation to have regard to the relevant Council’s community strategy, the Councils would have power under Part I Local Government Act 2000. However, in the light of the express power conferred by s1 (1) LG(C)A the well-being powers are not further considered.

It should be noted that the exercise of the power to enter into a long-term waste disposal contract does not absolve the Councils of their obligation to comply with the general law whilst exercising that power. In particular, but without limitation, the Councils need to keep in mind their obligations as ‘best value’ authorities (under the Local Government Act 1999) the need to comply with their own constitutional procedures (and in particular those relating to the award of contracts) as well as the general law on procurement (and in particular (when implemented) the new public procurement regime).

As stated earlier in Section 2.5.6 (Drivers for Change), until recently s32 and Part 2 of Schedule 2 EPA prohibited waste disposal authorities from discharging their waste disposal functions otherwise than through the use of a third party waste disposal contractor. Those provisions have been repealed following the commencement of s47 CNEA 2005.

Whilst the two-tier nature of local government in North Yorkshire prevents the inclusion of some services, such as collection, within the proposed contract, the County Councils has the power of direction (should this become necessary) under the WET Act 2005, to ensure that the WCAs meet the input specification for the MSW provided to the PFI contractor.

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2.7 Conclusions

In summary, the Councils recognise that each of these strategic considerations and legislative responsibilities are key drivers for the services they provide which now require a programme of investment and continual improvement that they aspire to deliver through the proposed contract(s). The Partnership has now developed a joint strategy designed to provide the required guidance to further develop and strengthen the County's waste management service through to 2026. Implementation of the joint strategy will be facilitated through the strength of the partnering arrangements between the County Council, City Council and District and Borough Councils. It is against this backdrop that the Councils have developed the JMWMS and this OBC.

Analysis of Existing Service Provision

This section provides an analysis of the existing waste management service provision arrangements for the Partnership authorities, including collection, disposal, recycling schemes and waste minimisation initiatives. In addition, waste arisings, growth rates and current recycling, composting and diversion performance are also discussed.

3.1 Analysis of Waste Arising

3.1.1 Waste Growth

Statistics relating to waste arisings and growth in the City and the County over the last few years are shown in the table below:

Table 3.1 Historic waste arisings

| Description | Authority | 2000/01 | 2001/02 | 2002/03 | 2003/04 | 2004/05 | 2005/06 |
|--|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Total amount of household waste (tonnes) | City Council | 93,020 | 96,860 | 98,870 | 98,610 | 100,670 | 97,560 |
| | County Council | 311,942 | 327,537 | 327,821 | 327,448 | 335,911 | 328,750 |
| | TOTAL | 404,962 | 424,397 | 426,691 | 426,058 | 436,581 | 426,310 |
| Growth in total household waste (%) | City Council | (0.94) | 4.13 | 2.08 | (0.26) | 2.09 | (3.09) |
| | County Council | 4.46 | 5.00 | 0.09 | (0.11) | 2.58 | (0.83) |
| | TOTAL | 3.17 | 4.80 | 0.54 | (0.15) | 2.47 | (2.35) |
| Household waste collected per head (kg/head) | City Council | 523 | 540 | 545 | 541 | 547 | 527 |
| | County Council | 543 | 570 | 575 | 571 | 583 | 571 |
| | AVERAGE | 538 | 563 | 567 | 564 | 574 | 560 |
| Growth per head (kg/head) | City Council | Not known | 3.27 | 0.94 | (0.85) | 1.09 | (3.61) |
| | County Council | 3.59 | 4.99 | 0.88 | (0.61) | 2.03 | (0.12) |

From this it can be seen that waste growth for North Yorkshire and the City of York between 2000 and 2005 was variable, but on average circa 1% per annum. Although the figure for 2005/06 shows negative waste growth, the Councils do not view this as being sustainable, particularly given the Councils' assessment of population growth, and have incorporated a more realistic reducing scale of waste growth into their models for future waste services. This reflects waste growth assumptions incorporated in the regional waste strategy. The variations in waste growth have been as a result of a

Analysis of Existing Service Provision

number of factors including seasonal variations, introduction of waste initiatives and improved recycling and composting performance (e.g. home composting take-up).

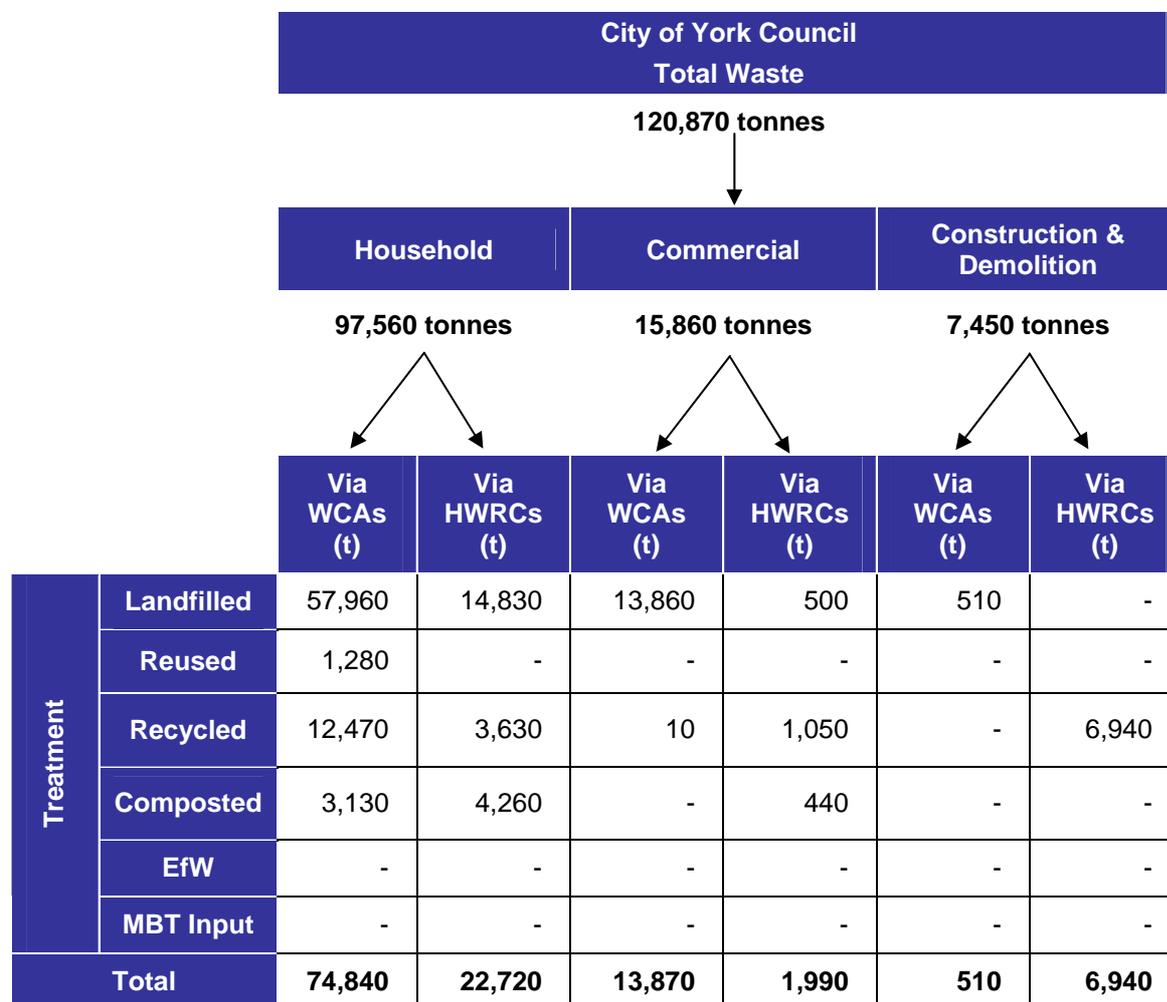
It is anticipated that future waste figures will be influenced by changes in population, changes in waste generation per household as well as the increased effectiveness of waste minimisation measures at a national and local level. Taking these factors into account and having regard to planned investment in waste minimisation and education programmes over the next 3 years, it is considered that growth rates over the contract period are likely to be 2% p.a. to 2007/8. As national and sub-regional waste minimisation initiatives and also measures as part of this contract begin to take effect, waste growth will fall to 1% in the period to 2010/11 with a further decrease to 0% p.a. from 2012/13 onwards. Whilst the JMWMS includes an aspirational target of 0% waste growth by 2007/08, this figure does not take into account population growth and thus is broadly consistent with the predicted growth rate of 2%. Population and waste growth per head of population have been rolled into the overall waste growth projections. Therefore 0% waste growth in 2013 will in effect mean a waste reduction per head of population if the population continues to rise. This fits with the objective of reducing waste arisings per head of population to achieve the lowest quartile of Shire counties by 2013.

We set out below a summary of the tonnages handled by the Councils in 2005/06:

Table 3.2 Summary of waste tonnages handled in 2005/06 by Council

| | | North Yorkshire County Council Total Waste | | | | | |
|-----------|------------|---|---------------|---------------|---------------|---------------------------|---------------|
| | | Household | | Commercial | | Construction & Demolition | |
| | | 328,750 tonnes | | 36,262 tonnes | | 19,608 tonnes | |
| | | Via WCAs (t) | Via HWRCs (t) | Via WCAs (t) | Via HWRCs (t) | Via WCAs (t) | Via HWRCs (t) |
| Treatment | Landfilled | 172,119 | 40,560 | 35,857 | 405 | 799 | 13,157 |
| | Reused | 935 | 981 | - | - | - | - |
| | Recycled | 36,622 | 16,231 | - | - | - | 5,652 |
| | Composted | 30,251 | 13,712 | - | - | - | - |
| | EfW | 2,856 | 514 | - | - | - | - |
| | MBT Input | 13,969 | - | - | - | - | - |
| Total | | 256,752 | 71,998 | 35,857 | 405 | 799 | 18,809 |

Analysis of Existing Service Provision



3.1.2 Waste Composition

The waste composition for the area has been determined from a survey undertaken by Measurement Evaluation Learning Research Limited (“MEL”) in March 2004. However, as the data was collected over a short period of time, it may not be an accurate representation of the actual waste composition for North Yorkshire and York over a longer period. In particular, the compositional analysis appeared to contain a higher proportion of putrescible waste than would be expected. As a result of this, further waste compositional analyses are planned for the next 12 months so that results over four seasons can be supplied to tenderers. This will enable bidders to base their proposals on more accurate data

To assist with funding this additional work, Defra has awarded the Councils £95,000 under the Waste Implementation Programme's Local Authority Support for 'Waste Composition Study' to carry out a Waste Composition analysis. The analysis is due to be carried out in Autumn 2006 will deliver the following key outcomes:

- Baseline data that will inform the joint PFI procurement process;

Analysis of Existing Service Provision

- Provide collection authorities with waste composition information that will inform their future waste collection strategies; and
- Provide a basis from which a future waste composition strategy can be developed by individual collection authorities and the Partnership.

A comparison of the composition of York and North Yorkshire waste was made with National (Waste Not Want Not) Waste Composition (“NWC”) analysis data. This indicated that using the NWC data in the waste flow modelling would result in more than 5% increase in recycling rates above those indicated by using the MEL waste composition data. The model showing the results using the NWC analysis data (which also incorporates the 2005/06 actual data) can be seen in Appendix 6 for comparison with the Reference Project waste flow model in Appendix 7.

3.2 Analysis of Current Waste Management Arrangements

3.2.1 Collection Service

The collection of residual waste on behalf of WCAs and the City Council is by Direct Labour Organisations/Direct Service Organisations (“DLO/DSOs”), with the exception of Selby DC who contract out their service. Recycling collections are carried out either by the DLO/DSOs or by a private sector provider. The City Council utilises kerbside sorting with the WCAs opting for a co-mingled collection to a greater or lesser degree. A summary of each WCA’s collection arrangements is set out in Appendix 8.

3.2.2 Best Value /Comprehensive Performance Assessment

An Audit Commission inspection of waste management services was carried out simultaneously across the Partnership in 2005, with the exception of Hambleton DC (an ‘excellent’ authority under Comprehensive Performance Assessment) and the City Council. The City Council underwent a Best Value review of its waste service in 2004. All but one authority were awarded a Good 2* rating with promising prospects for improvement. Both Selby DC and the City of York Council were given a Fair 1* rating.

The results of the Audit Commission inspection are set out in the following table:

Table 3.3 Audit Commission results

| | Audit Commission Result | |
|------------------|-------------------------|---------------------------|
| | Quality of Service | Prospects for Improvement |
| Craven DC | Good, 2 star | Promising |
| Hambleton DC | Not inspected in 2005 | |
| Harrogate BC | Good, 2 star | Promising |
| Richmondshire DC | Good, 2 star | Promising |
| Ryedale DC | Good, 2 star | Promising |
| Scarborough BC | Good, 2 star | Promising |
| Selby DC | Fair, 1 star | Promising |

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| | Audit Commission Result | |
|----------------|-------------------------|---------------------------|
| | Quality of Service | Prospects for Improvement |
| County Council | Good, 2 star | Promising |
| City Council | Fair, 1 star | Uncertain |

County Council

The County Council was awarded a Good 2* rating, namely, a “good service with promising prospects for improvement”. The areas of strength identified as part of the inspection were as follows:

- The aims of the service and its priority for the County Council are clear and consistent with resident’s views;
- The approach to selecting the BPEO for long-term waste treatment is considered open and inclusive;
- Support for community groups engaged in recycling is good;
- There is clear commitment amongst councillors and staff to improve the service;
- The service complies with the sound corporate performance management arrangements;
- The Council is tackling the weaknesses associated with the Waste Partnership.

However some of the less positive observations were that:

- Satisfaction with HWRCs is below average;
- The number of centres is good for the population overall but there is a shortage of capacity in the Harrogate area;
- Coordination of the development of district recycling and composting schemes across the county has not led to adoption of common waste streams that could reduce overall costs for collection and disposal; and
- Priorities within the service are not clear for all to see and follow.

City Council

The City Council was awarded a Fair* rating, namely, a “fair service with uncertain prospects for improvement”. Areas of strength identified included:

- Waste minimisation activity is having an impact and quantity of waste collected is reducing;

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- Recycling performance has shown sustained improvement and achieved the Governments Targets ahead of schedule and there are good participation rates;
- There are good relationships with the waste disposal contractor who is recycling using some innovative schemes; and
- Good partnership working with contractors and the County Council.

However some of the less positive observations were that:

- The York waste strategy is limited in its effectiveness;
- There is limited access to some services;
- Performance when compared to others is generally below average; and
- Performance management is weak.

A key area for improvement highlighted above was in relation to the City Council's internal waste strategy which was seen to be 'limited in its effectiveness'. Since the report the City Council reviewed its former strategy and completed a series of action plans designed to address the areas in need of improvement. Significant investment (see table 3.11) has been put into modernising the HWRCs and upgrading the contract for operating these sites. Fortnightly kerbside dry recycling service has been extended to 60,000 properties for glass, paper, and cans; plastic bottles are also collected from a proportion of these properties. This is being extended to include cardboard during 2006. In October 2005 a green waste collection service was implemented at 60,000 households. This is a fortnightly service which operates from March to November each year. During this period residual waste is also collected on a fortnightly basis at these properties. In the winter months of December to February the green waste collection service is suspended and residual waste collection reverts to a weekly service.

Selby District Council

Selby was seen to have very high quantities of waste collected for the size of the population. The District Council was unclear about the reason for this and was not considered to be taking effective action to reduce it or making effective use of the waste hierarchy to reduce landfill. There were also issues with regard to the cost of the service putting the District Council amongst the 25 per cent most costly councils, and the financial management is seen as an ongoing problem as budgets are often poorly set and over spent. There has also been a fall in general satisfaction with street cleanliness.

The District Council has reacted to this by introducing a side waste ban, and flat lid policy with regard to the high quantities of waste. Financial management is to be looked into to help make savings wherever possible, and budgets will be rebuilt to reflect more realistic targets. Cleaner streets are to be tackled by additional cleansing services and a greater public awareness programme.

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3.2.3 Recycling Performance

In 2005/06, 96,816 tonnes of material was collected for recycling and composting in North Yorkshire, with a further 23,490 tonnes in York. Of the total for North Yorkshire, 29,943 came from HWRCs in North Yorkshire and 66,873 from the WCAs and third parties. In the City of York, 7,890 tonnes arose from HWRCs and 15,600 tonnes were collected by the WCA and from third parties. This represents a recycling rate of 29.5% in North Yorkshire and 24.1% in York compared to 21.7% and 17.8% respectively in 2004/05.

Historically, WCA collection and recycling arrangements vary, reflecting their geography, demographics, housing type, economics etc, as well as the amount of funding secured from Defra to implement waste minimisation or recycling initiatives. However, there has been a consistent increase in recycling rates year on year (see table below).

North Yorkshire's BVPI 82a+b for recycling and composting in 2003/04 of 17.7% placed it in the bottom quartile for Shire Councils. However the 29.5% rate for 2005/6 (which significantly exceeded BVPI and LPSA targets) is likely to raise performance to levels approaching the national average for Shire councils. It is anticipated that based on 2004/2005 quartiles, the City Council's recycling and composting rates (16.5% and 7.6%, respectively) in 2005/06 would place it just outside the top quartile for each performance measure with both being above the national average. Recycling performance for the City and County Councils and each of the District and Borough Councils is summarised in the table below.

Table 3.4 Recycling and composting performance – BVPI 82 a + b

| | 2001/02 | 2002/03 | 2003/04 | 2004/05 | 2005/06* |
|--------------------------------|---------|---------|---------|---------|----------|
| Craven | 8.2% | 10.4% | 18.0% | 20.1% | 25.0% |
| Hambleton | 9.6% | 15.1% | 23.7% | 34.4% | 38.2% |
| Harrogate | 6.7% | 9.6% | 15.0% | 15.9% | 22.1% |
| Richmondshire | 6.9% | 7.04% | 10.1% | 12.0% | 22.4% |
| Ryedale | 9.0% | 10.0% | 14.7% | 25.4% | 43.2% |
| Scarborough | 8.6% | 9.3% | 12.4% | 14.9% | 17.5% |
| Selby | 10.2% | 11.4% | 12.2% | 14.7% | 25.5% |
| North Yorkshire County Council | 12.8% | 13.7% | 17.7% | 21.7% | 29.5% |
| City of York | 10.3 | 12.3% | 15.4% | 17.8% | 24.1% |

*Data for 2005/6 is provisional

The data set out in the table above shows the steady improvement the Partnership authorities have made in improving their recycling and composting performance over the past 4 years. The tonnage collected for recycling across the Partnership has increased substantially in the last 5 years, as shown in the table below.

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Table 3.5 Partnership recycling tonnages

| | 2000/01 | 2001/02 | 2002/03 | 2003/04 | 2004/05 | 2005/06 | 2006/07 * |
|--------------------------------|---------------|---------------|---------------|---------------|---------------|----------------|----------------|
| Craven | 2,177 | 2,302 | 2,532 | 4,527 | 5,585 | 6,637 | 7,000 |
| Hambleton | 2,784 | 3,050 | 4,749 | 6,997 | 11,158 | 13,655 | 14,907 |
| Harrogate | 3,491 | 3,629 | 5,025 | 8,187 | 8,939 | 12,193 | 12,363 |
| Richmondshire | 1,038 | 1,103 | 1,302 | 1,906 | 2,403 | 4,323 | 4,417 |
| Ryedale | 1,417 | 1,559 | 2,080 | 2,933 | 5,411 | 10,054 | 10,155 |
| Scarborough | 3,789 | 4,593 | 4,287 | 4,702 | 6,396 | 10,217 | 11,100 |
| Selby | 1,893 | 3,473 | 4,384 | 4,345 | 5,352 | 9,794 | 11,900 |
| North Yorkshire County Council | 10,324 | 15,550 | 19,935 | 24,494 | 28,341 | 29,943 | 33,128 |
| City of York | 9,120 | 10,010 | 12,180 | 15,210 | 17,890 | 23,490 | 35,740 |
| Total | 36,033 | 45,269 | 56,474 | 73,301 | 91,475 | 120,306 | 140,710 |

* anticipated tonnage; NYCC and CYC figures are HWRC tonnages only

3.2.4 Recycling Initiatives

Table 3.6, identifies the wide variety of recycling initiatives that have been employed across the Partnership to increase recycling and composting rates in order to meet the 2005/06 Statutory Best Value Performance Standards.

Defra have announced further statutory performance standards for 2007/8 in order to further increase recycling and composting. The 2007/8 targets will be equal to the level of the target in 2005/6 with the exception of authorities who had a target of 18% in 2005/06, who are required to raise their performance to 20%. The 2007/8 statutory performance standards for the Partnership authorities are therefore:

| Authority (2007/8) | Target |
|--------------------------------|---------------|
| Craven | 27% |
| Hambleton | 24% |
| Harrogate | 21% |
| Richmondshire | 20% |
| Ryedale | 30% |
| Scarborough | 20% |
| Selby | 20% |
| North Yorkshire County Council | 21% |
| City of York | 20% |

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However it is widely expected that higher performance standards will be set as a result of the review of WS 2000. This is expected to be confirmed towards the end of 2006.

The Partnership has set itself a long-term recycling target of 50% within the JMWMS. This means that the achievements of each Council need to continue to improve. The Partnership has spent a considerable amount of time determining it's best way forward against a background of different performance (actual and targeted); the need to work more closely together to realise Gershon savings; and the expectation from Government that authorities will work together (particularly in two tier areas).

Despite rising steadily, recycling across the Partnership will fall short of the long-term 2020 target of 50% set out in the JMWMS detailed in Section 2.3 of this OBC. Partnership members are working closely together to develop coordinated and integrated plans for the future including proposals to consolidate collection systems (see table 3.2). Much work has been carried out to determine the most cost effective collection methodology that will realise the high levels of recycling that the Partnership aspires to. The WCAs have now indicated that they are committed to providing the collection arrangements required to meet the recycling performance targets by collecting kerbside dry recyclate in a manner which meets customer requirements and the particular needs of that WCA. Decisions on methods and frequency of collection will be made locally by each collection authority but there will be quality standards and minimum tonnages that must be achieved in each case. This will be set out in the Service Level Agreements ("SLAs") that will be binding between the WDA and each WCA in the County area. Within the City Council, a similar SLA shall be in operation between the two functions.

Proposed collection arrangements within the Reference Project comprise a three stream collection system for green waste, dry recyclables and residual waste. As a minimum it is intended that paper/card, cans, glass and plastic bottles will be collected from every household where practical to do so. This will not only facilitate the achievement of the 50% recycling targets across the Partnership, but also assist the WCAs with their responsibilities under the Household Waste Recycling Act 2003 (which provides that by 2010 at least two materials are to be collected for recycling from every household in England and Wales).

The table below sets out the main actions already under way to improve recycling and composting:

Table 3.6 Recycling initiatives

| Council | Initiative |
|-----------------|---|
| North Yorkshire | Joint working incentives - funded by Defra (HIPS – Household Incentive Pilot Scheme). |
| | Availability of standard suite of recyclables at all HWRCs with an increased range where possible e.g. includes plastic bottles. Funded from landfill savings |
| | Redevelopment of existing HWRCs to increase recycling opportunities. Funded through capital investment |
| | Payment of Re-use and Recycling Credits to community groups. |

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| Council | Initiative |
|---------------------|--|
| | <p>Coordinated countywide home composting scheme</p> <p>Community Recycling Fund; pump-priming for community groups' set up costs. Funded by Waste Performance and Efficiency Grant ("WPEG")</p> <p>Inclusion of recycling targets at HWRCs as part of the new contract</p> <p>2 New posts funded by the County Council; Waste Campaigns Officer, Waste Minimisation and Outreach Manager</p> <p>Additional support from the Community Waste Management Officer funded by the County Council</p> |
| City of York | <p>Fortnightly kerbside recycling collections at 66,960 households in York (for paper, glass and cans, plastic bottles); Cardboard collections from 10,000 households (further expansion in 2006/2007)</p> <p>Household waste recycling centres – new split level site opened April 2006. Interim work at other two sites to facilitate split level operation with proposals for further development of these sites</p> <p>New green waste scheme to 60,000 houses – started October 2005, alternate weekly collections</p> <p>Provide and manage over 60 recycling sites including new recycling banks for plastic bottles and cardboard</p> <p>Aiming to increase number of recycling sites for cardboard to 7 over the coming months</p> <p>Funding provided for St Nicholas fields Community group to carry out kerbside recycling to a number of properties in York. Further expansion possible in Autumn 2006</p> <p>Joint work on incentives between 7/9 councils of York and North Yorkshire – with Defra funding</p> <p>Support and work with York Rotters to promote and facilitate home composting</p> <p>Payment of recycling credits to community groups</p> <p>Household waste recycling centres – minimum recycling performance required in contract, establishing a standard range of facilities for recyclables (expanding the range where possible).</p> |

As WDAs, the City and County Councils also plan improvements to their respective HWRCs to significantly increase the recycling rate achieved at each site. In North Yorkshire, this is through a contractual recycling target of a minimum of 50% by

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2006/07. This figure is likely to be further enhanced through incentive payments and potential penalty deductions.

In York, the contract for the management of HWRCs had been operating since 1998 and did not reflect the growing importance of the facilities in terms of the contribution they make towards statutory waste management targets for the recycling/composting of household waste and for the diversion of BMW from landfill. These factors have been taken into account in tendering the new City Council contract in 2005, which was awarded to Yorwaste for the period 20 June 2005 to 31 March 2015. The output specification;

- sets minimum recycling performance targets to be achieved (2005/06 - 45%, 2006/07 - 55%, 2007/08 and onwards - 60%);
- places more emphasis on customer care;
- seeks improvements to the infrastructure of facilities;
- seeks a more efficient waste handling and transport service;
- requires improved layout of facilities and signage; and
- places more emphasis on customer education and provision of information.

3.2.5 Local Authority Waste Disposal Company (“LAWDC”) – Yorwaste Ltd

The City Council (22.27%) and the County Council (77.73%) jointly own a LAWDC - Yorwaste Ltd. It was established in 1993 as a response to the requirements of the EPA 1990 which required WDAs to divest provision of waste disposal services. Yorwaste’s revenue is approximately split 50% from the Councils and 50% from other local authorities, commercial and industrial customers. Yorwaste deals with approximately 75% of the County Council’s waste for disposal and 100% of the City Council’s waste.

Yorwaste provides collection services for some recyclable materials on behalf of WCA; waste and recycling collections to private sector companies and services to the WDA. These include the provision, operation and management of some HWRCs, operation of transfer stations, haulage of wastes, windrow composting operations and operating landfill sites across the City and County area. In addition, Yorwaste is also involved in developing a treatment technology (in partnership with other companies) under Defra’s New Technologies Demonstrator Programme.

3.2.6 Existing contractual arrangements

The total MSW handled by the Councils in 2005/06 was 505,490 tonnes of which 384,620 tonnes arose in the County Council and 120,870 tonnes in the City Council area. Both Councils have separately entered into contracts for the disposal of waste, composting and the management of HWRCs within their respective administrative areas. A summary of the contracts held by the County Council, City Council and the District Councils is presented in Appendix 9.

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3.3 Trends in Service Costs

3.3.1 North Yorkshire

The County Council's current waste management budget figure is approximately £14,856,000 per annum (2006/07). The table below sets out the County Council's waste disposal budgets by service for the current year and the past 3 years.

Table 3.7 North Yorkshire historic budget data

| | 2003/04 £'000 | 2004/05 £'000 | 2005/06 £'000 | 2006/07 £'000 |
|---|------------------|------------------|------------------|------------------|
| HWRC Management & Disposal | 754 | 776 | 1,903 | 2,256 |
| HWRC Transfer & processing | 950 | 930 | 1,598 | 2,032 |
| Residual Waste Disposal | 5,175 | 5,330 | 4,589 | 3,987 |
| Landfill Tax | 3,761 | 3,864 | 3,849 | 4,549 |
| Recycling Credits | 1,078 | 1,521 | 2,375 | 2,455 |
| Waste Management Unit | 573 | 1,037 | 1,456 | 1,251 |
| Rent | 274 | 172 | 173 | 206 |
| Miscellaneous | 134 | 122 | 126 | 131 |
| Income | (1,628) | (1,874) | (2,183) | (2,011) |
| Annual waste disposal budget | 11,071 | 11,878 | 13,886 | 14,856 |
| Budget not available for Reference Project | N/A | N/A | N/A | (2,185) |
| Available budget for Reference Project | N/A | N/A | N/A | 12,671 |

Budgets have increased year on year primarily as a result of increases in waste volumes, Landfill Tax and contract costs. However, landfill tonnages have decreased in recent years due to increased levels of recycling.

As can be seen above, the Council has invested significantly in the waste management service in recent years (the increased budget over the period above equates to approximately £3.4m of real growth assuming 3% inflation for each year). This has been necessary to respond to increases in Landfill Tax and some contract costs, but also reflects the priority of the wider waste strategy in conjunction with the City of York Council and the seven District Councils. The increased resources have made it possible, to improve recycling performance.

It should be noted that £2,185,000 of the budget (eg to support recycling credits, the costs of the waste management unit etc) will be required to provide the service even when the Reference Project is in place. The affordability analysis has therefore been

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conducted following an assessment of the extent to which these existing budgets can be released to support the costs of the Reference Project.

A gross capital budget of £2,040,000 is available in 2006/07, with £913,000 in 2007/08. This will be used to fund development of new HWRCs or improvements to existing sites.

3.3.2 City of York

The City Council's current waste disposal management budget figure is approximately £4,247,000 per annum (2006/07). The table below sets out the City Council's waste disposal budgets by service for the current year and the past 3 years.

Table 3.8 City of York historic budget data

| | 2003/04 | 2004/05 | 2005/06 | 2006/07 |
|---|--------------|--------------|--------------|--------------|
| | £'000 | £'000 | £'000 | £'000 |
| HWRC management and disposal | 583 | 697 | 629 | 553 |
| HWRC transfer and processing costs | 309 | 323 | 375 | 226 |
| Residual waste disposal | 977 | 1,023 | 1,087 | 1258 |
| Landfill tax | 1,327 | 1,437 | 1,661 | 1751 |
| Recycling credits | 276 | 322 | 459 | 459 |
| Annual waste disposal budget | 3,472 | 3,802 | 4,211 | 4,247 |
| Budget not available for Reference Project | N/A | N/A | N/A | (459) |
| Available budget for Reference Project | N/A | N/A | N/A | 3,788 |

Budgets have increased year on year as a result of increases in waste arisings, Landfill Tax, improvements in site management arrangements.

The Service has a net revenue budget for 2006/07 of £4,275,000. It includes expenditure of £4,247,000 that relates to contract or related waste disposal costs, provision of HWRCs, Landfill Tax, and recycling credits payments. The remainder of the budget is split between expenditure on research, development, staff and administration costs (£357,000) and net income from the Yorwaste dividend, asset rentals, biogas and consultancy fees (£329,000).

The real increase in budget from 2003/04 to 2006/07 totals approximately £0.5m (after taking into account inflation). This has been necessary to fund increases in Landfill Tax however the City Council has also invested significantly in increasing recycling rates by developing kerbside collection and improved recycling performance at the HWRCs.

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As with the County Council, it should be noted that £459,000 of the budget (to support recycling credits) will be required to provide the service even when the Reference Project is in place.

3.3.3 Landfill costs

The current cost of landfill disposal in North Yorkshire and York has been relatively low, due to the abundance of former quarries in the area that have been used as landfill sites. However, costs of waste disposal per tonne for both Councils have increased over time, due to:

- Increased environmental controls being placed on landfill providers (and other services);
- Investment in infrastructure/collections to improve recycling and composting performance; and
- Increases in the rate of Landfill Tax, which was introduced in 1996 and increased by £1 per tonne per year. In the 2004 budget statement an annual increase of £3 per tonne was announced and this will continue to increase each year until it reaches £35 per tonne. The current rate of Landfill Tax for active waste is £21 per tonne.

York and North Yorkshire perform well when compared to other Local Authority Waste Disposal Costs (BVPI 87). Despite the cost increasing, North Yorkshire remains in the lowest quartile. York is in the upper quartile for this Performance Indicator when compared to other Unitary authorities.

BVPI 87 performance is set out in table 3.9.

Table 3.9 BVPI 87 performance

| | 2000/01 | 2001/02 | 2002/03 | 2003/04 | 2004/05 | 2005/06 | 2006/07 (target) | 2007/08 (target) |
|---|---------------|---------------|---------------|---------------|---------------|---------------|---------------------|---------------------|
| City Council | £20.69 | £21.56 | £22.10 | £25.47 | £25.75 | £32.44 | £36.01 | £39.33 |
| County Council | £26.42 | £26.80 | £30.15 | £32.28 | £32.96 | £40.53 | £44.52 | £47.37 |
| Weighted Average cost across the Partnership | £25.04 | £25.54 | £28.22 | £30.65 | £31.23 | £38.59 | £39.05 | £42.56 |

Costs of waste management are expected to rise as a result of UK and EU requirements. The unavoidable increase in future waste management costs will inevitably impact more significantly for the Councils than for other authorities, because they are starting from a lower cost base.

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3.4 Current Infrastructure

Appendix 10 sets out the infrastructure in place to deliver the County Council and City Council's existing waste management service. This includes the ownership of sites, 2005/06 throughput tonnages and site performance.

The main waste facilities in the County Council's ownership are HWRCs, of which 14 reside on land owned by the County Council and 6 on land leased from third parties. In addition, one landfill site (Seamer Carr) is owned by the County Council.

Recent investment of circa £2.6m into the County Council's existing infrastructure includes the following:

Table 3.10 County Council investment into existing infrastructure

| Year | Site | Investment (£'000) | Description | Funding Route |
|---------|------------------|--------------------|---|---|
| 2001/02 | Catterick HWRC | 15 | Fencing upgrade | County Council capital allocation |
| | Settle HWRC | 60 | New site | |
| 2002/03 | Selby HWRC | 41 | Upgrade of facilities | County Council capital allocation |
| 2003/04 | Whitby HWRC | 443 | Phase 1 construction | Funded by Defra grant |
| 2004/05 | Seamer Carr HWRC | 350 | Construction of site | Funded by Yorwaste |
| | Whitby HWRC | 149 | Phase 2 construction | Funded by capital |
| | Ripon HWRC | 10 | Fencing upgrade | Funded by capital |
| | Tadcaster HWRC | 7 | Fencing upgrade | Funded by capital |
| 2005/06 | Harrogate HWRC | 220 | Phase 1 improvements | Funded via Local Public Service Agreement unsupported credit approval |
| | All HWRCs | 423 | Upgrade of facilities | Funded by capital |
| | All sites | 120 | Health, Safety and Welfare improvements | Funded by capital |
| | | 740 | Conversion from skips to containers | Funded by capital |

Further investment of £2,040,000 in 2006/07 has been identified for HWRC and landfill restoration in the capital plan allocations. All recent capital investment has been in line with the County Council's proposed capital plan.

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Recent investment by the City Council into its existing infrastructure has included the following:

- Beckfield Lane – The upgrade programme site has already been converted to operate as a split level facility using steps and gantries. New signs have been installed to make the site more user friendly. Recycling facilities have been significantly improved with the introduction of containers for paper, glass, cardboard, wood, plastic bottles and textiles.
- Towthorpe - Plans are being developed so that the site can operate as a split level facility. This will enable a more efficient service to be provided at the site and help to increase the amount of waste segregated for recycling, composting and reuse. Again new signs will be installed to make the site easier to use for customers. Site security and staff welfare facilities will also be improved.
- Foss Islands/Hazel Court - Foss Islands was the busiest of the HWRCs with a throughput of more than 20,000 tonnes of waste per annum. The site had a small footprint which combined with a large number of customers caused operational problems, health and safety issues and placed great restrictions on the service that could be provided. A new split level site has been built at Hazel Court to replace the Foss Islands facility. This site opened April 2006 and will enable a more customer focused, user friendly and safer service to be provided. Site security and staff welfare facilities have also been improved. Recycling performance at the new site is also anticipated to be greatly improved.

The funding of these and other improvements totalling £1.6m is set out below.

Table 3.11 City Council summary of infrastructure improvements

| Year | Site | Investment (£'000) | Description | Funding Route |
|---------|------------------------------------|--------------------|--|--|
| 2002/03 | n/a | 0 | No investment in 2002/03 | n/a |
| 2003/04 | n/a | 0 | No investment in 2003/04 | n/a |
| 2004/05 | HWRC improvement | 38 | Fencing, gates, electrical supply at Towthorpe, gantries and skips. | Funded through the City Council's capital plan |
| | Towthorpe and Beckfield Lane HWRCs | 132 | Redesigning and changing layouts of sites, containers, gantries, signage | Funded by Prudential Borrowing |
| | Hazel Court | 94 | Construction of new site | Funded by £350k Defra grant and Prudential Borrowing |
| 2005/06 | Hazel Court | 1,329 | Construction of new site | Funded by £350k Defra grant and Prudential Borrowing |

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Future planned short-term investment includes the proposed relocation of the Beckfield Lane HWRC. However, the decision to relocate is still at an early stage and it has not yet been determined how this investment will be funded.

3.5 Waste Minimisation and Re-use

The Partnership's JMWMS (Let's Talk Rubbish!) was adopted in 2002 and made a number of commitments with regards to waste minimisation activities across the Partnership area. The Partnership developed and adopted a Waste Minimisation Strategy in July 2004, which sets out a number of aims and measurable targets for the Partnership. Each authority also co-funded a full time post for an officer to work on waste minimisation issues on behalf of the Partnership. The Partnership:

- commissioned research to establish the composition of household waste in its area so that campaigns and waste streams could be targeted most effectively;
- promoted the use of 'real' washable and reusable nappies, instead of disposable ones (which constitutes 3% of household waste nationally);
- promoted the use of the Mailing Preference Service as a way of reducing junk mail (also 3% of household waste nationally);
- provided home compost bins at cost; and
- conducted campaigns through a variety of channels to inform the public of the importance of and the methods to reduce waste.

Following the inspection of the County Council's waste management services, the Audit Commission praised the County Council for adopting a sound approach to realising the targets contained within the 2004 Waste Minimisation Strategy. In order to build upon this strong foundation, the County Council committed to fund two new posts (a Waste Minimisation and Outreach Manager and a Waste Campaigns Officer) as part of the County establishment from April 2005.

The Partnership adopted a communications strategy. The Communications Strategy was adopted by the Partnership on 27 April 2006 which identifies target audiences and coordinates efforts to influence public behaviour with regard to waste.

A revised Waste Minimisation Strategy was adopted in July 2006. The aim of the 2006 Waste Minimisation Strategy is to meet the waste minimisation targets set out in the JMWMS for York and North Yorkshire by reducing the growth in the amount of municipal waste produced across York and North Yorkshire.

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The revised Waste Minimisation Strategy has an accompanying action plan which sets out a detailed programme of activities and the 2006/07 action plan focuses on eight key areas. They are:

- i. Garden Waste
- ii. Kitchen Waste
- iii. Real Nappies
- iv. Junk Mail
- v. Packaging
- vi. Internal policy
- vii. Continuous and ongoing awareness and promotion
- viii. Policy initiatives

The Partnership have agreed to jointly fund the activities for 2006/07 and have confirmed that they are minded to continue funding waste minimisation and re-use activities for a period of at least the next three years.

Campaigns focussed on each of these key areas will be carried out across the partnership area. It is planned that best practice guidelines will be produced and rolled out to all partners over time. The City Council has also developed a series of short term action plans on recycling, composting, HWRCs, waste minimisation issues and re-use, and awareness raising within the City in advance of the Partnership documents being revised as part of its aim to develop and improve its services further. As well as fully participating in the Partnership waste minimisation campaigns and activities, the City Council has also committed to continue to support the York Rotters project (a master composter scheme) and to set up a community re-paint scheme to reduce the amount of unwanted paint that is disposed of. Other actions within their 2006/07 action plan reflect the campaigns and targets contained within the joint Waste Minimisation Strategy.

In total over the next 5 years, a budget of £800,000 - administered by the City and County Councils (£400,000 each) - has been identified for waste minimisation campaigns across the partnership area. The waste minimisation action plan will be updated annually to reflect best practice and the campaigns will alter to focus on different waste streams as the waste composition changes due to successful schemes being implemented.

3.6 Conclusion

The North Yorkshire sub-region is a diverse one with a small number of centres of dense population (York, Scarborough and Harrogate) separated by much larger areas of very low population density. Waste generation has historically been increasing but whilst the growth rate is predicted to fall, waste and its' disposal is a growing problem. Traditionally the area has relied on cheap, available landfill to meet its disposal needs but changing legislation has made this increasingly costly and diversion targets as well as stakeholder aspirations have made this approach unsustainable for the future.

Analysis of Existing Service Provision

The cornerstone of delivering a more sustainable waste management service is the JMWMS, which together with the Waste Minimisation Strategy, is already helping to stem the growth in municipal waste. Recycling rates have also been improving steadily and represent a significant element of the management of its waste stream – the Partnership is of the view that a 50% recycling rate can be achieved by 2020.

However, despite the significant progress being made, the existing service provision and infrastructure will not be sufficient to meet the legislative diversion targets and those detailed within the revised JMWMS. Whilst the Councils have already directly committed circa £4.3m investment into existing infrastructure, significant additional capital investment in facilities and infrastructure will be required. Detailed analysis by the Councils and their advisors, discussed in the following sections of this OBC, indicates that PFI credit support is the most cost effective method of funding the majority of this required infrastructure for the Councils. For this reason, the Councils are submitting this OBC for central Government support on behalf of the Partnership.

Options Appraisal

4.1 Introduction

In response to national pressures for change within waste management and in order to meet the objectives of the JMWMS, the Councils initiated an options appraisal to assess the investment required to deliver a defined set of service outputs.

The Councils have considered a wide range of technology and performance options. In order to assist with the determination of the Reference Project (for the waste management service) and Reference Case (for residual waste treatment services to be procured under the PFI), each Council has undertaken extensive BPEO analysis, which has been further refined through a joint procurement options study and subsequent risk assessments. This process identified the preferred solution which best meets both Councils' appetite for risk and the objectives of the Partnership. A range of contract packaging and funding options have been considered. This section of the OBC outlines the options appraisal process and then presents the results of the evaluation of possible procurement options to arrive at the Reference Project.

4.2 Strategic aims and objectives for the project

The strategic aims and objectives of the project are to:

- Meet waste reduction targets across the Partnership area;
- Meet/exceed recycling and composting targets;
- Reduce the amount of waste sent to landfill (i.e. meet diversion targets);
- Show preference for the treatment of residual waste using a combination of thermal and biological processes;
- Realise the value of waste as a natural resource; and
- Secure capacity for dealing with the projected waste levels.

These aims and objectives complement the objectives and targets of the JMWMS. The key partners consider these strategic aims and objectives are specific, measurable, agreed, realistic and timely, and may be implemented within the proposed timetable. The project objectives fit with the outcomes of Best Value and Strategic service reviews.

4.3 Scope of the Reference Project

The Reference Project encompasses the majority of services associated with managing municipal waste including, transfer, recycling, composting and the treatment of residual waste and landfill disposal.

The option of including collection services within the scope of the Reference Project was investigated by the Councils. However, the six Districts with DSOs wish these organisations to continue to provide waste collection services as they demonstrate that they provide a best value service. Inclusion of York DSO collection services in the contract was also investigated, but would not be acceptable in York as the DSO has provided a high quality, low cost service for many years, and is a lead authority in its area.

Options Appraisal

4.4 Options appraisal process

The options appraisal process, including how options were determined, is summarised in table 4.1 below.

Table 4.1 Key steps in the Councils' Options Appraisal process

| Year | Activity/event | Purpose | Outcomes |
|------|---|---|---|
| 2003 | Study on information and advice on the packaging of waste management contracts | To determine the scope of the PFI contract | Single semi-integrated waste contract for North Yorkshire and York |
| 2004 | Assessment of Optimum Mass Treatment Commencement Date | Assessed the timing requirements for waste treatment facilities to provide a cost effective solution to the Councils | MBT operational 2011, EfW operational 2013 based on best estimates of a reasonable timescale for planning, construction and commissioning of these treatment plants |
| 2005 | Assessment of the BPEO for MSW arisings in both Councils | Separately assessed the BPEO for waste treatment in both Councils | One MBT ranked highest for City Council and one EfW highest for County Council, marginally above MBT |
| 2005 | Joint procurement options appraised for MSW arisings in both Councils | Refined the BPEO around the technologies most acceptable and hence determined the best fit solution for the Councils working in partnership | Considered a combined BPEO for both Councils. One EfW ranked highest closely followed by one MBT |
| 2005 | Risk Assessment | To subject the outcomes of the joint procurement options appraisal to key strategic risks and to test the sensitivity of the assumptions used | Joint technology solution, with 1 MBT and 1 EfW ranked first |
| 2005 | Investment appraisal of waste reception and treatment facility location in North Yorkshire and York | To assess the most cost effective provision of waste acceptance facilities to the WCAs (Districts) and WDAs | Demonstrated that one reception facility per WCA offers a sustainable option |

Options Appraisal

| Year | Activity/event | Purpose | Outcomes |
|------|--|--|--|
| 2005 | Discussion paper on recyclables collection methods | To provide information to the Partnership to help in the selection of the most effective collection system for recyclables to meet strategy targets, and provide a cost effective service to the residents of York and North Yorkshire | Concluded that higher dry recyclable tonnages may be achieved with co-mingled dry recyclable collection |
| 2006 | Procurement Strategy Review | To review the Councils proposed procurement and funding approach following guidance on the procurement of long term waste treatment contracts | Concluded that contracts should be procured on a disaggregated basis, with residual waste treatment procured using the PFI |

We set out below more detail of the some of the key steps followed by the Councils (as identified in table 4.1).

4.4.1 BPEO and public consultation

A BPEO assessment for MSW arising in North Yorkshire and York was jointly commissioned by the Partnership in June 2004. Individual assessments were carried out for York and North Yorkshire as the two Councils have different planning regimes and the outcomes of the BPEO needed to satisfy the requirements of both North Yorkshire as a Minerals and Waste Planning Authority and also the City of York Planning Authority.

The BPEO assessment considered a range of technology options, as set out below:

- Anaerobic digestion (“AD”)
- Mechanical Biological Treatment (“MBT”)
- Autoclaving
- Gasification
- Energy from Waste (“EfW”)

The proposed options and assessment criteria (which are set out in Appendix 11), and which addressed environmental, socio-economic and operational impacts, were determined at a meeting of key partners (ie from the County Council, the City Council, WCAs, Environmental Agency (“EA”), planners, and National Park authorities) in September 2004. A total of 11 integrated waste management options were assessed for North Yorkshire and 7 for the City of York. Due to the relatively small amount of waste produced in the City of York it was not necessary to assess all the variations of

Options Appraisal

facility size and numbers as had been undertaken for North Yorkshire. All options assumed landfill to the maximum allowed under the Landfill Directive.

The assessment criteria were subjected to stakeholder and public consultation at workshops held during November 2004 so that the relative importance of the criteria could be determined and weighted.

The performance of each of the options was then assessed against different weight sets and the BPEO identified for each authority. For York, the BPEO assessment identified a single MBT plant (Option 5a) treating all of the MSW and producing SRF, which it was assumed would be sent to a power station (Option 5a). The BPEO identified for North Yorkshire was an EfW facility (Option 1a), which was marginally favourable to MBT (Option 5a).

The BPEO process and outcomes were tested with residents of North Yorkshire during a series of workshops (one in each District) held during March 2005. However, no clear technology preference emerged from the workshops for the County Council, with the public appearing to prefer a combination of EfW and MBT rather than rely on one technology or one plant for the whole county. Public preference therefore was for a number of facilities and combination of technologies. This was confirmed by the public consultation exercise undertaken in late 2005.

These comments and outcomes were fed back to key partners as part of their consideration of proposals for the revised waste strategy and in order that the Councils could base their preference for residual waste treatment on technologies that had the support of the residents.

4.4.2 Joint procurement options appraisal

A joint procurement options appraisal was carried out to build upon and refine the individual BPEOs. The two technologies (MBT and EfW) that had outperformed the others in the individual assessments were combined into 9 options in order to determine the best fit solution for the Councils working in partnership (see Appendix 12).

The options assessment criteria used were the same as those in the individual BPEOs. The weighting of criteria was on a combined basis (ie using the sensitivity weight sets derived from the individual BPEO exercises and applied proportionally) (see Appendix 12). The joint procurement options appraisal identified a single EfW facility (Option A) as ranked first closely followed by 1EfW and 1MBT with the Solid Recovered Fuel ("SRF") output being disposed of via EfW (Option F).

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4.4.3 Risk assessment

The Councils then subjected the outcomes of the joint procurement options appraisal to further evaluation against key strategic risks and to test the sensitivity of the assumptions used in the appraisal.

The process followed is set out below.

(a) A risk workshop was held to identify the key strategic risks and assumptions to be tested. The workshop identified the following key risks:

- Failure to secure markets for end products;
- The assumption made in the BPEO that project deliverability is more certain where fewer number of sites are developed; and
- Failure to attract external funding.

(b) Officers from the Partnership evaluated the above risks and tested the sensitivity of the assumptions. The result of this work identified the options relying solely on MBT to be the most risky, with those utilising EfW, or a combination of MBT and EfW with SRF going to the EfW, as having least inherent risk. A summary of the risk assessment is given below.

Table 4.2 Summary of risk assessment results

| Risk | Option | | | | | | | | |
|------------------|--------|------|------|------|-------------|--------------------------|-------------|------------------------|---------------------------|
| | A | B | C | D | E | F | G | H | I |
| | 1MBT | 1EFW | 2MBT | 2EFW | 1MBT + 1EFW | 1MBT + 1EFW (SRF to EFW) | 1EFW + 3MBT | 1MBT (SRF to landfill) | 1EFW + 3 MBT (SRF to EFW) |
| Total Risk score | 39 | 20 | 44 | 17 | 29 | 23 | 34 | 27 | 21 |
| Rank | 8 | 2 | 9 | 1 | 6 | 4 | 7 | 5 | 3 |

4.4.4 Procurement Strategy review

An OBC based on a semi-integrated contract was nearing completion in March 2006, reflecting the then existing focus of PFI criteria for waste projects at that time, when the Councils became aware of emerging alternative views of procuring waste management contracts.

This included the conclusions of the Kelly Report, which advised moving away from integrated projects to a disaggregated approach. The Councils concluded that their procurement strategy to deliver services included within the Reference Project should be reviewed. Defra has also revised the criteria for PFI credits for waste projects,

Options Appraisal

which places the emphasis strongly towards procuring residual waste treatment services and facilities alone.

The procurement strategy review involved identification and consideration of a combination of semi-integrated and disaggregated contract packaging options and funding approaches, with each option being subjected to a qualitative and financial appraisal, including an assessment of comparative risks. The benefits and opportunities of greater regional working were also evaluated.

The results of this evaluation confirms that the procurement options present a complex array of issues, benefits and disadvantages. All options appear viable with no single option markedly more advantageous than all the others. For example:

- Semi-integrated procurement remains feasible and has proven market interest in North Yorkshire, but has the significant draw back of conflicting with most recent government guidance, and not being eligible for PFI credits;
- Disaggregated contract procurement reflects current thinking, is also likely to be attractive to the market and would be eligible for PFI funding. However, disaggregated contracts without PFI appear not to be as attractive as semi-integrated procurement through either PPP or PB;
- Whilst an in-house solution appears low cost, the Councils' exposure to risk was considered to be excessive, and arises primarily because the Councils are unable to transfer risk to a contractor when it operates facilities through an in-house team; and
- Regional procurement provides opportunity but is particularly complex and will add considerable time and cost to the procurement process. It is potentially the least attractive option from a qualitative analysis.

The review concluded that Best Value will be provided through the procurement of waste management services included within the Reference Project on a disaggregated basis, with residual waste treatment services and facilities supported by PFI,. The Councils will seek to fund waste handling, recycling and composting services from internal resources. This may include PPP (effectively a charge to revenue), capital receipts, supported capital borrowing or Prudential Borrowing.

| Services | Funding route for required infrastructure |
|--|---|
| HWRCs, Recycling, Composting and Landfill | Combination of PPP/PB/Capital receipts |
| Residual waste treatment (Recovery Contract) | Private Finance Initiative |

The PFI Reference Case will therefore encompass the "Recovery Contract" for the development and subsequent operation of residual waste treatment facilities only. However, the Councils recognise that the eventual choice of technology will be in response to market proposals on how to deliver output targets. No one procurement option is more or less likely to deliver a particular technology. A summary of the evaluation and the conclusions of the procurement strategy is set out in Appendix 13.

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4.5 Option appraisal overview

Based on the process outlined above, the following five options were short-listed for a detailed economic and performance appraisal for this OBC:

Table 4.3 Short-list of Reference Project options

| Option | Technology | Recycling/composting and landfill strategy |
|--|---|---|
| 1 – Status Quo | Continue with existing service provision | n/a |
| 2 – EfW only | 1 EfW from 2013 in the County Council area | 45% recycling by 2013 Landfill to max. allowed |
| 3 – Combined technologies (with SRF to market between 2011 – 2013) | 1 MBT from 2010 in York area 1 EfW from 2013 in the County Council area SRF sent to Market 2011-2013 | 45% recycling by 2013 Landfill to max. allowed |
| 4 – Combined technologies (with SRF to landfill between 2011 – 2013) | 1 MBT from 2010 in York area 1 EfW from 2013 in County Council area SRF sent to landfill 2011-2013 | 45% recycling by 2013 Landfill to max. allowed |
| 5 – Combined technologies with more MBT | 1 MBT from 2010 in York area 1MBT from 2010 in County Council area 1 EfW from 2013 in County Council area | 45% recycling by 2013 Landfill to max. allowed |

A comprehensive model of all the municipal waste flows arising in the York and North Yorkshire area has been developed by the Councils' technical advisor Enviro Consulting in conjunction with the Partnership, the analysis of which is set out in Appendix 14. Each of the short-listed options for the Reference Project have been modelled, and their contribution to the delivery of the JMWMS has been assessed. The modelling work has identified the extent to which the different options for the Reference Project can contribute towards both the JMWMS recycling targets and the WDA's obligations to divert BMW from landfill. The modelling also serves as the basis on which the future disposal (Landfill Contract) capacity has been established. The financial cost of the short listed Reference Project options has been assessed using a series of cost assumptions which are detailed in Appendix 15. The Reference Project cost model can be found at Appendix 7.

4.6 Mass Flows

Although only residual waste treatment facilities are to be procured through the PFI Reference Case (Recovery Contract), clearly the diversion achieved by the Reference Project as a whole is important in defining the capacity required for residual waste treatment. This section provides details of the overall mass flow within the Reference Project, and those wastes that will require management under the PFI Reference Case.

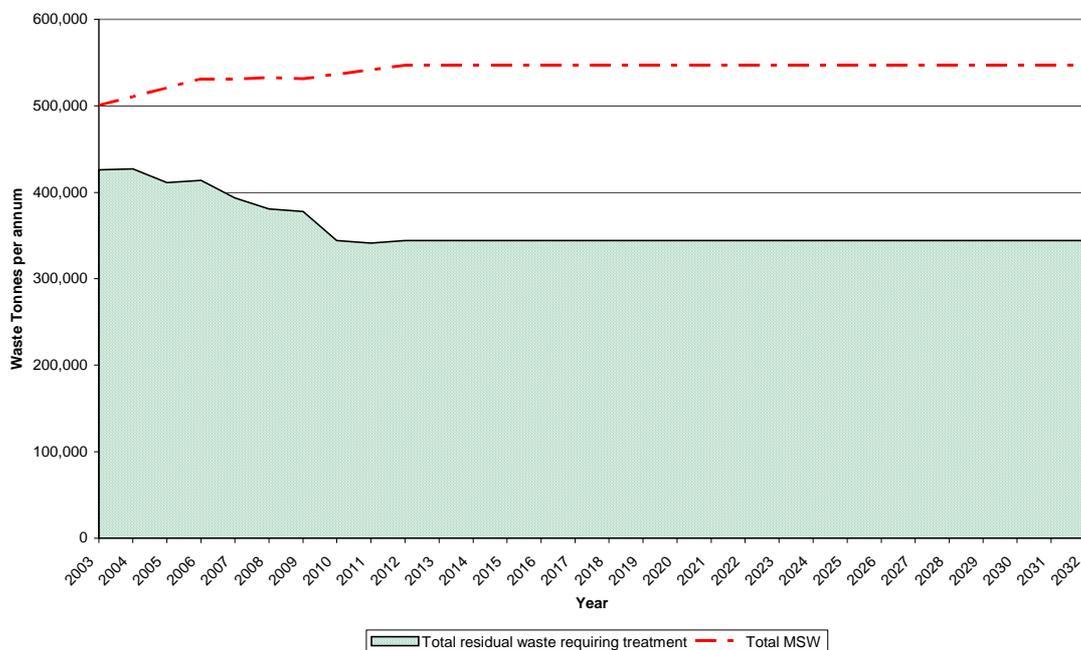
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In conducting the assessment of options, the levels of material capture of recycling and composting have been specified to reflect the planned performance of each district's kerbside collection system (see Appendix 14). In addition to the wastes arising from kerbside collection systems, other waste arisings including trade waste, fly tipping waste, clinical wastes, and street sweepings have been assessed. With the exception of clinical and fly tipped waste, these wastes are assumed to require processing through the PFI Reference Case (Recovery Contract).

The recycling performance of the HWRCs in the Reference Project is based upon the forecast for achieving, and exceeding, the current targets within the JMWMS. These plans are supported by the Councils' capital works programme for both upgrading existing facilities and building new HWRCs over the forthcoming years. For all options considered (other than the Status Quo) it has been assumed that the targets for waste minimisation contained within the JMWMS are achieved. Although the figure for 2005/06 shows negative waste growth, the Councils do not view this as being sustained and have incorporated a reducing scale of waste growth (2% to 2008, 1% to 2012 and 0% from 2013) into their models for future waste services. Under the Status Quo option waste growth rates of 3% to 2009, 2% 2009-2013 and 0% thereafter have been assumed.

The predicted quantity of MSW arising, and residual waste requiring treatment after implementation of the JMWMS is shown in Figure 4.1 below.

Figure 4.1 Impact on total MSW from implementation of the JMWMS



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4.7 Performance of the short-listed options

4.7.1 BMW diversion performance of each option

The Reference Project model has provided a projection of the Councils' LATS position from 2008, over a 25-year period. The estimate is based upon 2003/04 waste flows combined with the waste growth projections for the Reference Project (as set out in Section 3.1.1). The model predicts that the Councils will not meet their LATS obligations prior to 2013 without some additional interim bio-diversion measures or landfill allowance trading. The Councils' proposed response to this is set out in Section 7.7 (h).

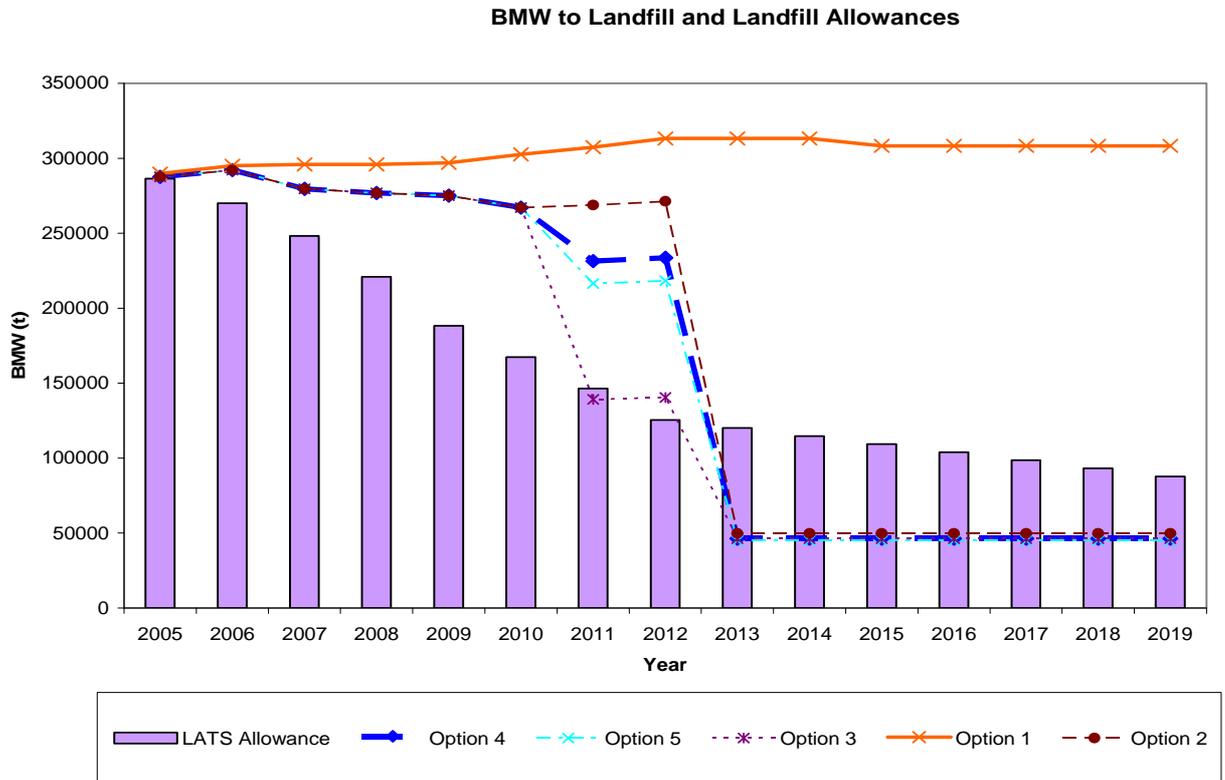
The results of all five modelled scenarios in relation to the amount of BMW sent to landfill are given in table 4.4 and figure 4.2 below.

Table 4.4 BMW to landfill – aggregated performance of each option (using MEL Data)

| Year | BMW to Landfill (t) | | | | | |
|---------|---------------------------|-----------------------|----------------|----------------|----------------|----------------|
| | Aggregated LATS Allowance | Option 1 (Status Quo) | Option 2 | Option 3 | Option 4 | Option 5 |
| 2005/6 | 286,342 | 289,741 | 287,583 | 287,583 | 287,583 | 287,583 |
| 2006/7 | 269,992 | 295,048 | 292,044 | 292,044 | 292,044 | 292,044 |
| 2007/8 | 248,191 | 295,930 | 279,501 | 279,501 | 279,501 | 279,501 |
| 2008/9 | 220,941 | 295,896 | 276,754 | 276,754 | 276,754 | 276,754 |
| 2009/10 | 188,241 | 296,938 | 274,999 | 274,999 | 274,999 | 274,999 |
| 2010/11 | 167,288 | 302,524 | 267,103 | 267,103 | 267,103 | 267,103 |
| 2011/12 | 146,335 | 307,359 | 268,810 | 139,096 | 231,463 | 216,341 |
| 2012/13 | 125,382 | 313,152 | 271,322 | 140,418 | 233,621 | 218,355 |
| 2013/14 | 120,004 | 313,152 | 49,826 | 46,290 | 46,290 | 44,911 |
| 2019/20 | 87,734 | 308,218 | 49,826 | 46,290 | 46,290 | 44,911 |

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Figure 4.2 BMW to Landfill and Landfill Allowances



4.7.2 Recycling and composting performance of each option

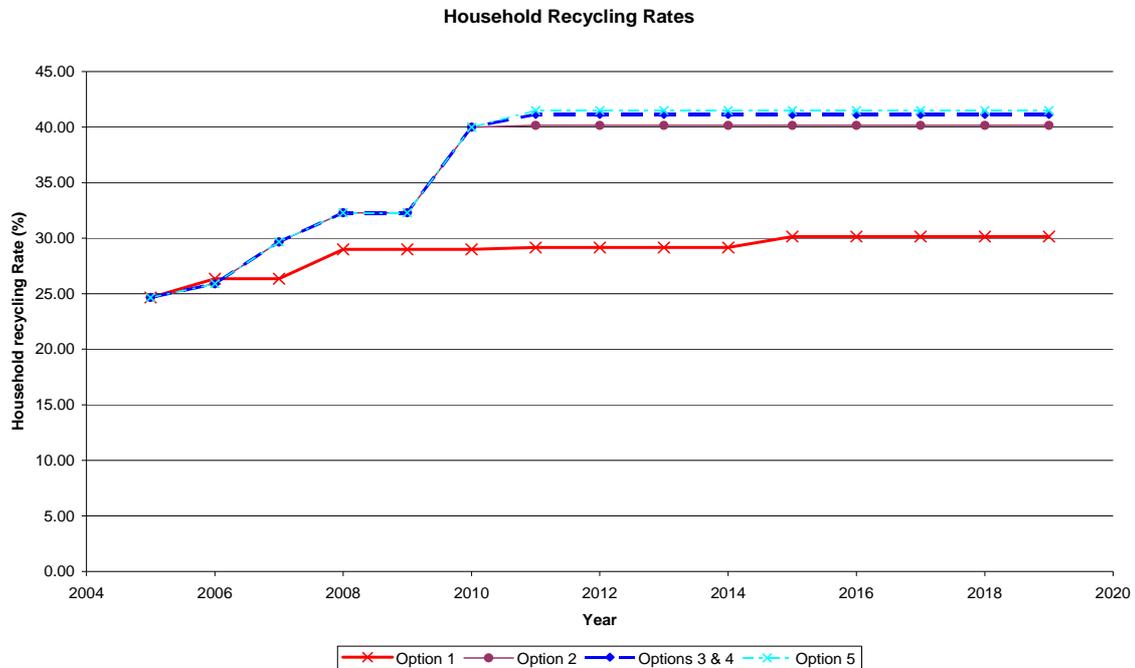
Table 4.5 and figure 4.3 set out the recycling performance of each option using MEL waste composition data.

Table 4.5 Household recycling rates by option

| Household Recycling Rate (%) | | | | | |
|------------------------------|----------|----------|----------|----------|----------|
| Year | Option 1 | Option 2 | Option 3 | Option 4 | Option 5 |
| 2009 | 24.7 | 24.7 | 24.7 | 24.7 | 24.7 |
| 2010 | 26.4 | 25.9 | 25.9 | 25.9 | 25.9 |
| 2011 | 26.4 | 29.7 | 29.7 | 29.7 | 29.7 |
| 2012 | 29.0 | 32.3 | 32.3 | 32.3 | 32.3 |
| 2013 | 29.0 | 32.3 | 32.3 | 32.3 | 32.3 |
| 2014 | 29.0 | 40.0 | 40.0 | 40.0 | 40.0 |
| 2015 | 29.2 | 40.1 | 41.1 | 41.1 | 41.5 |
| 2019 | 29.2 | 40.1 | 41.1 | 41.1 | 41.5 |

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Figure 4.3 Household Recycling Rates³



4.7.3 The ‘Status Quo’ option

The modelling of the ‘Status Quo’ option indicates that it fails to meet the recycling and composting targets set out in WS 2000 of 33% by 2015 and the targets set out in the JMWMS of 40% of household waste by 2010, 45% by 2013 and 50% by 2020. It would also fall significantly short of the JMWMS landfill diversion target of 75% by 2013 and LATS allowances are exceeded in all years.

4.7.4 The ‘Do Something’ options

A summary of the overall performance of the Do Something options is set out below:

- Option 2 - achieves a household recycling rate of approximately 40% and predicts a LATS deficit of 146,000 tonnes in 2012/13 and overall (i.e. 2005/6 – 2019/20) LATS deficit of 187,000 tonnes;
- Option 3 - achieves a 41% recycling rate and achieves the best LATS performance in 2012/13 of 15,000 tonnes deficit (due to the assumption that a 3rd party outlet is found for RDF in the period 2011 to 2013). Option 3 achieves a 98,000 tonne overall surplus of LATS;
- Option 4 – “The Reference Project” achieves a 41% recycling rate but predicts a 108,000 tonne deficit in LATS in 2012/13 (this option is based on the assumption that a reduction in biodegradability of 20% occurs through the MBT and that the RDF is landfilled). Option 4 shows an overall deficit of 87,000 tonnes of LATS; and

³ Recycling performance is exactly the same for both 1MBT 1EFW options (Options 3 and 4)

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- Option 5 - achieves a 41.5% recycling rate and a 93,000 tonne deficit in allowances in 2012 with an overall deficit of 47,000 tonnes of LATS.

All of the 'Do Something' options achieve approximately the same performance in terms of recycling/composting and BMW diversion (except in 2011/12 and 2012/13). The options with more MBT treatment deliver marginally better recycling rates due to more opportunity for recycling to occur, but diversion rates are lower.

The joint BMW performance of the various options for the Councils has been assessed against the final LATS allowances issued by Defra in August 2005, as shown in table 4.4. The Reference Project modelling projects a LATS deficit for all of the options for each year up to the second target year. This is because the Councils have assumed a timeframe for the commissioning of the EfW facility, which predicts that it will not be operational until 2013/14. However, all of the Do Something options achieve LATS compliance for the development of residual waste treatment facilities in the longer term.

4.7.5 Composition analysis

Waste composition is an important factor in the deliverability of future targets and obligations. The composition analyses underpinning the mass flows for the Reference Project are based upon that undertaken by MEL and table 4.5 indicates the recycling and BMW landfill diversion rates which the Reference Project could achieve based upon using this waste composition data.

However, the Councils are concerned that data was collected over a short period of time and may not be an accurate representation of the actual waste composition for North Yorkshire and York over a longer period. In particular, the compositional analysis appears to contain a higher proportion of putrescible waste than would be expected and underestimates the proportion of waste available for recycling and composting. Actual recycling performance in 2005/06 diverted greater amounts of certain materials than the original waste analysis suggested should be present.

In view of this, a comparison has been made with national (Waste Not Want Not) waste composition analysis data. If the Councils' latest 'actual' waste composition figures for 2005/06 were combined with the NWC analysis, the Reference Project could achieve improved recycling and BMW diversion rates of 46.3% and 76.6%, respectively, which compare favourably with both the JMWMS and Waste Strategy 2000 targets. This is detailed in the model for the 2005/06 and NWC model attached at Appendix 6.

The Partnership therefore believes that the waste composition data analysis currently being undertaken will provide evidence that an overall recycling rate of 50% by 2020, in line with the JMWMS, is achievable.

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Similarly, the 2005/06 and NWC model predicts a better LATS performance for the Reference Project than that predicted using the 2003/04 data as set out in table 4.6 below:

Table 4.6 LATS performance of the Reference Project (Option 4) – comparison of 2003/4 data and 2005/6 data plus NWC data

| LATS Performance (BMW landfilled above LATS allowance) | | |
|--|--------------|-------------------------|
| Year | 2003/04 data | 2005/06 data + NWC data |
| 2005 | 1,241 | (34,902) |
| 2006 | 22,052 | (17,022) |
| 2007 | 31,310 | (10,366) |
| 2008 | 55,813 | 6,285 |
| 2009 | 86,758 | 40,084 |
| 2010 | 99,815 | 46,857 |
| 2011 | 85,128 | 49,064 |
| 2012 | 108,239 | 71,966 |
| 2013 | (73,714) | (86,951) |
| 2014 | (68,336) | (81,573) |
| 2015 | (62,957) | (76,194) |
| 2016 | (57,579) | (70,816) |
| 2017 | (52,200) | (65,437) |
| 2018 | (46,822) | (60,059) |
| 2019 | (41,444) | (54,681) |

Further options and actions will be pursued by the Councils to improve performance against joint targets. These include:

- Recycle greater amounts of bottom ash - the Reference Project currently assumes that 0% of bottom ash will be recycled. Increasing this amount to 100% will improve the overall proportion of waste diverted to 83.3%; and
- Increase and properly account for, the role of the community and voluntary sector in recycling and composting – charities and community groups currently recycle or compost approximately 2,222 tonnes per annum of household waste. The JMWMS identifies the importance of increasing the role of this sector although the relevant increase in performance has not been accounted for within the waste flow model. Recycling and composting within the community and voluntary sectors will provide a key opportunity to the Councils to improve overall performance and achieve its long term targets.

4.8 Economic appraisal of the short listed options

This section details the results of the economic cost appraisal of the short listed options comparing the relative costs of each option both in nominal cost terms and in net present cost (“NPC”) terms.

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The costs of the short listed options have been assessed using the cost inputs included in Appendix 15. The analysis was undertaken at a Public Sector Comparator (“PSC”) level i.e. excluding private sector margins, financing costs, dividends and taxation. The impact of these cost items is considered in Section 6.2 which considers the procurement options for the Preferred Project Option. A contract term of 25 years from 1 April 2008 has been used for this analysis.

Owing to the importance of obtaining a realistic assessment of the costs of the infrastructure that needs to be put in place, the Councils enlisted technical and financial advisors to guide the identification of project costs, which include capital and operating costs, the financial implications of Landfill Tax and those of tradable landfill allowances. Further detail of the assumptions used in the derivation of costs is provided in Appendix 15.

Cost models have been constructed over a project life of 25 years for each of the project options included in Appendix 14. The detailed cost models are presented in Appendix 7.

The indicative results of the cost analysis for each option under the assumed waste growth profile, in nominal terms, are summarised in table 4.7 below. The analysis considers the WDA costs only, i.e. it does not include any WCA transport costs.

Table 4.7 Nominal and NPC costs of short listed options

| Nominal Costs | Option 1 | Option 2 | Option 3 | Option 4 | Option 5 |
|-----------------------------------|------------------|------------------|------------------|------------------|------------------|
| | £000's | £000's | £000's | £000's | £000's |
| Capital Costs | - | 152,490 | 170,196 | 170,196 | 182,331 |
| Life Cycle Costs | 4,246 | 27,543 | 50,365 | 50,365 | 55,143 |
| Operating Costs | 328,119 | 714,411 | 813,408 | 814,111 | 873,079 |
| Revenue | (2,810) | (235,926) | (232,748) | (237,787) | (231,227) |
| Landfill Costs | 456,194 | 221,475 | 219,813 | 223,218 | 227,174 |
| Landfill Tax | 588,014 | 149,583 | 187,738 | 192,607 | 214,489 |
| Total Costs before LATS | 1,373,763 | 1,029,576 | 1,208,772 | 1,212,710 | 1,320,989 |
| Rank before LATS | 5 | 1 | 2 | 3 | 4 |
| LATS costs | 385,846 | (13,041) | (49,531) | (27,262) | (32,943) |
| Total Nominal Costs | 1,759,609 | 1,016,535 | 1,159,241 | 1,185,448 | 1,288,046 |
| Rank after LATS | 5 | 1 | 2 | 3 | 4 |
| Total NPC (including LATS) | 706,523 | 509,303 | 560,374 | 578,461 | 622,272 |
| NPC ranking | 5 | 1 | 2 | 3 | 4 |

4.9 Options Appraisal summary

Table 4.7 shows the significant reductions in cost achievable through the development of facilities in North Yorkshire. The Status Quo option, which excludes residual waste treatment, does not meet the local or national recycling targets and produces LATS deficits in all years of the project. It also incurs significant landfill gate fee, Landfill Tax

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and LATS costs, which outweigh the capital costs of developing residual waste treatment infrastructure. Consequently, it ranks lowest in nominal and NPC terms, followed by Option 5 which has a high cost base due to the additional waste treatment infrastructure included in this option, when compared with the other three 'Do Something' options.

Although Option 2 (maximum diversion achieved through EfW) represents the lowest cost option, Options 3 and 4 (which achieve the highest recycling rates and produce significant LATS surpluses) are more consistent with the Partnership's waste strategy and its expectation for treatment of waste using a combination of thermal and biological technologies and are more in line with the results of the public consultation. Given the current uncertainty regarding 3rd party outlets for SRF produced by MBT, Option 4 is considered to be a lower risk option than Option 3 and for these reasons Option 4 has been defined as the Reference Project. However, the Councils will continue to explore market opportunities which may be available in the short term to process the SRF output.

4.10 Reference Project infrastructure

The Reference Project (Option 4) indicates that a solution can be developed which meets the aspirations of the Partnership. However, it should be noted that waste management services across North Yorkshire and York may be capable of being delivered through alternative waste management solutions.

Due to the geographical size of York and North Yorkshire, the Reference Project is based on two strategically placed treatment facilities. A MBT facility has been assumed to be provided based in the south of the County, whilst the EfW plant is assumed to be located in the north of the County. The Reference Project provides for the distribution of 10 facilities across the county as follows:

| | | |
|--------------------------------------|---|------------------|
| Craven | 1 x new reception transfer facility | (= 1 facility) |
| Hambleton | 1 x new reception transfer facility | (= 1 facility) |
| North (including Richmondshire) | 1 x new treatment facility and 1 x new MRF | (= 2 facilities) |
| Ryedale | 1 x new reception transfer facility | (= 1 facility) |
| Scarborough | 1 x new reception transfer facility | (= 1 facility) |
| Selby | 1 x new reception transfer facility | (= 1 facility) |
| South (including Harrogate and York) | 1 x new reception transfer and bulking facility, 1 x new MRF and 1 x new treatment facility | (= 3 facilities) |

4.10.1 Kerbside collection arrangements and recycling

The Reference Project is also based on a level of recycling that the Partnership believes to be realistically achievable at the most cost effective price. The proposed collection arrangements within the Reference Project comprise a three stream collection system for green waste, dry recyclables and residual waste. As a minimum it is intended that paper/card, cans, glass and plastic bottles will be collected from every household where practical to do so.

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Although the Reference Project is based on a co-mingled collection there is an option in the SLA, currently under discussion, for WCAs to meet recycling performance targets and collect kerbside dry recyclate in an alternative manner which meets customer requirements and the particular needs of that WCA. The City Council as both WCA and a WDA, currently kerbside sort glass, paper, cardboard, plastic bottles and cans and collect green waste from 60,000 properties. It is not envisaged that there will be any change to the York waste collection system.

The Partnership is targeting a recycling rate of at least 50% from the kerbside and through HWRCs. The investment required at reception facilities to achieve this level of recycling (by the WCAs) has been included in the Reference Project costing. The Reference Project has the aim of achieving the recycling levels set out in table 4.8 below as compared to Waste Strategy 2000 targets:

Table 4.8 Comparison of WS 2000 targets and Reference Project performance

| Year | Waste Strategy 2000 targets | Reference Project (using MEL waste composition analysis) | Reference Project (using NWC analysis and 2005/06 data) |
|---------|-----------------------------|---|--|
| 2009/10 | 30% | 32.3% | 35.6% |
| 2014/15 | 33% | 41.1% | 46.3% |
| 2019/20 | 33% | 41.1% | 46.3% |

4.10.2 BMW diversion performance of the Reference Project

The BMW diversion performance of the Reference Project is set out in table 4.9 below.

Table 4.9 BMW diversion and LATS allowance

| | LATS allowances (t) | | BMW diversion performance of the Reference Project (market) | | Excess (shortfall) in allowances (t) | |
|----------------|---------------------|-----------------|---|-----------------|--------------------------------------|-----------------|
| | York | North Yorkshire | York | North Yorkshire | York | North Yorkshire |
| 2009/10 | 44,281 | 143,960 | 63,925 | 211,074 | (19,644) | (67,114) |
| 2012/13 | 29,494 | 95,888 | 10,948 | 129,470 | (18,757) | (89,482) |
| 2019/20 | 20,638 | 67,096 | 9,418 | 36,872 | 11,220 | 30,224 |

The proposed approach to procurement will permit each Council to accurately identify their own LATS performance. At this stage there is no intention to automatically pool LATS allowances. However, it is recognised that this issue will need to be managed as part of the cost sharing mechanism to ensure equity between the Councils through delivery of a single service. A level of diversion risk will be retained by each Council until such time as treatment facilities are on stream.

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4.11 Conclusion

The assessment of options indicates that the delivery of the JMWMS requires increased levels of recycling and the provision of residual waste management infrastructure. The Status Quo option, which does not provide any residual waste treatment facilities, incurs significant additional financial costs. Option 5 achieves higher levels of recycling however the increased cost of infrastructure outweighs the benefit of increased landfill diversion.

Although Option 2 represents the lowest cost option, Options 3 and 4 are considered more consistent with the BPEO and the results of the public consultation. It is recognised that Option 4, with SRF being landfilled prior to the provision of EfW capacity, represents the lowest risk option. Option 4 has therefore been defined as the Reference Project. The Reference Project has been developed based on the foundations of the JMWMS, BPEO, Joint Options Procurement Appraisal and Risk Assessment. It has been subject to public consultation, receiving a favourable response, and has been agreed by the Partnership as representing an effective and deliverable option for implementing the JMWMS. The Reference Project will achieve challenging, yet deliverable, levels of recycling/composting and meet the Councils' longer-term known landfill allowance targets.

The Recovery Contract element of the Reference Project (residual waste treatment services and facilities) will be procured through the use of PFI and is termed the Reference Case. An analysis of the economic cost of the Reference Case can be found in Appendix 16.

It is recognised that significant investment in new residual waste treatment infrastructure will be required to support the delivery of the Reference Project more specifically, the Reference Case, and realistic provision in capital, lifecycle and operating costs has been made in this business case.

Value for money

5.1 Introduction

Having defined the Reference Case in Section 4, it is now necessary to establish the procurement route for this contract⁴ which represents the best value for money for the residents of North Yorkshire and the City of York. The approach taken here is consistent with that outlined in the Guidance as issued in August 2004 and the “Supplementary Value for Money (“VfM”) Guidance for Waste PFI” prepared by Partnerships UK for Defra in September 2005.

As discussed in the Guidance, this OBC assumes that Defra has already undertaken a Stage 1 programme level assessment for waste PFI projects as part of the Comprehensive Spending Review (completed in 2004) which demonstrated that the waste industry, as an investment programme, is likely to achieve value for money under PFI. In applying the Guidance, there is a presumption, therefore, that there is already a prima facie case for using PFI as the preferred procurement route. This assessment does not, therefore, provide a full analysis of all possible procurement routes. Instead, it details the Stage 2 project level assessment aimed at verifying whether the Stage 1 initial finding that PFI offers value for money is in fact valid for this specific waste management project for the public sector.

This project level assessment has considered both qualitative and quantitative factors when appraising the PFI procurement route. The qualitative appraisal considers the viability, desirability and achievability of PFI, specifically considering waste specific factors under the qualitative assessment (as clarified in the “Supplementary VfM Guidance for Waste PFI”). The quantitative analysis uses a prescribed methodology and electronic model provided by Treasury to determine whether the PFI procurement route represents indicative value for money when compared to a PSC. This section outlines the results of the qualitative and quantitative assessment (including some sensitivity analysis), followed by a conclusion to the project level assessment.

5.2 Qualitative Assessment

The Guidance states that PFI should generally apply to large projects which are critical to the delivery of public services. PFI projects commit the Procuring Authority to a particular provider for some years ahead and whether the projects are successful or not will depend on both cost and also on a number of qualitative and quantitative considerations relevant to deciding the most appropriate procurement route.

The three qualitative factors identified by the Guidance are as follows:

- **Viability** – Confirmation that the investment objectives and all desired project outcomes can be translated into outputs that are measurable, contractible and can be agreed. This factor also involves assessing whether there are efficiency or accountability issues which demand that the project is provided by the public sector directly rather than through the PFI procurement route.

⁴ This section addresses the value for money assessment of the Recovery Contract (Reference Case) under the PFI only.

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- **Desirability** – Assessing the relative merits of different procurement routes. Considerations include incentivisation; risk transfer in PFI; the Government’s lower cost of borrowing in conventional procurement; and, the relative advantages and disadvantages associated with a long-term contractual relationship between the public and private sectors.
- **Achievability** – Gauging the expected level of market interest and whether the public sector client would have sufficient capability to manage the complex processes involved. This is integral to both the procurement of the services and their ongoing management and performance.

The Councils have given due consideration to a series of qualitative questions designed to verify the decision for proceeding with PFI. Table 5.1 below summarises the Councils’ response to each of the three qualitative factors described above. The full list of questions and responses is included in Appendix 17.

Table 5.1 Qualitative Assessment Summary

| Qualitative factor | Summary question from the Guidance | The public sector’s considered response |
|--------------------|---|--|
| Viability | Is the accounting officer satisfied that an operable contract with built in flexibility can be constructed, and that strategic and regulatory issues can be overcome? | <p>The Councils are satisfied that a contract structure can be arrived at which will:</p> <ul style="list-style-type: none"> • Meet the Partnership’s strategic aims and objectives for Waste Management; • Deliver the project to the Output Specification; and • Satisfy all regulatory requirements, including Treasury Technical Taskforce Note 1 and the application of FRS5. |
| Desirability | Overall, is the accounting officer satisfied that PFI would bring sufficient benefits that would outweigh the expected higher cost of capital? | <p>The Councils are satisfied this PFI contract will bring sufficient benefits to outweigh an expected higher cost of capital through:</p> <ul style="list-style-type: none"> • The risk transfer of future costs which could be subject to fluctuation; • Certainty of service delivery during the contract term; and • The use of a Design, Build, Finance and Operate (“DBFO”) contract, which will ensure the construction and subsequent operating cost benefits are linked. |

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| Qualitative factor | Summary question from the Guidance | The public sector's considered response |
|--------------------|---|---|
| Achievability | Overall is the accounting officer satisfied that a PFI procurement programme is achievable, given client side capability and the attractiveness of the proposals to the market? | <p>In consideration of the points above, the Councils are satisfied the procurement programme is achievable, given that :</p> <ul style="list-style-type: none"> • The right level of internal and external resource and expertise has been committed to the project; • The management of the project will be robust with all staff being appropriately trained; • Soft market testing has provided positive feedback; • The project is based on a technology and a risk sharing framework with which the private sector is familiar. |

Conclusion

Based on the qualitative project level assessment, the Councils believe that this waste project meets the viability, desirability and achievability requirements of the Guidance, confirming the initial programme level assessment decision that PFI offers value for money.

5.3 Quantitative Assessment

The quantitative assessment considers how the quantifiable costs and benefits of using PFI as the procurement route are likely to compare with conventional procurement through the PSC. This involves estimating values for the capital and operating costs attached to the project and adjusting these for any inherent optimism bias and/or specific risks as well as expected transaction costs. For the PFI option, the project cost is calculated using an assumption of private financing, adjusting relevant factors accordingly. The 'PFI Value for Money Quantitative Assessment generic model' issued by Treasury ("Treasury model") was used, as required by the Guidance. This model has been developed by the Treasury, in conjunction with Partnerships UK, to capture the values and enable sensitivity testing that are required as part of the project level assessment. The Guidance defines the two procurement methods as follows:

- **The PSC Option** – Procurement through conventional approaches that use public funding (for example, letting a design and build contract for the construction of an asset, and then letting annual operating and maintenance contracts for the ongoing operation and maintenance of that asset); and

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- **The PFI Option** – Procurement under the Private Finance Initiative which is a specific procurement methodology through which the private sector lets a DBFO contract to the private sector for the construction and whole life maintenance of an asset and/or associated service.

This section contains the following:

- An outline of the key assumptions behind each of the inputs required by the Treasury model, together with the supporting evidence for these assumptions;
- Indicative value for money results and subsequent analysis of these results; and
- The outcome of sensitivity analysis performed using the Treasury model.

5.3.1 Key Input Assumptions

Whilst a number of the assumptions for the Treasury model have been pre-set and cannot be altered, a significant number of project specific input assumptions have been made. These are detailed in Appendix 17, and table 5.2 below provides a summary of the key input assumptions made in undertaking the value for money assessment. All price data are real values as at the planned financial close date of the project (31/11/2008).

Table 5.2 Summary of key input assumptions

| Variable | Description | The Public Sector Input Assumption |
|-------------------------------|--|---|
| Timings | The contract period is restricted to intervals between 6 and 40 years. | The Contract period for this contract is modelled at 24 years. |
| Capital Expenditure ("Capex") | Expenditure incurred in procuring the asset. It does not cover expenditure required to maintain the asset. | The initial Capex of the contract totals £132,871k (in real terms) over a 4 year period. Capex estimates for the waste management facilities are based on a database of facility costs maintained by the Councils' technical advisors (Enviros). The database incorporates recently tendered project costs, including Capex in PFI tenders, for waste management services and facilities. The Capex costs have been increased by 10% for the PFI, to reflect the cost of the risks borne by the private sector under a PFI transaction. |

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| Variable | Description | The Public Sector Input Assumption |
|--------------------------------|---|---|
| Operating Expenditure (“Opex”) | Represents the costs incurred by the Council in operating the asset and or running the services that are included within the scope. Expenditure which falls outside of the scope, are excluded. | The annual Opex cost (non-employment) is calculated as £6,827k. The employment costs are calculated as £3,676k (both in real terms). For PFI, the Opex costs were increased by 10% to reflect the cost of the risks borne by the private sector. |
| Transaction costs | These represent the costs incurred by the private sector and the public sector, in reaching contractual agreement. | The transaction costs have been assumed at £1.0m under the PSC and £5.0m under PFI, based on the size and complexity of the procurement and costs incurred on other waste PFI projects. |
| Gearing | This represents the share of the total financing requirement which is funded by debt under the PFI option. | The level of senior debt as a percentage of the total project funding is 85%, based on a prudent level of gearing acceptable to the current market. |

5.3.2 Optimism Bias

The Treasury model accounts for the impact of uncertainty over project costs through input assumptions for Optimism Bias. Optimism Bias relates to the demonstrated and systematic tendency for project appraisers to be overly optimistic when considering project benefits and costs.

The Guidance states that there is currently little, if any, evidence to suggest that either conventional or PFI style procurement methods deal any more or less efficiently with Optimism Bias. However there is evidence that the allocation of risks achieved under a PFI contract reduces the impact of any Optimism Bias on the Procuring Authority as compared to the contractual arrangements typically resulting from a PSC option.

The Guidance explains that in accounting for Optimism Bias the Treasury model differentiates between two key stages of the investment decision process, namely pre Final Business Case (“FBC”) and post FBC. FBC in this instance represents the date of contract award. The pre FBC Optimism Bias factor represents the increase in estimated costs or shortfall in estimated income between the OBC and the FBC stage. Post FBC Optimism Bias factor represents the increase in costs or the shortfall in income between the date of contract award and the completion of the associated asset(s).

Fundamental to the internal operation of the Treasury model is the assumption that the impact of post-FBC Optimism Bias will be greater under the PSC option than the PFI option.

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The Treasury model requires inputs for both pre- and post-FBC Optimism Bias percentages for Capex, Lifecycle costs, Opex, transaction costs and third party income. These inputs are detailed in table 5.3 below. Comprehensive details of how the inputs were derived are provided in Appendices 18 and 19.

Table 5.3 Optimism Bias input assumptions

| Cost Centre | Overall Optimism Bias (%) | Pre-FBC Optimism Bias (%) | Post-FBC Optimism Bias (%) |
|-----------------------|---------------------------|---------------------------|----------------------------|
| CapEx | 50.6 | 12.6 | 38.0 |
| Lifecycle | 50 | 10 | 40 |
| OpEx (non employment) | 25 | 5 | 20 |
| Transaction | 30 | 10 | 20 |
| 3rd Party Revenue | 20 | 10 | 10 |

As shown in table 5.3 above, the overall level of Optimism Bias relating to Capex is 50.6%. The Pre-FBC Optimism Bias of 12.6% represents the increase in costs up to the point of contract award and the Post-FBC Optimism Bias of 38.0% represents the potential cost increases after contract award. As stated above, the impact of the Post-FBC Optimism Bias for the Procuring Authority is likely to be reduced by a PFI contractual structure.

The key outputs from the Treasury model are the PSC NPC of the project, the PFI equivalent and the indicative PFI value for money percentage representing the percentage difference between the two. If the indicative PFI value for money percentage is positive then this indicates that the project supports the programme level assessment that value for money can be achieved through PFI. If negative, the PSC is deemed to offer better value for money.

5.3.3 Indicative PFI Value for Money Results

For the base case scenario the indicative PFI value for money percentage is generated using a pre-tax Internal Rate of Return (“IRR”) for the private sector of 13%, the lowest rate included within the Treasury model, and that deemed most comparable to the return requirements seen in recent waste PFI bid submissions. This produces an indicative PFI value for money percentage of 14.4%, confirming PFI as having the potential to offer value for money for the project. The Treasury model can be found at Appendix 19. The base case scenario results are summarised thus:

Table 5.4 Indicative PFI value for money results (base case scenario)

| | PSC NPC £000's | PFI NPC £000's |
|---|----------------|----------------|
| Base Case Scenario (13% pre-tax IRR) | 431,800 | 369,500 |
| Indicative PFI value for money % | | 14.4% |

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5.3.4 Sensitivity Analysis

The Treasury model allows us to identify Indifference Points to demonstrate the level of change required in the value of individual inputs for the PSC and PFI NPCs to become equal, such that the Procuring Authority is indifferent between the two procurement routes. The table below sets out the indifference points for capital and operating expenditure for the PSC option and for the Unitary Charge for the PFI option.

Table 5.5 Indifference analysis

| Procurement option | Variable | Indifference points |
|--------------------|-------------------------|---------------------|
| PSC | Capex | (25.0)% |
| PSC | Non-Employment Opex | (49.1)% |
| PSC | Employment-related Opex | (91.1)% |
| PFI | Unitary Charge | 20.5% |

The analysis demonstrates that the Capex under the PSC would have to decrease by 25.0% in order for the Councils to be indifferent between the two options (namely the PSC and PFI options). Similarly, non-employment Opex would have to decrease by 49.1% under the PSC. Employment related Opex would have to decrease by 91.1% under the PSC for its NPC to become equal to the NPC of the PFI option. All of these are considered to be sufficiently outside the Guidance benchmark of 5% to suggest that the value for money assertion for PFI is robust.

Affordability constraints aside, the Unitary Charge under the PFI option would have to increase by 20.5% for the Councils to be indifferent between the two procurement options. This is sufficiently outside the Guidance benchmark of 3% for the conclusions drawn to be considered robust.

In addition to the above, additional sensitivity analysis was conducted by generating different scenarios using different input assumptions from the base case scenario (which were described in Section 5.3.1 above) to assess the impact on the indicative PFI value for money percentage. The following scenarios were assessed:

- Scenario 2 assumed a target pre-tax IRR of 18%, reflecting the potential demand for higher private sector returns.
- Scenario 3 assumes that Optimism Bias will only be applied to Opex (employment and non-employment) costs.
- Scenario 4 assumes that Optimism Bias will only be applied to Capex costs.

The following table illustrates the results of the indicative PFI value for money analysis for the different scenarios outlined above.

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Table 5.6 Scenario analysis

| Results: | Base case scenario (as discussed earlier) | Scenario 2 – (IRR of 18 %) | Scenario 3 – (OB applied to Opex only) | Scenario 4 – (OB applied to Capex only) |
|-------------------------|---|----------------------------|--|---|
| PSC NPC (£m) | (431.8) | (431.8) | (347.8) | (403.2) |
| PFI NPC (£m) | (369.5) | (391.0) | (361.7) | (354.2) |
| PFI Value for Money (%) | 14.4% | 9.4% | (4.0)% | 12.2% |

The Treasury model allows an alternative rate of 18% pre-tax IRR to be utilised. This rate has been used in Scenario 2. Scenario 2 simply demonstrates the relationship between higher private sector returns and PFI value for money percentage; as the PFI cost increases the PFI value for money percentage decreases. For example, a pre-tax IRR of 18% will yield a lower indicative value for money result of 9.4%. The results of Scenario 3 indicate the decrease in the PFI value for money percentage resulting from the removal of uncertainty regarding the Capex costing; a negative percentage value (4.0%) value for money percentage indicates the significance of Optimism Bias relating to Opex within a waste PFI project. The results of Scenario 4, however, demonstrate that the Optimism Bias relating to Capex is still of sufficient quantum to justify the value for money of the PFI in isolation by generating an indicative PFI value for money percentage of 12.2%.

To conclude, the results of the quantitative assessment, following the prescribed methodology provided by Treasury, verify the programme level assessment that PFI can offer value for money for this project. The sensitivity analysis conducted has provided indifference points within comfortable distance of the benchmarks as outlined in the Guidance and a look at varying scenarios has further illustrated the robust nature of the positive indicative PFI value for money percentage.

5.4 Project level assessment conclusion

The results of the quantitative assessment, following the prescribed methodology provided by Treasury, verify the Stage 1 programme level assessment that PFI can offer value for money for this project. The quantitative assessment has produced a high indicative PFI value for money percentage of 14.4%. The robustness of the base case has also been demonstrated through the sensitivity analysis. The sensitivity analysis conducted has provided indifference points within comfortable distance of the benchmarks as outlined in the Guidance and a look at varying scenarios has further illustrated the robust nature of the positive indicative PFI value for money percentage.

Value for Money

The qualitative assessment produces a clear indication that in terms of viability, desirability and achievability, the Councils are well positioned to deliver a PFI procurement. Taken together these assessments provide a clear indication that verifies the outcome of the Stage 1 programme level assessment that PFI can deliver value for money for the Councils' Reference Case.

After the Stage 1 programme level and Stage 2 project level assessments, the Councils also note the additional requirements of the Stage 3 procurement level assessment, in particular those relating to market failure. Details of how the Councils have begun to mitigate this risk, through promoting and tailoring the Reference Case, are contained within Section 7 – Delivering the Project.

Affordability

6.1 Introduction

Further to defining the Reference Project and identification of the preferred procurement route, this section examines the following:

- A comparison of options to demonstrate the need to “Do Something” and the importance of implementing a Landfill Allowance purchasing strategy;
- How projected budgets have been calculated over the contract period;
- The revenue support contribution of the PFI credit;
- The affordability of the Reference Project; and
- The effect on the affordability position of sensitivities carried out on key cost assumptions.

The shadow tariff financial model that supports the Reference Case is included in Appendix 20 and the supporting assumptions for the Reference Project as a whole are included in Appendix 21. Section 6.2 below sets out a cost comparison of the Reference Project and the Status Quo option.

6.2 Cost comparison of options

6.2.1 Options compared

The Reference Project, as defined in Section 4.11, has been compared to the Status Quo option to demonstrate the cost implications of “doing something”. In order to make this comparison valid, WCA transport costs have been added to the costs of the Reference Project to ensure the options are compared on a like-for-like basis. These costs are implicit in the costs of the Status Quo option. The Reference Project affordability analysis does not take these WCA transport costs into consideration as they are outside the scope of the Reference Project.

The cost to the Councils of the Reference Project does not take into account PFI revenue support. The affordability implications of receiving an award of PFI credits are discussed in Section 6.3.3.

Under both the Status Quo and Reference Project it is assumed that a LATS strategy is adopted. For the purposes of this comparison a “profile” of Landfill Allowance prices has been assumed to reflect anticipated market supply and demand conditions, rather than assuming a single value for the trading price of Landfill Allowances. This profile is set out in the table below:

Affordability

Table 6.1 Landfill Allowance trading price assumptions

| Years | Landfill Allowance trading price (£/t) |
|-------------------|--|
| 2005/06 – 2007/08 | 30 |
| 2008/09 – 2009/10 | 70 |
| 2010/11 – 2012/13 | 120 |
| 2013/14 – 2018/19 | 100 |
| 2019/20 – 2024/25 | 75 |
| 2025/26 – 2032/33 | 50 |

Landfill Allowances are assumed to be bought and sold by the Councils at the above “profile” prices for both the Reference Project and “Status Quo – LATS profile” options.

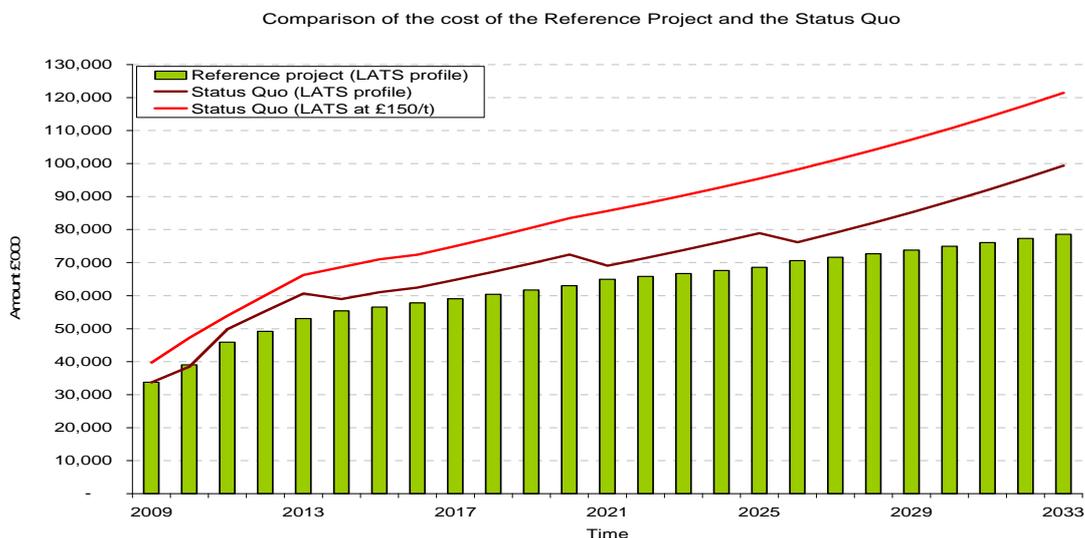
To demonstrate the implications of adopting a Landfill Allowance trading strategy a third option has been considered “Status Quo – LATS at £150/t”. This option assumes that the Councils do not adopt a trading strategy for the sale and purchase of Landfill Tradable Permits (or supplies in the market are limited) and that the Councils are therefore exposed to the fine of £150/t in years where its LATS allocations are exceeded and receives no revenue in years where it has a surplus of LATS allowances.

Whilst the EU Landfill Directive and WET Act set BMW Diversion targets up to 2020 it is assumed for the purpose of the OBC that such targets will continue to be in force throughout the contract period up to 2033.

6.2.2 Results of cost comparison

A comparison of the nominal cost of the Reference Project over the contract term with the Status Quo option under two different LATS profiles is set out in figure 6.1 below.

Figure 6.1 Cost comparison over the contract term



Affordability

Figure 6.1 demonstrates that, on an annual basis, particularly in later years, the projected costs of the Reference Project are likely to be significantly less than the comparable “Status Quo – LATS profiled” option. The cost profile of the Reference Project reflects the assumed phasing of the Unitary Charge for residual waste treatment services in the Reference Case.

Figure 6.1 also illustrates the benefit of adopting of a LATS trading strategy.

Table 6.2 below sets out a comparison of the total costs of each of the options considered in the analysis:

Table 6.2 Total costs of the Reference Project and Status Quo option (under two different LATS profiles)

| Nominal Costs | Reference Project (including WCA transport costs) | Status Quo – LATS profiled | Status Quo – LATS at £150/t |
|---|---|-------------------------------|--------------------------------|
| | £000's | £000's | £000's |
| Project costs | 1,398,967 | 785,749 | 785,749 |
| Landfill Tax | 192,607 | 588,014 | 588,014 |
| Landfill Allowance costs | (27,262) | 385,846 | 746,143 |
| Total nominal costs | 1,564,312 | 1,759,609 | 2,119,906 |
| Difference to next most expensive option | (195,297) | (360,297) | n/a |

The cost saving to the Councils of implementing the Reference Project rather than the comparable “Status Quo – LATS profiled” option is approximately £195m. A comparison of the two Status Quo options demonstrates that the adoption of a LATS trading strategy and minimising the exposure to the £150/t penalty for failure to meet LATS allowances is likely to result in a cost saving of an additional £360m to the Councils.

A summary of the estimated revenue cost of the PFI Reference Project (not including LATS or WCA transport costs) is set out in table 6.3 below:

Table 6.3 Nominal cost of the three Reference Project contracts

| Contract | Reference Project £'000 |
|---|----------------------------|
| Recovery Contract (the PFI Reference Case) | 961,617 |
| Recycling Contract | 335,409 |
| Landfill and Composting Contract | 255,280 |
| Reference Project cost (not including LATS or WCA transport costs) | 1,552,306 |

Affordability

6.3 Affordability Analysis

This section sets out the affordability analysis for the Reference Project and includes the following:

- Calculation of budget projections over the contract term;
- Calculation of the revenue support contribution arising from an award of PFI credits;
- Calculation of the 'affordability gap' between the cost of the Reference Project and the Councils' existing budgets over the contract term; and
- Calculation of the impact on the affordability position of sensitivities carried out around key cost assumptions.

6.3.1 Projected budgets

As the proposal is for the Councils to transfer the provision of waste management services to the waste management contractors, there will be an existing budget available to help fund the contract costs payable to the private sector contractor/s.

The budget projections utilise the 2006/07 budgets agreed by the Councils that are available for the Reference Project (as set out in Section 3.3):

- County Council – £12,671,000; and
- City Council – £3,788,000

This total baseline budget of £16,459,000 has been inflated at 2.5% p.a. for the contract term.

It should be noted that these figures do not take into account waste growth or the implications of LATS and increases in Landfill Tax (above the predicted cost/tonne in 2006/07) which would further increase waste management budgeted costs.

The projected budgets for the first five years of the contract and the total projected budgets over the contract term are set out in table 6.4 below:

Table 6.4 Projected budgets

| | 2008/09 £000's | 2009/10 £000's | 2010/11 £000's | 2011/12 £000's | 2012/13 £000's | 25 year Total £000's |
|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|----------------------------|
| Projected budgets | 17,292 | 17,724 | 18,167 | 18,622 | 19,087 | 590,657 |

These projected budgets are used in Section 6.3.3 to calculate the affordability gap of the Reference Project.

Affordability

6.3.2 Calculation of PFI credit

Under the current PFI guidance, the calculation of the PFI Credit and subsequent Revenue Support Grant (“RSG”) can be undertaken in one of two ways:

- By abating the estimated whole life costs of the project, shown as their NPC, by a pre-determined percentage to reflect the revenue element of the scheme; and
- By the identification of the capital investment included within the bid price.

Within this OBC the PFI Credit has been calculated by the identification of the capital investment included within the Reference Case. The total discounted value of the CapEx within the Reference Project is £125m at 2006 prices. The Councils are applying for a total PFI credit award of £65m which will be phased according to the construction of key infrastructure. Defra have confirmed the proposed phasing arrangements with the Councils.

Therefore, for modelling purposes, a total indicative PFI Credit figure of £65m has been used to assess the affordability of the Reference Project with £29m of credits available in 2011/12 to reflect the completion and commissioning of the MBT facility and the remaining £36m credits available in 2013/14 reflecting the completion and commissioning of the EfW facility.

The calculation of the RSG generated by the PFI Credit has been calculated in accordance with the Local Authority PFI Grant Reform that came into force in April 2005. The guidance prescribes that the RSG should be paid on an annuity basis using an interest rate which is fixed for the term of the support, using the 2006/7 interest rate of 6.0%, as advised by the Department for Communities and Local Government (“DCLG”). Grant payment should commence on the basis that relevant permanent assets become available and be payable over the term of the contract remaining thereafter.

The annuity payments calculated using the above PFI credit assumptions are set out in table 6.5:

Table 6.5 Revenue support grant annuity values

| | Revenue support grant annuity values | | Total RSG |
|----------------|--------------------------------------|------------------|----------------|
| | 20011/12 – 2012/13 | 20013/14 onwards | |
| | £000's | £000's | £000's |
| Credit of £29m | 2,408 | 2,408 | 52,983 |
| Credit of £36m | - | 3,139 | 62,773 |
| Totals | 2,408 | 5,547 | 115,756 |

The calculation of the RSG can be found in Appendix 20.

Affordability

6.3.3 Affordability gap

The effect of the funding from the release of projected budgets compared with the cost of the Reference Project is shown in table 6.6 below.

Table 6.6 Affordability Analysis – comparison of Reference Project cost to budgets

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | 25 year total |
|-------------------------------------|---------|---------|---------|---------|---------|---------|---------------|
| | 2008/09 | 2009/10 | 2010/11 | 2011/12 | 2012/13 | 2013/14 | |
| | £000's |
| Reference Project cost ⁵ | 28,446 | 31,840 | 32,771 | 37,730 | 38,829 | 61,446 | 1,552,306 |
| Projected Budgets | 17,292 | 17,724 | 18,167 | 18,622 | 19,087 | 19,564 | 590,657 |
| Affordability Gap | 11,154 | 14,116 | 14,604 | 19,108 | 19,742 | 41,882 | 961,649 |

The affordability gap in year one (2008/9) between the Reference Project and projected existing budgets is projected to be approximately £11m. This increases to around £42m in year 6 (2013/14) reflecting the step up in the annual Reference Case Unitary Charge following the build up in performance after the commissioning of new residual waste treatment facilities.

Table 6.7 shows the impact on the affordability position of the projected annual PFI revenue support of approximately £2.4m increasing to £5.5m in 2013/14. The affordability position between the Reference Project and the projected budgets remains the same in years one to three (2008/09 – 2010/11) as PFI credits are not payable whilst residual waste treatment facilities are being constructed. However the affordability gap reduces in year 6 to around £36m (compared with approximately £42m) when taking into account the anticipated level of revenue support grants.

Table 6.7 Affordability analysis – including PFI credit revenue support

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | 25 year total |
|------------------------|--------|--------|---------|---------|---------|---------|---------------|
| | 2008/9 | 209/10 | 2010/11 | 2011/12 | 2012/13 | 2013/14 | |
| | £000's | £000's | £000's | £000's | £000's | £000's | £000's |
| Reference Project cost | 28,446 | 31,840 | 32,771 | 37,730 | 38,829 | 61,446 | 1,552,306 |
| Projected Budgets | 17,292 | 17,724 | 18,167 | 18,622 | 19,087 | 19,564 | 590,657 |
| PFI Support | - | - | - | 2,408 | 2,408 | 5,547 | 115,756 |
| Affordability Gap | 11,154 | 14,116 | 14,604 | 16,700 | 17,334 | 36,335 | 845,893 |

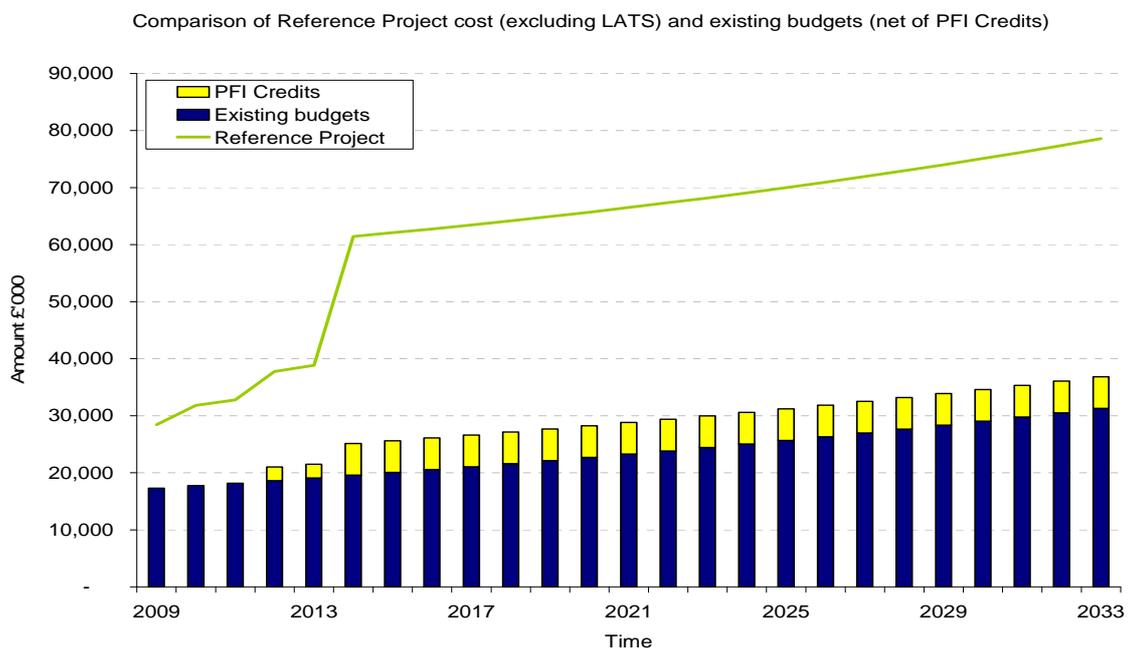
⁵ These costs exclude LATS costs and WCA transport costs which are outside the scope of the Reference Project

Affordability

Overall the revenue support contributes approximately £116m reducing the affordability gap by 12% to approximately £845m. The year one impact of £11.1m equates to a Council Tax increase of approximately 4.2% for the County Council and 4.6% for the City Council.

The affordability analysis taking into account PFI revenue support is presented graphically in figure 6.2.

Figure 6.2 Affordability Gap including PFI Credit Income (nominal terms)



6.4 Sensitivity analysis

The following sensitivities have been performed on the Reference Case shadow tariff model to demonstrate their impact on affordability of the Reference Case over the 25 year contract period:

- CapEx costs are 10% higher than projected (with no further revenue support);
- OpEx costs are 5% higher than projected;
- Recycling Income is 50% lower than projected; and
- A lower pre tax project internal rate of return (“IRR”) of 11% compared to the 12% IRR in the Reference Project.

Affordability

The impact of these sensitivities on the affordability of the Reference Project is compared in table 6.8 below.

Table 6.8 25 year summary of Reference Project sensitivities

| | Reference Project | CapEx sensitivity | OpEx sensitivity | Third Party income sensitivity | 11% IRR sensitivity |
|------------------------------|-------------------|-------------------|------------------|--------------------------------|---------------------|
| | £000's | £000's | £000's | £000's | £000's |
| Total Nominal Costs | 1,552,306 | 1,594,233 | 1,570,559 | 1,607,565 | 1,522,394 |
| Projected Budgets | 590,657 | 590,657 | 590,657 | 590,657 | 590,657 |
| PFI Support | 115,756 | 115,756 | 115,756 | 115,756 | 115,756 |
| Affordability Gap | 845,893 | 887,820 | 864,146 | 901,152 | 815,981 |
| <i>Percentage difference</i> | <i>n/a</i> | <i>5.0%</i> | <i>2.2%</i> | <i>6.5%</i> | <i>(3.5%)</i> |

The results show that despite the increased cost of the sensitivities enlarging the overall affordability gap the impact is not material to the affordability position.

6.5 Delays in procurement

The Councils consider that they have set themselves a challenging but achievable project timetable for the Reference Case procurement. It has however considered the impact on its LATS position of a delay in the procurement due to external factors such as delayed PRG approval or planning issues. A one year delay would likely result in the Councils being exposed to an additional year with a LATS deficit and an associated cost in the region of approximately £11m (2013/14), based on 2003/04 waste flows. The Councils are therefore keen to ensure that all potential issues are addressed in a proactive manner in order to minimise the risk of a delay. Section 7 describes how the Councils have set out to achieve this.

6.6 Conclusion

In this section we have compared the Reference Project with the Status Quo on a like for like basis taking into account LATS. As demonstrated in table 6.9 below, the Status Quo option is more expensive than the Reference Project by around £195m on a LATS profile basis.

Affordability

Table 6.9 Summary of the Reference Project compared with the Status Quo

| | Reference Project £'000's | Status Quo £'000's |
|----------------------------|------------------------------|-----------------------|
| Project costs | 1,398,967 | 785,749 |
| Landfill Tax | 192,607 | 588,014 |
| Landfill Allowance costs | (27,262) | 385,846 |
| Total nominal costs | 1,564,312 | 1,759,609 |
| Difference | (195,297) | |

Given the above position, the Councils therefore believe that the Reference Project represents the most economically advantageous option for the individual Councils in order to ensure compliance with the EU Landfill Directive, other requirements and to deliver the best possible waste strategy.

As set out in table 6.9 above the Councils are facing an affordability gap of around £845m (including the benefit of PFI revenue support) over the life of the contracts, covering all aspects of the Reference Project (residual waste treatment, recycling, composting and landfill).

The Councils have a history of providing high value for money services to their taxpayers. It will, however, be very difficult for the Councils to bridge the affordability gap as both Councils have a combination of very low Council Tax and extremely low spending, relative to other comparator authorities. The required additional funding will therefore be a bigger proportion of the Councils' budgets than other higher spending Authorities. Consequently, there is a bigger percentage impact on Council tax because of the Councils' current low Council Tax base. It must be noted that the Councils individually have other statutory obligations which may compete for resources and the Government has established financial parameters (for example Council Tax capping) that constrain the ability of Local Authorities to raise funding.

However, because of the significance of this issue, both Councils:

- have identified the procurement of waste facilities as a key priority in the respective Council Plans. The funding required features prominently in the Councils' respective Medium Term Financial Strategies ('MTFS');
- have spent and committed significant amounts of additional resources to waste management in recent years' budgets, ranging from capital on landfill sites, and infrastructure to additional, collection, transfer and recycling costs; and
- are committed to Waste and LATS strategies that are aimed at reviewing and improving upon waste management performance with a view to minimising the future volume of residual waste that they are required to deal with.

The Councils may also seek to profile the Unitary Charge for the PFI Recovery Contract in order to 'smooth' the increase required year on year and ensure that Council Tax increases are proactively managed.

Affordability

Notwithstanding the funding constraints identified above, the Councils recognise the necessity to allocate resources sufficient to make the project affordable over the life of the contracts, subject to any further obligations and financial parameters as directed by DEFRA or any other Government department. This commitment is demonstrated by the approval of this OBC by the Executives of the County Council and City Council respectively, on 12 September 2006. A copy of the minutes from both Councils' Executive meetings is attached as Appendix 22a and 22b.

Delivering the project

7.1 Introduction

The Councils and their advisors have been proactive in addressing issues that are important to the delivery of the Reference Case. Work has commenced on developing the technical, financial and legal mechanisms i.e. Output Specification, Payment Mechanism and Project Agreement, which underpin the project. 4Ps model documentation and guidance has been used in the preparation of these documents.

Assessment of key areas of risk is fundamental to the delivery of the project. The Councils and their advisors are evaluating both external risk areas such as market appetite as well as site availability and planning.

This section provides details of the work carried out to date, and the work planned to deliver a successful project to the Partnership.

7.2 Output Specification

7.2.1 Introduction

An initial draft PFI Recovery Contract Output Specification based upon the 4Ps template is attached in Appendix 23. The draft Output Specification will be further developed prior to the Reference Case OJEU Notice and updated as required during the procurement process.

The draft Output Specification will be included with the Pre-Qualification Questionnaire (“PQQ”) and Invitation to Submit Outline Solutions (“ISOS”) documents and comments will be sought from potential bidders. This process of feedback and review will ensure that the specification is compatible with the requirements of the Councils and the market.

7.2.2 Services

The Output Specification describes the services to be delivered and the performance required of the Reference Project.

The overall objectives for the project which are included in the Output Specification require:

- Active support to the Council to reduce the growth in household waste per head to 0% per annum by 2008 (before taking account of population growth);
- The Service must meet or exceed the BMW diversion targets which are set out in the Waste and Emissions Trading Act 2003 and enacting regulations;
- To recycle or compost 40% of household waste by 2010, 45% by 2013 and 50% by 2020. So as not to preclude any potential technology proposals a suitable Reference Case recycling output will be derived during the Competitive Dialogue process. However, a minimum recycling rate of 3% of input to treatment plant will be required as a minimum;
- To divert 75% of municipal waste from landfill by 2013. Again, suitable outputs will be required for the Reference Case based on the technology proposed at the Invitation to Submit Detailed Solutions (“ISDS”) stage. However, the Reference Case will be required to achieve 67% minimum diversion from landfill in order that the Partnership can achieve its strategy diversion target.

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- Recovery of materials and/or energy from the waste;
- Self sufficiency of waste treatment within North Yorkshire and York with the minimum amount of waste material transported out of the region;
- Dealing with the waste as close as practicable to its point of origin;
- Minimising the impact of waste management in the region on the environment; and
- Ensuring an effective interface using the SLAs, between waste disposal and waste collection arrangements.

The Reference Project services will comprise:

7.2.3 Reception facilities and transfer

- A reception facility in each District for the receipt of the waste collected by each WCA;
- The bulking up and transfer of dry recyclables to MRF's once co-mingled collection is introduced, but to material recycling companies prior to the provision of MRFs and co-mingled collection. York recyclates are source separated and will be bulked up at a transfer station prior to haulage to processor;
- The bulking up and transfer of green waste to composting facilities; and
- The bulking up and transfer of residual waste to the residual waste management facilities.

7.2.4 Material Recovery Facilities

- Receiving co-mingled dry recyclable materials;
- Processing dry recyclable materials to achieve specified levels of recycling targets;
- Marketing and sale of recycled materials;
- Transfer of recoverable residual waste to the residual waste treatment facility; and
- Transfer of the remaining residual waste for disposal to landfill.

7.2.5 Household Waste Recycling Centres (HWRCs)

- Operation, maintenance and management of the HWRCs;
- Marketing and sale of recyclates;
- Transfer of dry recyclates to end processors;
- Transfer of green waste to composting plants;
- Transfer of recoverable residual waste to the residual waste treatment facility; and

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- Transfer of the remaining residual waste for disposal to landfill.

7.2.6 Composting Plants

- Receiving green waste;
- Operation, maintenance and management of the composting plants;
- Processing green waste to achieve specified levels of recycling and specified compost quality;
- Marketing and sale of compost;
- Transfer of compost to end users;
- Transfer of recoverable residual waste to the residual waste treatment facility; and
- Transfer of the remaining residual waste for disposal to landfill.

7.2.7 Landfill

- Provide waste disposal operations for Municipal Waste, which are environmentally sustainable and meet or exceed stated targets;
- Comply with all applicable regulations, EA guidance and industry good practice; and
- Make provision for landfill disposal of all Municipal Waste not recycled, composted or recovered including any process residues or reject fractions.

7.2.8 Residual Waste Treatment

The range of services to be provided under the PFI contract will include the residual waste treatment services only, as follows:

- Receiving of residual waste delivered by WCAs, or transferred from HWRCs, transfer stations or MRFs;
- Processing of residual waste to achieve specified levels of Recycling, commercial waste landfill diversion, and BMW landfill diversion;
- Marketing any recyclables, energy and other recovered products arising from the processing of residual waste, including transportation of the same; and
- Transfer of remaining residual waste for disposal to landfill.

7.2.9 Key Performance Indicators (KPIs)

KPIs will be developed during the procurement to reflect those aspects of waste management the County Council and City Council require the contractor to deliver.

The KPIs will be structured to manage fundamental aspects of the project, to ensure that key aspects are delivered for the duration of the project. These are likely to include:

- Availability of reception facilities, MRF's and residual waste treatment facilities;

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- WCA customer satisfaction with each delivery point (reception and treatment facilities);
- Turnaround times for WCAs delivering Municipal Waste and 3rd party contractors delivering waste under separate service contracts;
- Recycling and biological waste treatment targets at a MBT facility;
- BMW diversion from landfill from residual waste treatment facilities;
- Commercial waste diversion from landfill;
- Environment, health and safety performance, and
- Compliance with the Service Delivery Plan (“SDP”).

The contractor will provide a SDP to meet the KPIs and the requirements of the Output Specification. There will be some flexibility in the KPIs to allow for changes in the services during the life of the project.

7.3 Payment Mechanism

The Payment Mechanism is both a method for payment and a method of providing an incentive to high performance. As such, the Payment Mechanism needs to be linked to the service outputs defined in the Output Specification and deductions are applied when Output Specification standards are not achieved. It is also important that a good performance monitoring system is in place to ensure performance is up to standard.

Payment will be made monthly in arrears and reflect the performance for the previous month. The broad principles of the Payment Mechanism are as follows:

- Payment for services only when availability and performance is achieved;
- Transfer of risk to the PFI Contractor in line with obligations; and
- A financial incentive for the PFI Contractor to perform in accordance with the output specification.

7.3.1 4ps Payment Mechanism

The Councils propose to adopt the 4ps Payment Mechanism as a basis for their Reference Case. The project team is planning a number of internal procurement workshops to draft the Payment Mechanism in detail for the Invitation to Submit Final Tenders (“ISFT”) and has recognised the following as areas for development:

- Tonnage adjustments specific to individual waste management processes likely to be included in the Reference Case;
- A landfill and BMW diversion adjustment to provide incentive to the Contractor to divert from landfill and mitigate the Councils’ exposure to LATS;
- A performance bonus and deduction system that is based on an equitable share of upside and downside risk; and
- An excess profit share mechanism that differentiates between profits derived through performance of the contract and those resulting from market economics, eg windfall gains from Renewable Obligation Certificates (“ROCs”).

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The rest of this section summarises the main elements of the 4ps Payment Mechanism and how it will be tailored for the Councils' Reference Case.

7.3.2 Calculation of Unitary Payment

The Unitary Charge will be modular, albeit that as much of the costs as possible will be contained within the main element; the unadjusted Unitary Charge. It is not possible to include all elements in a unified whole without either reducing value for money as bidders have to price in uncertainties, or creating the wrong incentives such as not exceeding diversion targets. The elements of the payment are set out below:

$$UC = An \ +/- \ V \ +/- \ E \ +/- \ LATS + C + W + NC - EP - D$$

Table 7.1 Elements of the Unitary Charge Calculation (UC)

| Symbol | Description | Comments |
|--------|-------------------------------|---|
| An | Unadjusted Unitary Charge | This is the amount payable for the waste management solution capturing all of the costs of the services required to meet the Output Specification based on an agreed tonnage forecast. Adjustments are made either for tonnage variations or performance related criteria through the elements listed below. |
| V | Tonnage adjustment | This allows for adjustments to be made to the Unitary Charge where actual tonnages arising differ from that forecast. The adjustment is only for the marginal cost of processing additional tonnage or the marginal saving of processing less. |
| E | Landfill diversion adjustment | Landfill will not form part of this contract, however, the Landfill Payment in the 4ps Payment Mechanism provides one of the key means of risk transfer for a waste PFI contract where the PFI Contractor agrees to a certain level of landfill diversion and where this is not achieved the PFI Contractor is liable for any resultant landfill costs (gate fee and Landfill Tax). Therefore, whilst payment for landfill services will not be included in this contract, the Councils are intending to incorporate a landfill diversion adjustment that will pass the risk of achieving a certain level of landfill diversion to the PFI Contractor. Where the PFI Contractor under-performs the |

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| Symbol | Description | Comments |
|--------|----------------------|--|
| | | <p>adjustment will make a deduction to the Unitary Charge based on the additional landfill gate fee and Landfill Tax costs incurred by the Councils. In addition, and to act as an incentive to the Contractor, where there is over-performance that generates real savings in landfill costs for the Councils, the adjustment will make a bonus payment to the PFI Contractor.</p> |
| LATS | LATS adjustment | <p>The Councils are intending to incorporate a separate adjustment to the Unitary Charge for BMW landfill diversion performance. As the contract will be limited to residual waste treatment, it is not considered equitable to attempt to pass the risk to the Contractor of achieving the aggregate LATS targets of the two Councils. Therefore it is envisaged that the performance will be measured against a percentage target rate for BMW diversion that the PFI Contractor can realistically achieve at the residual waste treatment facilities.</p> <p>Where performance falls short of the BMW diversion target, the adjustment will make a deduction to the Unitary Charge based upon the likely exposure of the Councils to additional LATS costs. Conversely, where the PFI Contractor over-performs and exceeds the BMW diversion target a bonus will be paid based upon the saved LATS costs.</p> |
| C | Compensation payment | <p>Waste collection is not included within the scope of this contract therefore where the actions or inactions of the WCAs impact on the ability of the PFI Contractor to achieve its contract targets the PFI Contractor may have relief from any deductions arising and/or may have some form of compensation where the actions or inactions cause additional costs to be incurred. The details of this mechanism will be developed in conjunction with the Bidders and will be</p> |

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| Symbol | Description | Comments |
|--------|--|--|
| | | specific to the solution proposed. |
| W | Waste minimisation payment | A payment for fulfilling certain programmed activities (but not measured against actual resulting changes in waste arising). |
| NC | Non-key services | Payment for certain types of waste the volumes of which are very difficult to predict such as vehicles and white goods. |
| EP | Excess profit share (a negative number, ie income) | Since it is unlikely that bidders will want to guarantee any significant amount of third party income in a volatile market, the sharing mechanism becomes very important and should be based on auditable financial information. |
| D | Deductions | Deductions will be made for both unavailability of the contract facilities and for poor performance of the services. The details of this regime and the long list of performance criteria and/or KPIs will be developed for issue with the ISFT. |

7.3.3 Performance management

As outlined above in table 7.1, the primary method of performance management will be exercised through E (the Landfill diversion adjustment) and LATS (the BMW diversion adjustment) elements of the Payment Mechanism where direct deductions will apply where the failure of the contractor to meet a performance standard exposes the Councils to additional landfill costs. The PFI Contract should contain sufficient incentives for the PFI Contractor to rectify the fault, but where appropriate, sub-standard performance for a prolonged period could trigger a termination event.

7.3.4 Performance incentives

As outlined above in table 7.1, the Councils are intending to incorporate a diversion bonus system into the Payment Mechanism whereby the Contractor is rewarded for over performance of the service. The Councils favour an approach where a bonus is only paid where real savings have been generated from which the bonus payment can be drawn. Therefore the Landfill diversion adjustment (E) will pay a bonus where landfill diversion over-performance has resulted in actual savings made in landfill costs (gate fee and Landfill Tax) and the LATS adjustment will pay a bonus where BMW diversion over-performance results in savings in LATS costs.

7.3.5 Performance deductions

It is considered that the deductions (D) do not need to apply to the whole Unitary Payment since the incentives of many activities are best achieved through the modular payment build up, and a number of the payments are already contingent on

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performance. Nonetheless, performance and availability standards are best encouraged through a deduction regime, linked to the KPIs which will be developed.

7.3.6 Performance monitoring

Unless there is an effective system of monitoring in place it will not be possible to know how well the PFI Contractor is performing or to know if payments and deductions are justified. It is important for the contract to be self-monitoring as far as possible so as to reduce the burden on the Councils. Council staff should be simply responsible for confirming the monitoring reports derived by the PFI Contractor. This will include incidents of failure, which the PFI Contractor should be obligated to highlight against itself, including incidents that relate to deductions.

7.3.7 Financial allocation mechanism

The Councils have developed a financial allocation mechanism to ensure an equitable allocation of financial and legal obligations to each Council under the PFI Contract. A number of elements have been considered to achieve this:

- Financial apportionment of the payment obligations under the PFI Contract Payment Mechanism;
- Apportionment of PFI credits between Councils;
- Allocation of site costs;
- Obligations of each Council under contract change procedures;
- Obligations of each Council under benchmarking and market testing exercises;
- Apportionment of default liabilities between Councils; and
- The financial implications flowing from the actions/inactions of the collection services on the Contractor.

Whilst the allocation methods have endeavoured to apportion costs as fairly as possible to each Council, the cost of providing the level of detail required for calculation of a highly accurate allocation of costs is considered to out-weigh the cost benefit of performing this analysis. In view of this the Councils have considered the allocation methods available and decided on a preferred option that takes these factors into consideration and offers the best value for money.

Once agreed, this paper will form the basis of a Schedule to the Joint Working Agreement between the Councils. This Agreement is discussed further in Section 7.10.

7.4 Project Agreement

The Councils intend to adopt the Standardisation of PFI Contracts version 3 (“SoPC3”) with those derogations promulgated by 4ps as being appropriate in the case of waste disposal PFI contracts as the basis of the contractual arrangements between the Councils and the PFI Contractor.

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7.5 Indexation

It is recognised that the PFI Contractor will wish to protect itself against inflation over the life of the project, and to prevent operating cost increases through inflation undermining the bankability of the project. This is particularly the case where the provision of infrastructure is deferred to any significant degree. It is envisaged that the Unitary Charge will, in part, be subject to indexation. It is also envisaged that bidders will propose the proportion of the Unitary Charge subject to indexation which maximises value for money; however the Councils expect that the proportion will reflect the underlying cost structure of the project.

7.6 Balance Sheet treatment and deliverability of specification

An initial view of the balance sheet treatment prepared by the Councils' financial advisors Ernst & Young has been provided in Appendix 24 to this OBC. It concludes that the transaction could achieve off balance sheet treatment for the public sector under the Treasury Guidance Note "Private Finance Technical Note 1 (Revised)."

7.7 Approach to key risk areas

The Councils fully appreciate the significance of identifying and seeking to mitigate risks associated with procurement and contract delivery. A workshop was held on 15 February 2005 with representatives of both Councils, the WCAs, and legal, financial and technical advisors to assess and collate procurement and contract risks. The risks discussed at the workshop were subsequently reviewed further, and the key outcomes regarding risk are summarised below. The Risk Register for the contract is given in Appendix 25.

a) Market Interest

Market interest from the waste management industry is essential to ensure a competitive tendering process. To test the Councils' proposed procurement approach, the waste industries were questioned on two occasions regarding their interest in a PFI waste treatment contract in North Yorkshire and York.

Market testing was initially carried out in August and September 2005 with a long list of general procurement questions. As the EOI and OBC for this Reference Case were developed, it became apparent that the waste market should be consulted further on some specific questions, and to confirm the conclusions of the earlier market testing. To this end, two market testing days were held - on 25 July 2006 a market testing event was held for the financial sector and on 26 July 2006 a similar event was held for the waste management sector.

Financial Sector Market Testing

The Councils invited 15 organisations and issued a Project Information Notice ("PIN") to advertise the event to other financial organisations. The organisations that attended the day were as follows:

- ABN AMRO
- Bank of Ireland
- Bank of Scotland

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- Bank of Tokyo-Mitsubishi UFJ
- Barclays Bank
- Commerzbank AG
- Dexia Public Finance Bank
- Fortis Bank
- IXIS Corporate and Investment Bank
- Lloyds TSB
- Natexis Banques Populaires
- NIB Capital
- Norddeutsche Landesbank Girozentrale
- Royal Bank of Canada
- Royal Bank of Scotland
- Sumitomo Mitsui Bank
- KfW IPEX Bank

Summary of responses

A summary of the responses to the questions posed at the financial sector market testing exercise are as follows. The questions can be found in Appendix 26. These were gained via a general discussion session and individual one to one sessions with organisations.

Factors influencing interest in the Reference Case project

- A disaggregated project approach was generally well received. However, it was recognised that the interface risks between contracts would need to be carefully managed;
- The value of SRF outputs from MBT need to be realistically assessed;
- Competence and experience of the Project Team and advisors – want to ensure they are capable to move the procurement process along at the right speed;

Scale and Scope of the Reference Case project

- In general, financial providers were comfortable with the PFI route although PPP found to be more flexible with fewer compliance requirements;
- Some concerns were expressed regarding the length of the procurement process and the resultant bid costs;

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Sites and planning

- Provision of sites and proposed approach to planning is a practical approach;
- Need to ensure sites are suitable for their intended purpose – size, location etc;
- The Councils appear to be doing all that they can to secure sites;
- Concerns about planning delays and who has risk ownership – could implement an incentive for bidders to accelerate the planning process.

Technology

- In general, financial providers were happy with the MBT and EfW technology, however some funders expressed a preference for compost producing technology rather than SRF due to lack of markets at current time;
- Funders mostly indicated a preference for funding proven technology however some funders were equally open to funding new technology;
- None of the bidders indicated a preference for a specific type of technology.

Contractual

- All funders indicated that Landfill Tax and LATS risk should be capped for contractors;
- Should be used to provide an incentive for all parties to resolve problems.

Other issues discussed

Competitive Dialogue - in general financial providers had reservations about the practicalities associated with the Competitive Dialogue procedure. Financial provider's interpretation of the Competitive Dialogue approach is that the dialogue phase would include the majority of the negotiations between parties. Furthermore, such negotiation will take place with a larger pool of bidders than would have been the case under the negotiated procedure. Financial providers indicated that they would be reluctant to undertake any significant level of due diligence at such an early stage in the procurement where there is much less certainty of success unless the due diligence costs involved were underwritten by the bidder (or local authority). Financial providers indicated that bidders would also be unlikely to willingly enter into negotiations and potentially incur high levels of bid costs with less certainty of success.

Payment Mechanism – financial providers were supportive of the proposed Payment Mechanism. Some however questioned whether an over-recovery of costs could occur resulting from poor diversion performance, by using a BMW diversion adjustment, Landfill diversion adjustment and Unavailability deduction for poor performance of the service.

In general the financial providers were pleased to have been involved in the market consultation process at an early stage of the procurement.

Waste Management Sector Market Testing

The event was held in York on 26 July 2006 and 43 organisations attended the event (a list of the organisations can be found in Appendix 27):

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The event took the form of a series of presentations from the Councils and its advisors, a general question and answer session, followed by individual one to one sessions.

Summary of responses

A summary of the responses to the questions posed at the waste management sector market testing exercise follows. The questions can be found in Appendix 28. The summary responses are taken from the general question and answer session and individual one to one sessions.

Scale and Scope of the Reference Case project

- Disaggregation of the contract – most potential bidders are in favour of disaggregation though some of the more traditional waste management sector companies would prefer a semi-integrated approach. This issue would not adversely affect these companies' decision to bid for the contract though;
- PFI – most generally in favour of this approach but some of the smaller technology providers claim that PFI funding is unnecessary and builds in delays and constraints to the programme and negotiations;
- Interface issues – few concerns expressed but comments were made about reduced risk transfer and the need for the Councils to manage the interfaces.

Technology

- Mix of technologies proposed depending on particular partnerships or technology provider. Most MBT solutions have thermal treatment element to deal with SRF;
- Internal or well secured external markets proposed for MBT/SRF solutions;
- Most non-technology based bidders leaving their options open but all would propose some form of thermal treatment for any MBT residue.

Sites and planning

- Mostly positive response to the Councils' approach on Planning and Sites with recognition that the Councils are doing all that is practically possible. Some concerns over the length of time taken for Planning and how this ties in with the procurement programme;
- Need to ensure sites are suitable for their intended purpose – size, location etc. and that a good range of sites is available to accommodate different proposals and plant sizes;
- A few queries as to whether the Councils would underwrite planning costs to accelerate the process i.e. to aid bidders submit applications during the Competitive Dialogue process;
- The number of sites proposed ranged from one to three. Very few bidders are offering sites.

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Procurement process

- Competitive Dialogue - there were some significant concerns regarding the Competitive Dialogue process. Most were concerned with the cost of undertaking Competitive Dialogue especially the potentially abortive due diligence work. Some technology providers felt that Competitive Dialogue particularly disadvantaged them;
- A few potential bidders thought that Competitive Dialogue was a good thing and that it encouraged early engagement on detail but it is unclear whether they fully understood the financial implications. Most who expressed a clear view, thought that Competitive Dialogue would have a negative impact on their decision to bid;
- Information requirements – most potential bidders felt that clear waste flow and waste composition data was essential. Most also wanted clear information on output requirements and sites. Some wanted affordability envelopes to be included in the descriptive document.

Other issues discussed

Most of the technology providers wanted reassurance that the choice of Reference Project did not close the door on other/different technology proposals. It was confirmed during the event that all options remained open at this stage and would only be closed down as part of the procurement process. It was noted that clear guidance on likely evaluation criteria will be needed by bidders early on in the procurement process to avoid using bidders' time, effort, and resources inappropriately and inefficiently.

At least two bidders indicated that they might be able to offer 'interim' or short-to-medium term solutions to the BMW diversion problem. The Councils will review alternative options as they are developed but do not propose at this stage to delay or otherwise prejudice the procurement of a long term solution whilst alternative options are evaluated.

b) Markets for process outputs

Bidders expressed no clear preference whether collection systems for dry recyclables should be co-mingled or kerbside sort. The Partnership have identified a preference for North Yorkshire to move towards three stream alternative weekly collection of co-mingled dry recyclables, green, and residual waste whilst York is anticipated to continue with its source separated waste collection system. Details of the proposed collection arrangements are described in Section 4.11.1.

The Reference Project proposes that there are 2 MRFs to sort co-mingled dry recyclables. The outputs from the MRFs would be sold to the appropriate markets i.e. paper, card, steel, aluminium, plastics and textiles. There will in addition be a small quantity of dry recyclables which will be recovered from the MBT facilities.

The Reference Case also includes a combination of MBT and EfW facilities. It is presumed that the MBT facility will be configured to maximize SRF output for combustion in a dedicated, two stream, EfW plant delivered as part of the Reference Case. The Reference Project assumes that the EfW facility would be capable of combusting both residual waste and RDF.

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Where practicable markets will be sought for the SRF in the period prior to the EfW being available. However, if no alternative markets can be found for the SRF it will be landfilled during this period. We have assumed a biodegradation rate of 20% occurring through the MBT process for the purposes of calculating LATS performance should markets for the SRF not become available in the period 2011 to 2013.

Electricity from the EfW facility will be sold to the grid as a renewable energy. Opportunities will be sought for “Combined Heat and Power (“CHP”) and recovery of the heat from the EfW facility.

Green waste will be open windrow composted, and will be sold and utilised locally.

c) Planning

General Planning Issues

As a result of well documented precedents of planning failures in other parts of the country and the challenges faced by authorities due to the uncertainties around securing planning permissions for waste facilities, the Councils are very aware of the focus that is rightly being placed on the planning aspects of waste procurement projects by Defra. It is therefore incumbent upon the Councils to demonstrate how they propose to manage this process and how they will seek to minimise the risks associated with gaining planning permission for the new waste treatment facilities.

The changes to the planning system and specifically the requirements of Planning Policy Statement 10 (“PPS 10”) and the new style Development Plans (under PPS 12) mean that the ‘plan led’ nature of the system has been further reinforced. The significance of this for procurement projects is that it is vital that the strategy basis for procurement is consistent with the evidence base that supports waste policies in the new plans. Equally important is the need to ensure that sites which are proposed to be promoted as part of the new contract(s) are, where practicable, appropriately allocated in the emerging waste plans. This needs to be achieved through transparent engagement with the plan preparation process and informed input to the statutory consultation process.

Issues associated with when and how to apply for new planning permissions are also high on the agenda. Until relatively recently the common approach has been to delay planning applications until contractors are in place and there is greater certainty over facility design, infrastructure and the detailed nature of the proposals. This approach has a number of disadvantages particularly with respect to the likely timescales involved in obtaining planning permissions and the short term needs of Councils to meet their landfill diversion obligations. The Councils are therefore mindful of the need to consider an accelerated planning application programme and in line with the approach being adopted by other authorities it is prudent to consider the extent to which planning work can be undertaken up-front by the Councils.

It is therefore accepted that the Councils need to take a proactive approach to managing planning risks in two principal ways:

- Appropriate engagement with the emerging Development Plans for North Yorkshire and York City Councils, particularly with respect to allocation of waste sites; and

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- Consideration of what steps can be taken to make early progress on planning applications prior to and during the contract procurement process rather than delaying planning applications until contractor(s) are in place.

Local Development Framework and Local Development Document

Although a clear planning policy framework can be developed through separate Development Plan Documents (“DPDs”) for the City Council and the County Council area, there may be advantages in terms of, consultation, sustainability appraisal and timescales to a collaborative approach on waste. The partners will ensure that very close working relationships, already established between planners, are maintained.

City Council

The Waste and Minerals Chapter of the 4th Set of Changes to the Local Plan will effectively constitute the draft Waste Local Plan for York. A Public Inquiry was opened into the Plan, as part of the adoption process, in November 1999, but was suspended in February 2000, due to Green Belt issues. The Local Plan therefore, has not been formally adopted. However, the 4th Set of Changes to the Local Plan were approved by members for Development Control purposes on 12 April 2005. The Deposit Plan was published in May 1998 and was subject to Changes 1 (March 1999), Changes 2 (August 1999), Changes 3 (February 2003) and Changes 4 (April 2005). As it has been approved by City Council Members for Development Control purposes, it will be used in the assessment of any planning application until it is superseded by the Local Development Framework (“LDF”). The Minerals and Waste Chapter (14) of the 4th Set of Changes to the City Council Local Plan are attached at Appendix 29.

In September 2004, the Planning and Compulsory Purchase Act brought in a new local planning procedure, which saw local plans being superseded by LDFs. These are 'portfolios' of planning documents, rather than one single document, as was the Local Plan. The 'Local Development Scheme' (“LDS”) is the project plan for the LDF, and was submitted to the Government Office for Yorkshire and the Humber in March last year for approval (part of the statutory process). The final approved version of the LDS was published in August 2005, and a copy can be found in Appendix 30. The LDS outlines the process and timescales for the production and publication for the various documents which form part of the LDF. It was anticipated in terms of waste and minerals issues, that these will be dealt with in the Core Strategy & Strategic Policies and Key Allocations & Proposals DPDs.

The Core Strategy & Strategic Policies DPD effectively sets out the overall strategy of the LDF and the key strategic policies against which all development will be assessed. It will form the framework, with which all other DPDs will need to conform. The Key Allocations and Proposals Map DPD will show all the sites which have been specifically identified for development in order to meet the City Council's vision and objectives or strategic policies in the Core Strategy, including waste and minerals.

However, given the requirements of the PFI work and the timescales involved, the production of a separate Waste and Minerals DPD is being considered as part of the LDF process. If it is decided that a Waste and Minerals DPD is produced the City Council and the County Council will work together towards a complementary process with the intention of having a Minerals and Waste DPD adopted by December 2008. This would be instead of dealing with the key allocations and proposals map DPD, which would therefore speed up the process. Officers have recently had initial

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discussions with technical specialists with waste and minerals expertise and the Government Office for Yorkshire and the Humber. Any outcomes in terms of changing the LDS project plan will be subject to approval from both the City Council Members and also the Government Office for Yorkshire and the Humber. It is anticipated that a revised LDS will be submitted to the Government Office for Yorkshire and the Humber late in 2006.

County Council

Work on the North Yorkshire Minerals and Waste Development Framework (“NYMWDF”) commenced in the spring of 2005, resulting in the launch of an Issues and Options Paper for consultation in July 2005. Work is now underway to move towards the preparation of Preferred Options for the minerals and waste Core Strategies, with a view to these being issued for consultation purposes around November 2006.

The Core Strategy for waste will aim to develop local policies which carry forward key themes emerging from national and regional waste planning policy and the JMWMS, and is expected to be finalised for submission to the Secretary of State by the end of March 2007.

Work is also commencing on the assessment of sites which may have the potential to contribute to the delivery of more sustainable waste management.

As part of this exercise, the County Council and the City Council have commissioned Land Use Consultants to undertake a site search exercise focussing on the identification of sites for Municipal Waste Management Facilities. This exercise (further detail below) is intended to complement development of the JMWMS. The output of this work was available at the end of April 2006 and will feed into the preparation of a waste site allocations DPD which will form part of the NYMWDF. Consultation on sites is expected to take place between late 2006 and mid 2007. The agreed timescale for preparation of the NYMWDF envisages final adoption of a waste core strategy in the spring of 2008 and adoption of a waste site allocations document by the end of 2008.

d) Sites and Planning Risk

The Councils are aware of the need to maximise competition and ensure a level playing field for all bidders. In view of this, the Councils have undertaken a site search exercise to identify sites within the Councils’ ownership and potential sites owned by the private sector. The Councils’ intention is to make strategic sites available to all bidders. This may require acquisition from the private sector, either by securing options, long term leases or purchase.

Site Search Process

1. Potential Site Search

Consultants were engaged to identify potentially suitable sites for the development of new waste transfer, treatment, recovery, and disposal facilities. The project has produced a short list of potential sites for the development of new waste facilities in the City of York and North Yorkshire area, outside the National Parks. This work will support the Councils’ PFI bid by locating potential sites for development of facilities. The development of a short list has been justified by a robust and transparent methodology, which clearly indicates how the site identification process has been

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carried out. The final draft report indicated the sites that have been short listed, including the key benefits of the chosen locations and any relevant constraints.

The project was designed to be undertaken in four stages:

Stage 1: Inception - to establish the search criteria and gather data into a consistent format. At this stage a project inception meeting was held, along with meetings with City Council and County Council representatives. These meetings established the criteria to be used relating to existing opportunities for development of waste facilities and identified the types of constraints that may exist related to various waste facility developments.

Stage 2: Mapping Exercise - to be broken into two phases, the first, a broad mapping process to limit the area of search, the second, further detailed mapping of these areas to identify a 'long-list' of sites.

Stage 3: Short-listing sites and initial site inspections - to reduce the 'long-list' of available sites down to a 'short-list' of potentially available sites and to then carry out initial site inspections of the sites to verify the appropriateness of the location.

Stage 4: Reporting and Preparation of Site Submissions - to write up the first 3 stages of the work in a draft report. This will be reviewed by the project team, made up of representatives from both the County Council and City Council, and a meeting will be held to discuss the report before finalisation.

Progress to date

This work has been completed to final draft stage. The Councils are now considering how best to incorporate the findings of this study into the approach to securing control of the favoured sites. These sites are currently being assessed in relation to waste operational requirements and are being subject to further detailed evaluation on planning and environmental issues (including preliminary discussions with key consultees), in order to establish their overall suitability for further progression. The report is being used as the basis for preparing representations on the emerging development plans. The intention is that formal representations will be made on the North Yorkshire Waste DPD by the end of October 2006.

The Councils propose to pursue arrangements to gain control of the nominated sites in parallel with work on inputting to the emerging development plan. Subject to the progress of the plan compared with the procurement programme the Councils will lead this process and introduce contractors as and when it is appropriate to do so. For example it may be appropriate for short-listed contractors to engage at the final plan consultation stages and at the examination in public ("EiP") to support the allocation of sites and associated plan policies. However it is not expected that a preferred bidder will be in place at the anticipated time of the EiP. The current timeline indicates that the EiP into the waste site allocations DPD will have been completed prior to the announcement of preferred bidder. This will give the chosen contractor much greater comfort about the final content of the DPD and correspondingly higher confidence in the deliverability of suitable sites. This process was outlined and discussed at the bidder's market testing event in York 26 July 2006 and was well received.

Adoption of the DPD will provide a significant degree of confidence that when applications are brought forward there will be a presumption in favour of the development. There will also be a growing level of confidence in allocated sites during

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the final stages of the plan preparation process. Draft plans are a ‘material consideration’ in the determination of planning applications. This should provide sufficient confidence for certain applications to be brought forward in advance of final adoption of the plans.

Planning guidance in PPS 1 suggests that applications should not be delayed due to fears over prematurity with respect to timescales associated with the final adoption of a development plan. The guidance states that this should only be an issue for ‘Major Developments’. In the context of North Yorkshire this might be applied to an EfW or MBT plant. For smaller scale facilities (i.e. transfer stations) planning applications brought forward prior to final adoption of the DPD should not be encumbered by fears over prematurity.

Planning Applications and EIAs

The Councils consider that there is considerable merit in seeking to bring forward planning work and potentially submit planning applications for certain facilities prior to contract close. Enviro's are providing on-going advice on this matter and have considerable expertise in this area. Their advice suggests that a dual approach to planning applications might be appropriate, whereby the approach to the treatment facilities is different to the reception/transfer facilities.

It is reasonable to assume that all major new waste facilities will be subject to EIA. The advice that the Councils have received suggests that for the less complex operations such as transfer and MRF facilities it should be possible to obtain planning permission using appropriate assumptions and existing knowledge about the development design specifications etc. Due to the rigours of the EIA process and the need for robust environmental emissions data a generic approach to seeking to obtain planning permission for treatment facilities and particularly EfW is a high risk strategy and one that the Councils do not believe is advisable.

Once agreement is reached on the preferred locations of the treatment facilities then considerable early progress can be made on the EIAs for these sites such that the timescales after contract close when planning applications can be submitted can be accelerated. Time critical work which will be undertaken in advance will include baseline surveys and environmental monitoring (e.g. ecology surveys, noise surveys, air quality monitoring, traffic surveys, etc.). It is probable that Scoping Reports and requests for Scoping Opinions from the planning authority will form part of this work.

2. Yorwaste Sites

An independent assessment has been undertaken of the strategic and commercial significance of the sites (landfills and other holdings, including waste management facilities on the sites) controlled by Yorwaste sites, with a view as to whether some or all of these sites can and should be included in the Councils’ project.

This work involved close consultation with Yorwaste regarding the strategic (not monetary) value of the sites, both individually and collectively. The assessment took account of the sites’ current state, history, potential restrictions and future development potential.

The assessment included but was not limited to, a review of;

- potential geographic and infrastructure synergies with the existing and planned service provision;

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- consents and permits;
- the potential for development of other (non-Yorwaste) waste management facilities in the area of the asset(s); and
- planning practicalities, opportunities and limitations (in discussion with the Planning Authority) including likelihood of other sites in the area being developed for similar usage.

Information was sought from Yorwaste, the City Council and County Councils' waste management groups, the Planning Authorities and other potential stakeholders including potential bidders consulted in the recent soft market testing exercise.

The assessment concluded that some of Yorwaste's sites may be considered potentially to be of strategic significance. The Councils are of the view that this is more likely to be in relation to front-end services, with sites unlikely to be suitable to locate major residual waste treatment facilities. Yorwaste has been fully included in the evaluation and have responded to the report. They have accepted that some of their sites may have strategic importance and therefore that they may be required to make them available to bidders.

e) Collection Interface

The overall view of the collection authorities within the Partnership is that waste collection services should not be included in the Reference Project for a number of reasons, including:

1. High recycling performance and value-for-money can still be achieved by the Collection Authorities working together with the Disposal Authority and this is already evident through joint collaboration in respect of the County Council green waste composting contracts.
 - a) There is a signed commitment from each local authority to apply the SOAP. In addition, a SLA between Collection Authorities and the Disposal Authority is currently being drafted.
 - b) Economies of scale can still be realised for the Waste Partnership area's residents by adopting collection methods and systems which both deliver the Partnership's high recycling targets it has set and also dovetail with the chosen waste treatment technology.
2. Future Uncertainty
 - a) A contract period would usually cover only the useful life of the asset - for collection vehicles and bins this is usually no longer than 7 years. Although there are indications that there may be savings over the 20 year contract period, the risks of committing the Collection Authorities to such a long period would probably outweigh these potential savings. DSOs undertake the collection service in six of the seven Collection Authorities, who are able to respond more flexibly to changes in national waste policy or targets over this period. The development of the SLA and the adoption of similar collection methods and systems will raise performance and cost effectiveness further reducing the need for a 20 year collection contract.

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- b) There is a proposal to develop a more formal partnership arrangement with Member Representation on a joint Waste Partnership Management Board. However, these discussions are at an early stage and Members of individual authorities still carry responsibility for decision-making on waste collection.
- c) There is uncertainty over the longevity of the current Districts and Boroughs. Discussions on partnering arrangements between collection authorities are already taking place to meet Gershon savings and this might be complicated by any long-term contract procurement at this stage.

The Councils have fully explored and considered the option of including collection services within the Reference Project, which has been discussed within the Partnership on a number of occasions and who have almost unanimously, rejected it. The potential benefits of retaining services in-house have been judged as greater than any immediate advantage in passing service provision to the private sector, and the benefits to the Partnership of this position far outweigh the potential costs of challenging it.

There is also the critical issue that by including collection the Partnership may inadvertently restrict their potential market, at a time when there is a need to maximise the attractiveness of the contract to as wider market as possible. This issue has also been tested with industry, and several bidders have indicated that they would be less interested in a fully integrated contract than a waste treatment/recycling contract.

Despite the fact that collection services will not form part of the Reference Project, effective partnership working will be required to manage the interface between collection, recycling, treatment and disposal in order to achieve the levels of recycling and BMW diversion set out in the Reference Project.

The waste partnership in York and North Yorkshire has a track record of achievement which is based on a history of cooperation, a desire to achieve, and effective working relations at Officer, Chief Executive and Member levels. The Partnership is a member of the Innovation Forum project on joint working in two tier areas, and is working with consultants (Enviros Consulting Limited) on further partnership development work, funded directly by Defra. This work includes the development of a Memorandum of Understanding (“MoU”) and SLAs with each District and Borough council to establish accountabilities and formalise working arrangements.

f) **Service Level Agreements**

The purpose of the SLAs is to establish accountabilities and formalise working arrangements between the County and District Councils. It will define performance requirements for each District Council based on collective delivery of JMWMS targets and identify how they will be achieved.

The SLA will also set out the need to jointly agree input specifications for materials handled under the Reference Project, with contracts (rather than specifications being dictated). The SLAs will then commit the Districts to ensuring waste meets the agreed specification. This allows for a degree of flexibility in arrangements and for the contractor(s) to make their own choice of transfer/handling facility depending on the specification defined. The Districts accept that collection costs could increase as a result of the agreed collection arrangements with the Reference Project and are fully committed to moving forward in this way.

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The SLA with the WCAs in North Yorkshire will result in:

- Guarantees relating to performance on recycling
- Agreement on the collection methodology for recyclables
- Agreement to deliver waste to nominated transfer stations
- Collaborative and separate waste analysis
- Joint waste minimisation initiatives

The County Council, in return, is to:

- Continue to pay a value of recycling credit (currently £42 per tonne) such that no WCA is financially disadvantaged (but recognising the savings to WCAs as a result of investments in infrastructure);
- Deliver and fund delivery points within each WCA boundary;
- Deliver and fund MRFs which will increase the levels of recycling (and revenues from recyclables); and
- Share avoided LATS costs by making a variable payment (financial incentive) to WCAs exceeding individual minimum performance standards.

Work is underway with each of the WCAs in order to finalise the financial arrangements related to the above. This does not, however, impact upon the collective commitment from all parties in the Partnership to deliver the necessary waste collection and management services in line with the Reference Project. The financial incentive will be based on sharing avoided LATS costs resulting from a WCA exceeding its minimum performance standard set out in the SLA. At the time of writing, the minimum performance standard and level of incentive are being negotiated but will have regard to the likely or predicted future statutory duties of the WCAs, and likely or predicted LATS values.

In the unlikely event that one (or more) WCA does not sign up to the SLA (by the time the OJEU notice is ready to be issued in February 2007, the County Council would, only as a last resort, revert to the provisions of the WET Act and direct WCAs to deliver waste in separate streams. However, it is the clear preference of the County Council and its partners to negotiate mutually acceptable partnership based arrangements. As a Unitary Authority the City Council undertakes both collection and disposal functions, and as such will facilitate the appropriate interface.

A letter of support from the WCAs can be found in Appendix 31.

g) The role of Yorwaste in the Reference Project

The Councils have considered the position of Yorwaste and has concluded that the company should not bid for the PFI Reference Case (Recovery Contract).

This decision is based upon:

- The need to ensure that there is sufficient risk transfer from the Councils to the Private Sector;

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- The views from Soft Market Testing that Yorwaste bidding would deter other contractors from submitting tenders for the contract; and
- The areas of Yorwaste's specialism and knowledge base are predominately based upon front end treatment and landfill disposal.

Waste Handling and Recycling Service

The Councils recognise the expertise of Yorwaste in providing waste handling and recycling services. It is anticipated that Yorwaste will therefore participate in the competition for such services.

It is acknowledged that the company has a strong position in the local market and the Councils will therefore ensure that any Yorwaste assets of value to competitors will be made available in order to ensure a level playing field and best value through maximising competition.

h) LATS Strategy

The Reference Project model has provided a projection of the Councils' LATS position from 2008, over a 25-year period. The estimate is based upon 2003/04 waste flows combined with the waste growth projections for the Reference Project (as set out in Section 3.1.1), which predicts that the Councils will not meet their LATS obligations prior to 2013 without some additional interim bio-diversion measures or external allowance trading. This position arises because of the realistic timeframe adopted for the residual waste treatment facilities becoming operational (in 2013/14).

The model projects LATS compliance from 2013 to beyond 2020 with a predicted surplus of over 400,000 tonnes of allowances during this period. Between 2005/6 and 2012/13 the waste flow model currently predicts the Councils exceeding their combined landfill allowances by some 490,000 tonnes.

Since the Reference Project model (with associated waste flows), was developed, more up to date waste flow information has become available to better inform the Councils' projected LATS position. For example, the Councils are now aware of their actual 2005/06 LATS position, which is showing a LATS surplus of 23,933 tonnes (the Reference Project had predicted a deficit of 1,241 tonnes). Further analysis using provisional 2005/06 out-turn information suggests that the Councils' LATS liability up to 2013 may already have been reduced by some 214,000 tonnes as a result of improved recycling and composting and reduced waste volumes.

The implications of this difference are significant in the short term, (especially in relation to reducing LATS exposure) but have a negligible impact on the infrastructure requirement or other elements of the Reference Project. The Councils have therefore, not updated the Reference Project model to reflect the most recent out-turn position but will continue to use the most up to date information in projecting their budgetary position in the short term and in establishing their LATS mitigation strategy. Indeed the Councils will be even better informed following completion of the waste composition analysis programme that is currently underway.

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The Councils have developed a LATS strategy which includes a range of measures to mitigate the projected LATS exposure in the years to 2013, including:

- Managing waste volumes by improved waste minimisation;
- Commercial waste minimisation and preferential pricing mechanisms to encourage schemes that facilitate bio-diversion from landfill;
- Trading (buying) allowances;
- Bringing forward recycling plans; and
- Considering and implementing interim bio-diversion/treatment proposals.

These are discussed below.

Managing waste volumes

The waste strategy targets and assumptions on waste growth within the Reference Project represent a significant challenge for the Councils in turning round a history of waste growth and stabilising waste volumes. Despite the scale of this challenge, the Councils recognises the opportunities for helping to manage LATS risk by reducing waste volumes further and more quickly. Analysis shows that reducing the waste growth assumptions within the Reference Project by only 1% p.a. up to 2010, reduces the overall LATS demand by some 101,000 tonnes.

Early signs are that waste volumes are reducing faster than originally modelled, with waste growth over the period 2000 – 2005 averaging out at 1% per annum, although it is too early to say with confidence if this will be sustained. However, the Councils will continue with focussed and sustained attention on the management of future waste volumes as an essential element of managing LATS risk.

Commercial waste

The waste flow model assumes that future volumes of commercial waste collected by the WCAs within the area will reduce year on year as the costs of dealing with municipal waste increase beyond the costs available to commercial customers within the private sector. The Councils wishes to make it clear that it is not a strategic objective to reduce commercial waste volumes being dealt with by the local authorities, but that reduced volumes are an inevitable consequence of the different fiscal instruments being applied to the management of waste within the municipal and private sectors.

However, the Councils also recognise that further financial and environmental benefits can be realised through the recycling of biodegradable commercial waste collected by local authorities. Indeed, the mass balance approach being applied to the calculation of LATS performance means that the financial benefit to the Councils of recycling biodegradable commercial waste is greater than the 'benefit' of that waste being managed within the commercial sector. It is therefore currently within the Councils' financial interest for commercial waste collected by the WCAs to be recycled rather than disposed to landfill.

The County Council is already piloting a trial scheme with Selby District Council to encourage commercial waste recycling through the payment of a commercial waste recycling credit. This is a direct financial incentive paid to the District Council for each

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tonne of commercial waste it recycles and shows early signs of being an effective incentive to shift commercial waste from landfill to recycling. If the trial is proven to be effective the County Council plans to expand it to all districts and ultimately to replace a significant element of the commercial waste 'lost' to the private sector.

Trading

The Councils intend to make use of the trading provisions within the LATS to enable them to buy the allowances to make up any shortfall, at market rates. The County Council has established this principal formally through the allocation of an initial £1.0m to buy allowances in 2006/07. In addition, the County Council's current MTFs provisionally identifies £0.3m in 2007/08 and an additional £1.5m in 2008/09 in order to assist meeting LATS targets.

Bringing forward recycling plans

The disaggregation of the procurement of waste treatment from recycling and waste handling enables the different services to be procured to different timescales. Specifically, this now enables the earlier introduction of recycling services, where this offers a financial advantage. At the time of submitting this OBC, it is anticipated that some recycling and transfer station capacity can be procured early enough to enable delivery of the strategy recycling targets earlier than otherwise planned or predicted within the current waste flow model. As mentioned above, out-turn recycling and composting performance for 2005/06 is also greater than predicted within the waste flow model with consequential LATS benefits.

Considering and implementing interim bio-diversion/treatment proposals

Certain waste treatment technology providers and consortia have advised that they may be able to offer interim treatment/bio-diversion proposals to the Councils. The Councils will keep these options under review and will utilise them as and when they become viable and cost effective. However, the evaluation of these options will need to balance the benefit of any short term LATS mitigation with the potential adverse impact on the procurement of the long term waste treatment contract. The Councils will not allow any short term or interim option to delay or otherwise prejudice the procurement of a cost effective and sustainable long term solution.

i) Employment issues

Neither of the Councils have employees presently engaged in performing duties that would fall to be performed by a private sector contractor under a waste management contract(s). For that reason it is not presently expected that the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") would directly affect any of either Council's workforces. It may be the case that the award of the new contract(s) and the associated expiry or other termination of earlier waste management/disposal service provision contracts might constitute an indirect TUPE transfer.

We anticipate (though without seeking to pre-judge the state of the law at the relevant time) that any contract(s) awarded by the Councils would, if any local government employees were to be the subject of a TUPE transfer, require that any such transfer be governed by the Code of Practice on Workforce Matters in Local Authority Services Contracts as set out in Annex D to (the former) Office of the Deputy Prime Minister ("ODPM") Circular 03/2003. It would be the wish of the Councils to ensure (in line with

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Government guidance) that a ‘two-tier workforce’ would not be created as a consequence of the procurement.

In line with current good practice, the contracts which the Councils have awarded to deal with waste management/disposal on an interim basis, contain provisions enabling the relevant council to require their counter party to provide the information necessary to enable the transferee (and the Councils as indirect conduits to that transfer) to comply with the present duty to inform and consult with affected employees as required by TUPE.

j) **Acceptability of an EfW solution**

The reference project is based on an MBT and EfW solution. The results for the BPEO for York indicated that there was a preference for MBT, although the 2005/6 consultation showed no particular preference. The position in York is that whilst preferring an MBT solution, they would also accept that an EfW solution may be the preferred option on the grounds of affordability and for the benefit of the partnership as a whole. York will not eliminate EfW as a possibility. The local Green Party has two members on the Council who have indicated that they will object to incineration. This is a minority position.

7.8 **Competitive Dialogue**

In view of the complexity of the Reference Case the Councils expect to follow the Competitive Dialogue procedure for its procurement. The Councils anticipate that it will be able to engage with the supplier market through an iterative process during the course of which not only will an optimum solution be more likely to emerge, but also competitive tension will be maintained for longer than has sometimes been the case when procurements were run under the Negotiated Procedure. The fact that the Councils welcome the opportunity to engage with the supplier market should not be taken as suggesting vacillation on their part, instead it is a genuine openness to both established and emerging technology that is coupled with a desire to transfer the maximum amount of risk consistent with value for money.

However, the Councils are aware of the market’s concerns about the practicalities of adopting the Competitive Dialogue approach (as set out in Section 7.7a).

7.9 **Bankability**

The funding structure of the Reference Case is based on a typical PFI structure comprising 85% senior debt and 15% equity. The equity is made up of shareholder loans and share capital in the ratio 14/15 : 1/15 respectively.

The Unitary Charge generated by the Reference Case shadow bid model is such that a commercial return, comparable with that seen in recent waste management projects, may be generated by the Service Provider whilst meeting likely debt service requirements and banking covenants of senior debt providers.

The Reference Case in this OBC has been designed in a way to necessitate only one senior debt facility that is able to be committed on contract signature. Therefore, it is assumed that planning for the MBT and EfW plants will be pursued in parallel. Final drawdown under the debt facility is expected to take place in March 2013, a period of four years after financial close. This timetable is dictated by the timing of the EfW facility.

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The Councils have adopted a realistic timeframe for the programme for construction of the key facilities, particularly the EfW facility. If the commissioning of the facility is delayed significantly for any reason, it may become difficult to ensure guaranteed project finance, because funders are unlikely to be willing or able to commit to funding terms. In view of this, the Councils will ensure that the contract includes the provision to introduce alternative funding arrangements, such as the right to hold a funding competition.

Due to the scale of the facilities involved, and the period of time required to construct the facilities, it is likely that the project could be project financed. The Councils have received strong interest in the project as evidenced by the high level of interest and attendance at the financial provider's market testing day on 25 July 2006 (see Section 7.7a).

7.10 Contracting and decision making arrangements

One of the key issues which was identified for early resolution, is a demonstration of full and robust commitment to partnership working by all parties involved.

The Councils have entered into a legal agreement to demonstrate to Defra and the market, the full commitment of the Councils to the partnership. The legal agreement, (as a more robust substitute for the MOU), secures an agreement from the County Council and the City Council to work together to draw up a new strategy (now complete) and to negotiate and agree a binding Joint Working Agreement detailing how the Council's will work together towards successful delivery of the project.

The legal agreement identifies several key commitments for the partnership between the City Council and the County Council which are explained below:

Project objective – To jointly procure a waste management contract to maximise value for money for council tax payers by transferring the maximum amount of risk from the Councils to the Contractor (where this offers the best value for money).

Project scope – To cover all aspects of the waste disposal process from the reception of waste (i.e. from either the waste collection service or from recycling sites) to recycle disposal, treatment and landfill.

Project management – To appoint a Joint Waste Project Team and define its' decision making powers.

Joint Waste Strategy – To develop a high level joint waste strategy (now complete).

Joint Working Arrangement – A commitment that the Councils will work together within the project management structure to develop a more detailed and legally binding joint working agreement addressing a range of issues, including:

- content of ITN and other procurement documents;
- interim arrangements;
- form and content of scoring matrix;
- specific carve-outs for either Council;
- provision of personnel and other resources;

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- sharing of costs on an equitable and proportionate basis;
- identification of sites;
- application for planning permission;
- transfer of contracts and other assets to Contractors;
- termination events;
- sharing of LATS;
- use of powers of direction/managing collection performance; and
- the relative emphasis on diversion or recycling of waste in terms of the payment mechanism.

Bidders are reluctant to tender for contracts where the award is to be made by joint authorities due to concern over bid cost escalation as a result of disagreements between the authorities. The Joint Working Agreement seeks to overcome this perception by establishing a robust and efficient decision-making structure where one authority (County Council) is demonstrably (by use of its casting vote) the lead authority. This approach is, essentially a delegation (in accordance with the scheme of delegation of each Council) to Project Director level.

The contracting structure which the Councils will implement with the Contractor's SPV will be for the County Council to be the lead authority. This means that the Contractor will be contracting with one party only.

Certain decisions (e.g. long listing, short listing, contract award) are reserved to the respective Councils (acting through their executives) and cross party, political support is afforded through the involvement of the MEMJAG.

The Joint Working Agreement expressly recognises that there will be a need for a more detailed agreement to be negotiated between the Councils to deal with issues that may arise during the course of the procurement and contract term.

The Councils have executed the Joint Working Agreement which has been approved by their respective Chief Executives (the signed Joint Working Agreement and minutes documenting the sign up to the Agreement are included at Appendix 32a and 32b).

Project Management

The joint procurement project team, whose members are listed in the table in Section 7.10 are authorised to make and put into effect all decisions relating to the project, other than any matter which is a Reserved Matter or is a Council Reserved Matter.

The project is essentially owned and guided by the Strategic Project Board, which consists of Chief Executives, Financial Directors and Operations Directors and answers to the executives of both Authorities.

Day-to-day project management is the responsibility of the Core Project Team, under the guidance of the Project Board, with assistance/guidance from the local authority specialist resources. The Project Board members are; Project Owner, Project Director, Project Manager, Internal Finance Managers and lead advisors.

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Project control is essentially the responsibility of the Core Project Team and emanates from the monthly project review process which examines project performance in terms of finance, programme (milestones and documents issued), and issues management. The Core Project Team reports on a monthly basis via the Project Board to the Strategic Project Board. The roles and responsibilities of the Management Groups are as follows:

Core Project team

- Detailed day-to-day management of the project;
- Overall financial management;
- Production and maintenance of the project plan;
- Control of change;
- Overall management of project communications and reporting;
- Delivery of project performance; and
- Day to day risk management.

Project Board

- Management and direction of the Core Project Team;
- Production of all Approval papers;
- Overall management of risks; and
- Authorisation of changes.

Strategic Project Board

- Strategic direction of the project;
- Long-term budget setting;
- Communications strategy;
- Conduit to council executives;
- Overall ownership of project performance; and
- Ultimate risk owner.

MEMJAG (Reserved Matters)

Decisions which are 'Reserved Matters' will be referred to MEMJAG for resolution. MEMJAG (consisting of three Members from each Authority and supported by officers from both authorities) will be chaired by the County Council. The function of this group is to provide guidance and advice only, to officers on key decisions in relation to the Partnership, and to recommend which decisions in addition to those 'Council Reserved Matters' should be referred to the Executive.

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Matters regarding the PFI Contract reserved for MEMJAG include:

- Approval of the ITN;
- Agreement of short listed bidders; and
- Appointment of the preferred bidder.

Council Reserved Matters

Council Reserved Matters are any decision which either Council is required by its constitution to have taken by either its executive or by the full council and such matters as officers are advised by MEMJAG ought to be decided as if they were Council Reserved Matters and ought not be resolved by the Joint Waste Project Team.

Decisions which are 'Council Reserved Matters' will be made separately by each Council.

Examples of Council Reserved Matters include:

- Approval of the revised JMWMS;
- Approval of the OBC; and
- Award of the PFI Contract.

7.11 Contract monitoring

Contract monitoring will be carried out by the County Council as the lead authority, with the City Council contributing to costs.

In order to ensure that the contract is effectively monitored, a number of KPIs will be developed. A KPI Subgroup has been established, comprising of key members of the Project Team, both internal and consultants to develop KPIs for use in the monitoring of the contract post award.

These KPIs will be "SMART" (Specific, Measurable, Achievable, Realistic, Timely) and will be developed in order to continually monitor (and self monitor) contract standards.

Monitoring will also be carried out by both Councils relating to the:

1. Payment Mechanism – this will be primarily based upon volume of waste processed with adjustments made for over / under achievement on diversion targets, LATS adjustments, volume adjustments and performance (via a default point system).
2. Cost Sharing Allocation – this will be monitored and adjusted relating to, among other things, transport costs, ownership of tonnages and varying waste streams.

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7.12 Project management and team

Both Councils have extensive experience of managing major procurement projects including the current contracts for waste disposal, composting and HWRC management and have concluded successful PFI projects with others currently in progress. Working alongside its advisors the procurement team is well placed to effectively manage a project of this nature and is familiar with PFI as a procurement route. The day to day work is carried out by the joint project team as set out in table 7.2 below.

Table 7.2 Joint procurement project team

| Individual | Organisation | Position | Project Role | Experience |
|---------------|----------------|--|---|--|
| Gordon Gresty | County Council | Corporate Director Business and Environmental Services | Project Owner, responsible for overall ownership of the project and representing the project on the Strategic Project Board | 40 years experience of local government with 28 at Service Head/Director level. Managed a wide range of local government services and delivered many large procurement projects |
| Ian Fielding | County Council | Assistant Director, Waste Management | Project Director and lead waste officer for the joint PFI Waste Management project | 18 years waste management experience, 13 years in service procurement and management. Project Director for multiple restricted procedure procurement and principle team member on negotiated style PPP integrated waste contract in Hampshire (Project Integra) |
| Gary Fielding | County Council | Assistant Director, Business Support | Responsible for project financial management & related issues on behalf of the County Council | 10 years local government financial management experience including major procurement / contractual |

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| Individual | Organisation | Position | Project Role | Experience |
|---------------|---|---|--|---|
| | | | | issues relating to educational ICT provision |
| Jim Busby | County Council (jointly funded by City Council) | Procurement Project Manager | Overall project management of the joint PFI Waste Management project | Over 11 years in project and senior management roles primarily in the private sector with PPP experience on a large light rail contract |
| Fiona Sowerby | County Council | Insurance and Risk Manager | To facilitate the identification and prioritisation of risks associated with the joint PFI Waste Management project | Over 10 years public and private sector experience including some PFI experience |
| David Walker | City Council | Risk Manager | To facilitate the identification and prioritisation of risks associated with the joint PFI Waste Management project | Over 13 years Local Government experience working on a wide cross section of projects including schools PFI |
| Sian Hansom | City Council | Assistant Director, Resources & Business Management | Finance led input into project for the City Council and strategic input | Delivered pathfinder emergency services PFI project. 20 years post qualification accounting experience with 18 years in the public sector |
| Andy Hudson | City Council | Assistant Director, Environment and Neighbourhoods | Lead officer for waste strategy for the City Council for the joint PFI Waste Management contract and Chair of the City Council waste board | 5 years experience in managing waste strategy for the City Council |

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| Individual | Organisation | Position | Project Role | Experience |
|----------------|------------------------|--|--|---|
| Kathy Abbs | City Council | PFI Project Officer | To project manage the delivery of the City Council's input into the joint PFI Waste Management project | 10 years public sector procurement and contract management experience including some PFI experience and procurement of an in-Vessel composting contract |
| Stuart Henshaw | Selby District Council | Principal Environmental Services Officer | Representing WCA interests | Client Officer |

The Joint Procurement Project Manager has overall responsibility as project manager, but works in conjunction with the City Council's PFI Project Officer (Assistant Project Manager).

External consultants have been appointed to prepare the OBC and provide advice on the procurement process to include assisting with the development of the ITN, finalisation of the Output Specification, preparation of evaluation framework, selection of short-listed parties and preferred bidder, negotiations and agreement of contracts. The consultants are in effect part of the joint procurement project team and participate in all project team meetings. The consultants are:

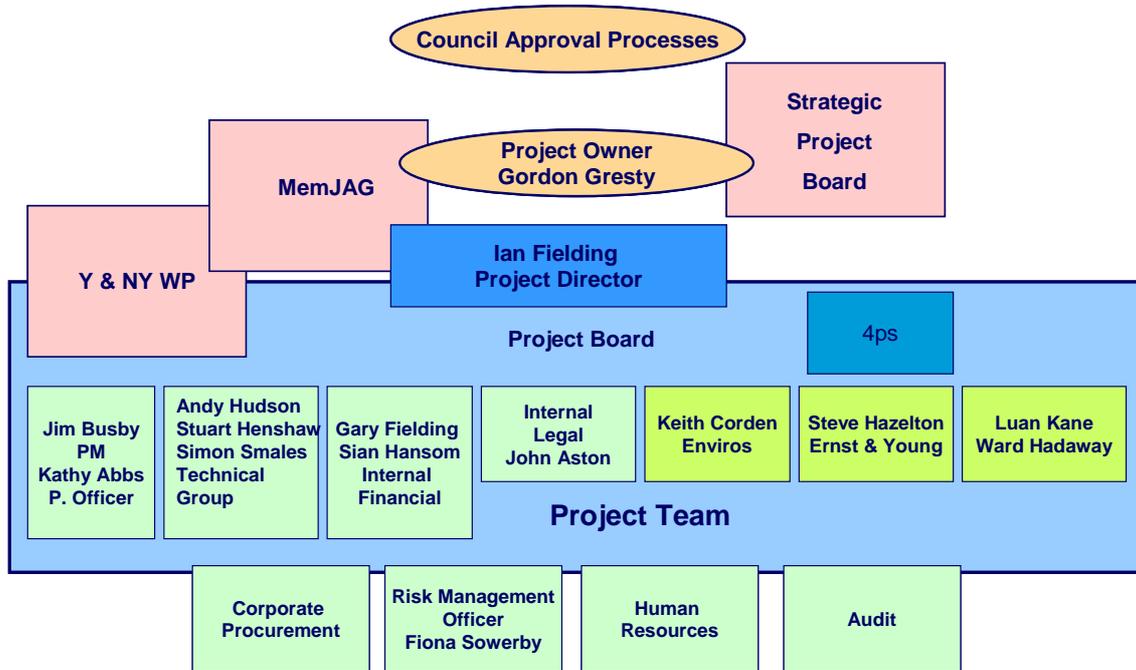
Table 7.3 Consultants

| Individual | Organisation | Project Role |
|----------------|-------------------------|------------------------|
| Steve Hazelton | Ernst & Young LLP | Lead Financial Advisor |
| Suzanne Brooks | Ernst & Young LLP | Financial Advisor |
| Tim Hammond | Enviros Consulting Ltd | Lead Planning Advisor |
| Phil Butler | Enviros Consulting Ltd | Lead Technical Advisor |
| Keith Corden | Enviros Consulting Ltd | Technical Advisor |
| Luan Kane | Ward Hadaway Solicitors | Legal Advisor |

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At the time of submitting this OBC, the project management arrangements can be best illustrated in figure 7.1 below.

Figure 7.1 Project management arrangements



The budget set aside for the PFI procurement work is set out in the table below:

Table 7.4 Joint procurement budget

| Item | County Council | City Council | Total |
|-----------------------------|---|---|---|
| PFI Procurement Work Budget | £423k in 2005/06 | £150k per annum for 3 years | £573k in 2005/06 |
| | £301k in 2006/07 | | £451k in 2006/07 |
| | £330k in 2007/08 | | £480k in 2007/08 |
| Funding of Staff | £58k in 2005/06 | £50k per annum for funding of PFI Project Officer | £108k in 2005/06 |
| | £80k in 2006/07 | | £130k in 2006/07 |
| | £80k in 2007/08 | | £130k in 2007/08 |
| Total | £481k in 2005/06 £381k in 2006/07 £410k in 2007/08 | £200k per annum for 3 years | £681k in 2005/06 £581k in 2006/07 £610k in 2007/08 |

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7.13 Timetable

A high level procurement timetable is provided below which assumes OBC approval at the Project Review Group (“PRG”) meeting in January 2007. To achieve this approval the Councils intend to submit their OBC in September 2006. Given the progress being made in both the financial and technical analysis required, this timeframe is deemed achievable by the Councils.

Table 7.5: Procurement Timetable

| | Stage | Date |
|---|---|----------------|
| 1 | Submission of OBC to DEFRA | September 2007 |
| 2 | OBC approval | January 2007 |
| 3 | OJEU notice published | February 2007 |
| 4 | Information Pack and PQQ issued | March 2007 |
| 5 | Issue Invitation to Participate in Dialogue | July 2007 |
| 8 | Announce Preferred Bidder | June 2008 |
| 9 | Contract sign-off | November 2008 |