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# **Herefordshire & Worcestershire Variation Business Case Version 4.0**

**Update of Financial Information presented to Cabinet in December 2013,  
to reflect financial close reached in May 2014**

**Department for Environment, Food and Rural Affairs  
(DEFRA)**

**Waste Infrastructure Delivery Programme  
(WIDP)**

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## Glossary

|                      |   |
|----------------------|---|
| AD                   | Anaerobic Digestion   |
| AWC                  | Alternate Weekly Collections                                |
| BMW                  | Biodegradable Municipal Waste                               |
| CHP                  | Combined Heat and Power                                     |
| DEFRA                | Department for the Environment and Rural Affairs            |
| DCLG                 | Department for Communities and Local Government             |
| DSO                  | Direct Service Organisation                                 |
| EfW                  | Energy from Waste   |
| EPC                  | Engineering, Procurement and Construction                   |
| FOI                  | Freedom of Information Act 2000                             |
| HMT                  | Her Majesty's Treasury                                      |
| HRC                  | Household Recycling Centre                                  |
| IBA                  | Incinerator Bottom Ash                                      |
| JMWMS                | Joint Municipal Waste Management Strategy                   |
| LACW                 | Local Authority Collected Waste                             |
| LATS                 | Landfill Allowance Trading Scheme                           |
| MBT                  | Mechanical Biological Treatment                             |
| MWM                  | Mercia Waste Management ("Mercia")                          |
| NAO                  | National Audit Office                                       |
| NPC                  | Net Present Cost  |
| NPV                  | Net Present Value   |
| NTP                  | Notice to Proceed   |
| VBC                  | Variation Business Case                                     |
| Optimism Bias        | A systematic tendency to under-estimate project costs.      |
| Output Specification | Definition of Service Requirements included in PFI Contract |
| PFI                  | Private Finance Initiatives                                 |
| RSS                  | Regional Spatial Strategy                                   |
| SoPC4                | HM Treasury: Standardisation of PFI Contracts, Version 4    |
| TPA                  | Tonnes per annum  |
| UA                   | Unitary Authority   |
| VFM                  | Value for Money   |
| WCA                  | Waste Collection Authority                                  |
| WDA                  | Waste Disposal Authority                                    |
| WIDP                 | Waste Infrastructure Delivery Programme                     |
| WMSC                 | Waste Management Service Contract                           |
| WRATE                | Waste and Resources Assessment Tool for the Environment     |

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## Version Control

| Version | Date         | Status                  | Notes  |
|---------|--------------|-------------------------|--|
| V0.8    | 29 July 2013 | Working Draft           | The Financial Section (Section 8) is still in draft form. Additional information will be added and Version 1.0 of the VBC will be issued over the next few days. |
| V1.0    | 31 July 2013 | Draft – Issued to DEFRA | Finance section (8) data now included  |
| V1.1    | 6 Aug 2013   | Draft – Issued to DEFRA | Contents – Page numbers and Appendix details updated   |
| V2.0    | 10 Sept 2013 | Draft – Issued to DEFRA | Finance Section (Section 8) updated (SP)<br><br>Other updates to reflect clarification points. Covering email to DEFRA outlines sections changed.                |
| V3.1    | June 2014    | Working draft           | Updates following conclusion of the contract variation   |
| V3.2    | June 2014    | Working draft           | Further updates  |
| V3.3    | June 2014    | Final working draft     | Incorporating comments from final review   |
| V4.0    | June 2014    | Published               | Version published  |

## References

The following documents or reports are referenced within this Variation Business Case. Where appropriate, a link has been provided to documents or content on web pages rather than including within appendices.

| Section | Document / Subject   | Link to Online Version or Content Provided  |
|---------|--|---|
| 2.3.2   | Joint Municipal Waste Management Strategy                    | <a href="http://www.worcestershire.gov.uk/cms/recycling-and-waste/waste-strategy.aspx">http://www.worcestershire.gov.uk/cms/recycling-and-waste/waste-strategy.aspx</a>   |
| 3.2.5   | Waste Prevention   | <a href="http://www.letswasteless.com/cms/default.aspx">http://www.letswasteless.com/cms/default.aspx</a>   |
| 3.5.6   | JMWMS, Annex D   | <a href="http://www.worcestershire.gov.uk/cms/recycling-and-waste/waste-strategy.aspx">http://www.worcestershire.gov.uk/cms/recycling-and-waste/waste-strategy.aspx</a>   |
| 3.6.2   | Environmental Statement                                      | <a href="http://www.worcestershire.gov.uk/PublicAccess/tdc/DcApplication/application_detailview.aspx?caseno=L1WFA1RY00800#date-details">http://www.worcestershire.gov.uk/PublicAccess/tdc/DcApplication/application_detailview.aspx?caseno=L1WFA1RY00800#date-details</a>                 |
| 4.4.1   | EnviRecover  | <a href="http://www.EnviRecover.co.uk">www.EnviRecover.co.uk</a>  |
| 7.1.7   | Planning Documents   | <a href="http://www.worcestershire.gov.uk/PublicAccess/tdc/DcApplication/application_detailview.aspx?caseno=L1WFA1RY00800#associated-documents">http://www.worcestershire.gov.uk/PublicAccess/tdc/DcApplication/application_detailview.aspx?caseno=L1WFA1RY00800#associated-documents</a> |
| 7.3.1   | Secretary of State Letter                                    | <a href="http://www.worcestershire.gov.uk/cms/pdf/Secretary%20of%20State%20Decision%20Letter%20and%20Inspectors%20Report%20v1.pdf">http://www.worcestershire.gov.uk/cms/pdf/Secretary%20of%20State%20Decision%20Letter%20and%20Inspectors%20Report%20v1.pdf</a>                           |
| 9.4.2   | Community Liaison Group                                      | <a href="http://www.envirecover.co.uk/clg.htm">http://www.envirecover.co.uk/clg.htm</a>   |
|         | Worcestershire County Council Cabinet Report – December 2013 | <a href="#"><i><u>Worcestershire County Council December 2013 Cabinet Report – Item 4</u></i></a>   |
|         | Herefordshire Council Cabinet Report – December 2013         | <a href="#"><i><u>Herefordshire Council December 2013 Cabinet Report – Item 4</u></i></a>   |

|  |   |  |
|--|---|--|
|  | DEFRA Letter confirming reassessment of PFI Credits | <a href="#"><u>Worcestershire County Council Report Jan 2014 – Item 7 – Appendix D</u></a> |
|  | Worcestershire County Council – Loan decision       | <a href="#"><u>Worcestershire County Council Report Jan 2014 – Item 7</u></a>              |
|  | Herefordshire Council – Loan Decision               | <a href="#"><u>Herefordshire Council – Feb 2014</u></a>                                    |

## **1 Executive Summary**

### **1.1 Introduction**

- 1.1.1 *Worcestershire County Council and Herefordshire Council ('the Councils') consider the proposal from its contractor, Mercia Waste Management (MWM), to develop an Energy from Waste (EfW) facility to be a contract variation. The original PFI contract signed in 1998 included provision for an EfW plant. This document focuses on the details regarding the variation.***
- 1.1.2 *In December 2013 Cabinets (Herefordshire Council and Worcestershire County Council) agreed to vary the Waste Management Service Contract (WMSC) to have an EfW Plant at Hartlebury Trading Estate.***
- 1.1.3 *Since December 2013 and following negotiations with MWM, the Councils concluded the variation in May 2014.***
- 1.1.4 *Much of the Variation Business Case information is detailed within the December 2013 Cabinet Reports. The financial section of this document – Section 8 - provides an update further to the December 2013 Cabinet position, based on the position reached at financial close, as part of concluding the variation.***
- 1.1.5 *This document, in particular the financial analysis, should be read in conjunction with the December 2013 Cabinet Reports and links to these are provided within the document.***

### **1.2 Background**

- 1.2.1** In order to meet the targets set out in the Joint Municipal Waste Management Strategy, councils must be working towards achieving 45% recycling by 31st March 2015 and 50% by 31st March 2020.
- 1.2.2** Recognising that a new EfW plant will have a useful life which will extend beyond the end of the contract, the Councils have considered the impact of waste growth over the next 25 years. The resulting analysis indicated that a major treatment facility capable of processing up to 200,000 tonnes per year is required.
- 1.2.3** A contract variation was proposed; building upon the existing output specification with a view to incorporating the Councils currently assessed requirements and is the subject of this business case.
- 1.2.4** Failure to obtain planning consent for the EfW Plant in 2002 permitted a no fault termination of the contract but the Councils and the contractor agreed to defer the operation of this clause within the contract to allow an opportunity for an alternative solution to be developed. The contractor offered the possibility of a waste treatment plant or the transport of waste to another Waste to Energy Plant. However the Contractor was also willing to work with a sub-contractor to deliver autoclave technology and the Councils chose to pursue this option.
- 1.2.5** Autoclaving was however a novel technology. Sites and two planning consents were obtained, however the contractor was unable to meet the Council's requirement to find a long term off take contract for the use of the fibre and a licence to develop the technology.

- 1.2.6 Following the adoption of the Joint Municipal Waste Management Strategy, the Councils' contractor started to pursue the development of an EfW Plant in accordance with that Strategy. The site at Hartlebury was identified as being the best site available in the two counties for an EfW plant. Worcestershire County Council's Planning Committee considered the application in March 2011 and decided that they were "minded to grant planning permission". The site at Hartlebury is on a trading estate but is within the "Green Belt" and because of this the application had to be passed to the Secretary of State (SoS) for Communities and Local Government to consider whether he wanted to "Call In" the application. The SoS did "Call In" the application and in 2011 a Planning Inquiry took place to consider the application. The SoS made his decision in July 2012 granting planning permission to the applicant, MWM.
- 1.2.7 In order to maintain a consistent approach to the management and closure of issues and risks, a set of parameters were agreed. These being; planning, financial, contractual and technical parameters within which an agreement with MWM could be reached.
- 1.2.8 Previous Cabinet Reports (Herefordshire Council and Worcestershire County Council) have demonstrated a progressive satisfaction of the parameters and therefore closing of risks, e.g. Planning Parameters were satisfied / closed when the Secretary of State granted planning consent in July 2012.
- 1.2.9 In December 2013 the Cabinets of the two councils decided to vary the WMSC to construct and operate an EfW plant at the Hartlebury Trading Estate. This followed consideration of; affordability and a value for money assessment of a number of options including; variation of the contract, continue as is and terminate the contract. In addition a number of financing options were considered. Links to the December 2013 Cabinet Reports is provided below:
- [Herefordshire Council December 2013 Cabinet Report – Item 4](#)
- [Worcestershire County Council December 2013 Cabinet Report – Item 4](#)
- 1.2.10 Following dialogue with DEFRA and Her Majesty's Treasury (HMT), DEFRA confirmed the reassessment of the related PFI credits in December 2013. This recognised the councils' decision based on their preferred option – as per the December 2013 Cabinet Reports – was to vary the existing contract to design, build, finance and operate the EfW plant at Hartlebury, MWM would source financing from the Councils who in turn would use their prudential borrowing to provide a loan MWM.
- 1.2.11 In early 2014 both councils agreed the financing arrangements to provide a loan totalling £165 million to MWM.
- 1.2.12 The pre-commencement planning conditions were satisfied in April / May 2014.
- 1.2.13 In May 2014 the Councils agreed a revised Joint Working Agreement between them.
- 1.2.14 Following negotiations, the councils with MWM concluded the variation to the existing WMSC in May 2014.



## **2 Background**

### **2.1 Responsibilities**

2.1.1 Herefordshire Council, as a Unitary Council, has two roles in Waste Management; as a Waste Disposal Authority and a Waste Collection Authority.

2.1.2 Worcestershire County Council is an upper tier council, acting as a Waste Disposal Authority. There are six Waste Collection Authorities within Worcestershire:

- Bromsgrove District Council;
- Malvern Hills District Council;
- Redditch Borough Council;
- Worcester City Council;
- Wychavon District Council;
- Wyre Forest District Council.

#### **Waste Disposal**

2.1.3 The Waste Management Service Contract (WMSC) is a PFI contract which has a 25 year term. It is a partnership contract between Herefordshire and Worcestershire and was signed in December 1998 and is due to finish in December 2023. The contract is between the two Councils and Mercia Waste Management (MWM). MWM is a company who solely operate this contract. There are two equal shareholders in this company FCC Environment and Urbaser Ltd. The contract is operated by an operating company called Severn Waste Services (SWS) who are owned by MWM.

2.1.4 The contract signed in 1998 was one of the very early PFI contracts for waste management. MWM are required, by the contract, to design, build, finance and operate a number of facilities across the 2 Counties. Under the original contract these facilities included; a Landfill Site at Hill and Moor (between Pershore and Evesham), an EfW Plant (EfW) at Kidderminster, Material Recycling Facilities in Worcestershire and Herefordshire, Composting Sites, Transfer Stations and Household Recycling Centres (which include the 5 operating sites in Herefordshire at Bromyard, Ledbury, Ross-on-Wye, Rotherwas, Leominster and a proposed site at Kington). Most of the sites for these facilities are leased from the Councils by MWM and the sites and facilities will revert to the respective councils at the termination of the Contract. SWS also manage all the logistics associated with the Waste Disposal role.

### **2.2 History**

2.2.1 The Waste Management Service PFI Contract (WMSC) was signed between Herefordshire and Worcestershire Councils and Mercia Waste Management Ltd (Mercia) in December 1998 for 25 years. Various reports to Cabinet have set out the detailed history of subsequent developments under the WMSC, this is summarised for convenience here. It is important to recognise that the WMSC was for an integrated solution to be delivered by MWM for the disposal of all Local Authority Collected Waste (LACW) arising within the 2 counties. The Councils'

local authority waste disposal company (Beacon Waste) was transferred at the same time to MWM which took on responsibility for disposing of all 'Contract Waste'.

- 2.2.2 It is important to remember that the contract duly procured in 1998 included a waste to energy solution for dealing with residual waste. MWM started the process to deliver such a solution at the anticipated British Sugar site in Kidderminster. However, their planning application failed at appeal in 2002 and it was therefore acknowledged that the proposed EfW plant was undeliverable at that particular site.
- 2.2.3 Accordingly, the Councils and Contractor agreed a "standstill" position whereby the respective rights of the parties to terminate the WMSC as a result of the failure to obtain planning permission for the Kidderminster EfW plant by the anticipated 'longstop' date were 'frozen' to allow the parties to continue to discuss alternative solutions for the treatment of residual waste. The WMSC continued subject to its potential termination should the standstill agreement be brought to an end. This standstill position "dropped away" when the variation to the contract to deliver the EfW Plant at Hartlebury was entered into in May 2014.
- 2.2.4 The loss of the anticipated EfW facility to divert residual waste from landfill as per the contract meant the landfill site at Hill and Moor was filling considerably more quickly than had been anticipated under the WMSC and therefore some means of diverting waste from landfill needed to be developed. Interim arrangements were made by MWM to dispose of some of the residual waste at EfW plants outside the counties to ease the situation.
- 2.2.5 Various solutions for the residual waste were investigated including out of county disposal/ treatment and autoclaves. Planning permission was obtained in 2005 for an autoclave solution at Hartlebury Trading Estate (Worcestershire) and Madley (Herefordshire).
- 2.2.6 In 2006 Worcestershire County Council acquired the land at Hartlebury Trading Estate for the purposes of residual waste disposal, with the intention of developing an autoclave facility there. However, autoclave negotiations with MWM broke down in 2007 due to the uncertainty about the end market for the process by-product. A satisfactory end market was a planning requirement but it became clear that this could not be met with any certainty and so the autoclave option was not deliverable.
- 2.2.7 The Joint Municipal Waste Management Strategy (JMWMS) sets out the policy approach to waste management in accordance with the Waste Hierarchy. In line with national guidance Waste Prevention is prioritised in order to reduce the amount of waste produced by the two councils. We then, in order of priority, encourage Reuse, Recycling and Composting of waste. Any waste remaining is 'residual waste' which the strategy identified should be treated to recover energy. Only after all these things have been done can we consider landfill as a means of disposing of any waste that remains. Both councils have been very successful at reducing waste with some of the lowest waste per head of population in the West Midlands region. It should also be noted that Central Government has imposed increasing financial penalties through Landfill Tax to promote the diversion of waste from landfill, and landfill is

not a medium or long-term solution. Since 1996 landfill tax has risen from £8/tonne to £72/tonne and from April 2014 it is £80/tonne.

- 2.2.8 The JMWMS was originally adopted in 2004 and the 2009 JMWMS Review included a list of possible options for the treatment of residual waste and an appraisal of these was carried out by Environmental Resources Management Limited (ERM). This included; a financial assessment of Capital and Operational expenditure (CAPEX and OPEX) costs of the various options for comparative purposes and an assessment of the different options against environmental criteria undertaken using the Environment Agency's life cycle assessment tool – Waste and Resources Assessment Tool for the Environment (WRATE).

➤ Joint Municipal Waste Management Strategy

- 2.2.9 DEFRA guidance required the appraisal not to be weighted. However in a workshop with the councils' consultants ERM (who were used by DEFRA to prepare the guidance for the preparation of the JMWMS), the councils highlighted that the most important elements to them which were; cost, reliability of deliverability and resource depletion. The outcome of the workshop is reflected in the Residual Waste Options Analysis. Both of the EfW solutions (with and without Combined Heat and Power – CHP) perform well against these criteria when compared to MBT or autoclaving.
- 2.2.10 The financial assessment was for comparison purposes. The potential incomes from heat supply, electricity export and the sale of recyclate to the market were omitted from the financial assessment. This recognised the figures were subject to considerable uncertainty and was based on the industry expertise of ERM.
- 2.2.11 The Residual Waste Options Appraisal shortlisted the following potential technologies for the treatment of residual waste in Worcestershire and Herefordshire: Energy from Waste (EfW) with and without Combined Heat and Power, Mechanical and Biological Treatment (MBT) with gasification or Refuse Derived Fuel Autoclave.
- 2.2.12 The top two treatment solutions as assessed against the fourteen chosen un-weighted criteria were EfW and autoclaving. The Residual Waste Options Appraisal ranked EfW high, particularly with combined heat and power (CHP).
- 2.2.13 In 2009 the Councils moved to the commingled collection of recyclables using the new facility created under the WMSC by Severn Waste Services at Norton in Worcester. This facility means that the Councils' of Worcestershire and Herefordshire are able to maximise the amount of recycling (excluding garden waste for composting). The success of this approach is borne out by analysing Herefordshire and Worcestershire's performance when compared against the other local authorities in the West Midlands. The performance of Herefordshire and Worcestershire in dry recycling (that is recycling not including green waste) is amongst the best in the West Midlands.
- 2.2.14 On 17 September 2009, Cabinet adopted the revised JMWMS. This included a new policy to increase diversion away from landfill. The Residual Waste Options Appraisal (Annex D to the JMWMS) informed the method for treatment of residual waste, and MWM was expected to

bring forward proposals for disposing of residual waste in response to the JMWMS review.

- 2.2.15 In line with the JMWMS, MWM proposed an EfW facility to deal with residual waste and commenced a site search. This recognised the previous challenges associated with delivery of an autoclaving solution for Herefordshire and Worcestershire, reference point 2.2.7 above. This resulted in the site at Hartlebury Trading Estate being selected as the best site available in the two counties for an EfW plant.
- 2.2.16 Entec, now AMEC as specialist technical advisors to the Councils on waste, examined the EfW proposal both in relation to their own assessment of the Councils' requirements and the JMWMS. The Executive Summary concluded that the EfW Proposal was likely to provide the flexibility required for the Counties' ongoing waste management needs over a number of differing waste growth scenarios. This is provided at Appendix 2 to the December 2009 Cabinet Report.
- 2.2.17 In December 2009 Cabinet noted that MWM's proposals for an EfW facility with CHP on the Hartlebury Trading Estate appeared a good match with the JMWMS and were worth progressing through a planning application with a view to considering a variation to the PFI contract (WMSC) should planning permission be secured.
- 2.2.18 The report to Cabinet in December 2009 noted that the financial assessments that need to be made are whether the proposal is: (i) affordable and (ii) represents Value for Money. The report outlined how affordability and value for money could be assessed. It was noted that other than giving an indication that, on balance, the EfW Proposal should pass the assessments, it was not possible – at the time – to present a detailed and robust financial assessment. This was due to a number of factors including; time to secure planning permission, volatility in commodity pricing affecting construction costs and market conditions in the banking sector. It was agreed that the Cabinets of the 2 Councils received a further report providing detailed analysis of the financial and waste disposal issues should planning permission be obtained by MWM in respect of the EfW proposal.
- 2.2.19 The Councils did not consider it necessary in 2009 to undertake detailed value for money assessments based on the absolute costs of other technologies because the relative costs were understood within Annex D of the JMWMS. The market variability's described in paragraph 2.2.18 above would only have distorted those costs, had the caveats not been stated. The fact that EfW with and without CHP were respectively at the top and near the bottom of the relative cost range made any further commitment of resource to value for money studies potentially wasteful and not very informative.
- 2.2.20 The Director of Environmental Services (now, Director of Business, Environment and Communities) was tasked to negotiate with MWM a variation to the WMSC to give effect to the EfW proposal within certain parameters, and report back to Cabinet should planning permission be obtained. The proposed site at Hartlebury Trading Estate (which had previously been acquired by the Council for the autoclave facility) was appropriated by the Council for planning purposes relating to the EfW proposal.

- 2.2.21 MWM then sought planning permission for their proposal for an EfW plant at the identified Hartlebury site. Worcestershire County Council's Planning and Regulatory Committee considered MWM's application for planning permission in March 2011 and decided they were "minded to grant planning permission". As the site is situated in the Green Belt, this provisional decision was referred to the Secretary of State for Communities and Local Government who subsequently made the decision to "Call in" the planning application and determine it himself.
- 2.2.22 The Secretary of State granted planning consent for the EfW Plant at Hartlebury in July 2012 following a comprehensive call-in Planning Inquiry. The consent requires any development on site to commence within three years, i.e. July 2015. All relevant issues associated with site selection, objections and process were dealt with at length in the inquiry and in the decision report.
- 2.2.23 In granting the MWM planning permission the Secretary of State wrote that:
- "there is a compelling and urgent need for the facility as proposed and that there is no other suitable alternative site within Herefordshire and Worcestershire."*
- 2.2.24 The issue of the health effects of EFWs was considered at the Planning Inquiry and by the Councils in developing the JMWMS. The Councils have followed the authoritative advice on the health effects of EfW plants from the Health Protection Agency, their view is:
- "After reviewing the latest literature the Agency's general position remains unchanged: Modern, well managed incinerators make only a small contribution to local concentrations of air pollutants. It is possible that such small additions could have an impact on health but such effects, if they exist, are likely to be very small and not detectable."*
- 2.2.25 The Councils, have endeavoured to secure capacity at other EfW plants throughout the West Midlands to ensure compliance with the then requirement to divert biodegradable waste from landfill. A purchase of a very small amount of capacity has been achieved at Coventry's plant; however the only other capacity that was capable of being secured was either near London or in Kent which clearly involved very substantial costs for transport.
- 2.2.26 In February 2012, the Cabinet had authorised the Director of Business, Environment and Communities (BEC) to negotiate and conclude with MWM a variation to the WMSC to provide the EfW Plant at Hartlebury subject to certain Planning, Financial, Contractual and Technical Parameters.
- 2.2.27 In December 2012, the Director of BEC reported to Cabinet on progress of the variation negotiations and satisfaction of the Parameters. This report included a refresh by external experts of the JMWMS Residual Waste Options Appraisal which continued to rank EfW highly (with or without CHP).
- 2.2.28 In December 2012, Cabinet authorised the Director of BEC, in consultation with the Director of Resources (and in consultation with the Cabinet Member with Responsibility for Environment and Waste Management), to pursue proposals for alternative methods of finance for



the EfW plant given the relatively expensive bank debt financing which was being proposed.

- 2.2.29 The Director of BEC Communities in consultation with the Cabinet Member with Responsibility for the Environment and Waste Management was also authorised to procure and commence enabling works at Hartlebury for the proposed EfW up to a maximum capital cost of £1.8M, without prejudice to the final decision on residual waste.
- 2.2.30 The Director of BEC was asked to report back in 2013 regarding proposals for financing and procuring the proposed EfW plant (either by variation of the existing WMSC or fresh procurement), to enable Cabinet to take a final decision by weighing up the options available.
- 2.2.31 In December 2013 Cabinets in Herefordshire Council and Worcestershire County Council agreed that the Councils should enter a variation of the exiting WMSC with MWM to give effect to Option 2 (variation to the existing WMSC to design, build and operate an EfW at Hartlebury funded through prudential borrowing) to enable the construction and operation of a new EfW Plant at Hartlebury.
- 2.2.32 The Director of BEC (in conjunction with the Director of Resources and Herefordshire Council) was authorised to conclude a variation to the WMSC with MWM enabling the construction of the EfW Plant at Hartlebury and to take all necessary steps to put Option 2 (variation to the existing WMSC to build and operate an EfW at Hartlebury, financed through prudential borrowing) into effect.
- 2.2.33 In most instances similar / equivalent reports were taken to Cabinet in Herefordshire Council.

## 2.3 Key characteristics of Waste Disposal Authority (WDA) Area and Authorities

- 2.3.1 Worcestershire and Herefordshire are predominantly rural 'shires' with some urban centres of population mainly to the north of the Worcestershire bordering Birmingham.
- 2.3.2 Two of the collection authorities, Herefordshire and Wychavon operate under collection contracts and the other five have their own DSO's.

## 2.4 Analysis of Waste Arisings

- 2.4.1 The table below provides a summary of Waste Arisings.

Table 1: Waste Arisings

| Year    | Household Waste from WCA's | Waste from Commercial Collections | Household Waste from HRC's | Other LACW (C&I at HRCs, Bring sites & Fly tipping) | Total LACW | Percentage change on previous year |
|---------|----------------------------|-----------------------------------|----------------------------|---|------------|------------------------------------|
| 2006/7  | 257,234                    | 16,293                            | 108,248                    | 38,837  | 420,613    | n/a                                |
| 2007/8  | 253,701                    | 16,481                            | 93,273                     | 32,445  | 395,902    | -5.9%                              |
| 2008/9  | 246,559                    | 16,115                            | 92,321                     | 32,633  | 387,626    | -2.1%                              |
| 2009/10 | 243,045                    | 15,773                            | 90,357                     | 27,142  | 376,317    | -2.9%                              |

| Year    | Household Waste from WCA's | Waste from Commercial Collections | Household Waste from HRC's | Other LACW (C&I at HRCs, Bring sites & Fly tipping) | Total LACW | Percentage change on previous year |
|---------|----------------------------|-----------------------------------|----------------------------|---|------------|------------------------------------|
| 2010/11 | 249,671                    | 11,855                            | 85,623                     | 24,801  | 371,951    | -1.2%                              |
| 2011/12 | 244,206                    | 7,686                             | 81,999                     | 33,293  | 367,184    | -1.3%                              |
| 2012/13 | 243,987                    | 11,489                            | 81,009                     | 25,788  | 362,273    | -1.3%                              |

## 2.5 Details of current arrangements for collection and disposal

### Current collection arrangements

2.5.1 Current waste collection arrangements within the two Counties are summarised below:

#### Bromsgrove District Council

- Commingled recyclables collected on alternate weeks in 240 litre wheeled bins.
- Residual waste collected on alternate weeks in 240 litre wheeled bins
- Subscribed garden waste service.
- Commercial collection service operated by DSO.

#### Malvern Hills District Council

- Commingled recyclables collected on alternate weeks in 240 litre wheeled bins.
- Residual waste collected weekly in sacks.
- Subscribed garden waste service.
- Commercial collection service operated by DSO.

#### Redditch Borough Council

- Commingled recyclables collected on alternate weeks in 240 litre wheeled bins.
- Residual waste collected on alternate weeks in 240 litre wheeled bins.
- Commercial collection service contracted out.

#### Worcester City Council

- Commingled recyclables collected on alternate weeks in 240 litre wheeled bins.
- Residual waste collected on alternate weeks in 190 litre wheeled bins.
- Subscribed garden waste service.
- Commercial collection service operated by DSO.

#### Wychavon District Council

- Commingled recyclables collected on alternate weeks in 240 litre wheeled bins.
- Residual waste collected on alternate weeks in 180 litre wheeled bins.
- Food waste collected weekly (although on the residual collection week the food waste is landfilled and not sent to IVC as it is on the recycling week) – this was terminated in January 2014
- Subscribed garden waste service.
- Commercial collection service operated by collection contractor.

### Wyre Forest District Council

- Commingled recyclables collected on alternate weeks in 240 litre wheeled bins.
- Residual waste collected on alternate weeks in 240 litre wheeled bins.
- Subscribed garden waste service.
- Commercial collection service operated by DSO.

### Herefordshire Council

- Commingled recyclables collected on alternate weeks in 240 litre wheeled bins.
- Residual waste collected weekly in sacks.
- Commercial collection service operated by collection contractor.

### **Current disposal arrangements**

2.5.2 Current disposal arrangements across both Worcestershire and Herefordshire are summarised below;

- Recyclable waste is either; (i) sorted at the Material Reclamation Facility near Worcester, before going on to re-processors for recycling or (ii) directly delivered to re-processors having been separated at one of the Household Recycling Centres (HRC).
- Garden waste is processed at composting facilities near Abergavenny, Pershore, Ledbury, and Leominster.
- Residual waste is either sent for treatment at the EfW facility in Coventry or landfilled at sites near Kidderminster and Pershore.
- Commercial residual waste collections are either sent for treatment at the EfW facility in Coventry or landfilled at a site near Pershore.
- Commercial recycling collections are being trialled by some WCA's and the waste collected is disposed of through the standard contractual routes.

## **2.6 Performance of existing recycling and composting services**

2.6.1 The table below shows a summary of both recycling and composting performance for Worcestershire County Council.



**Table 2: Summary of Recycling and Composting Performance for Worcestershire County Council**

| Year    | Tonnage Recycled | Tonnage Composted | Percentage of household waste recycled and composted |
|---------|------------------|-------------------|--|
| 2006/7  | 64,825           | 28,155            | 32.3   |
| 2007/8  | 75,822           | 28,702            | 38.3   |
| 2008/9  | 77,848           | 33,503            | 41.6   |
| 2009/10 | 75,421           | 32,796            | 41.7   |
| 2010/11 | 75,815           | 34,107            | 42.8   |
| 2011/12 | 76,407           | 32,896            | 43.3   |
| 2012/13 | 75,390           | 34,747            | 43.6   |

2.6.2 The table below shows a summary of both recycling and composting performance for Herefordshire Council.

**Table 3: Summary of Recycling and Composting Performance for Herefordshire Council**

| Year    | Tonnage Recycling | Tonnage Composted | Percentage of household waste recycled and composted |
|---------|-------------------|-------------------|--|
| 2006/7  | 16,877            | 6,657             | 25.9   |
| 2007/8  | 19,710            | 6,594             | 30.2   |
| 2008/9  | 20,057            | 7,359             | 33.2   |
| 2009/10 | 21,249            | 7,250             | 35.6   |
| 2010/11 | 23,717            | 7,400             | 39.8   |
| 2011/12 | 23,659            | 7,251             | 40.1   |
| 2012/13 | 22,579            | 7,653             | 39.7   |

## 2.7 Residual Waste Treatment – recent performance trends

2.7.1 The tables below provide a summary of Residual Waste Treatment for both Worcestershire County Council and Herefordshire Council.

**Table 4: Summary of Residual Waste Treatment for Worcestershire County Council**

| Year    | Tonnage Thermally Treated | Tonnage of LACMW Landfilled | Percentage Diversion Rate | Tonnage of BMW Landfilled | Landfill Allowances |
|---------|---------------------------|-----------------------------|---------------------------|---------------------------|---------------------|
| 2006/7  | 25,857                    | 181,100                     | 43.1                      | 133,044                   | 164,466             |
| 2007/8  | 25,513                    | 155,859                     | 48.0                      | 112,113                   | 152,250             |
| 2008/9  | 31,317                    | 137,200                     | 53.5                      | 96,701                    | 136,980             |
| 2009/10 | 31,895                    | 130,670                     | 54.3                      | 91,975                    | 118,656             |
| 2010/11 | 18,617                    | 137,695                     | 51.5                      | 99,083                    | 105,448             |
| 2011/12 | 17,268                    | 134,891                     | 52.0                      | 99,083                    | 92,241              |
| 2012/13 | 13,588                    | 136,678                     | 50.7                      | 87,616                    | 79,033              |

**Table 5: Summary of Residual Waste Treatment for Herefordshire Council**

| <b>Year</b> | <b>Tonnage Thermally Treated</b> | <b>Tonnage of LACMW Landfilled</b> | <b>Percentage Diversion Rate</b> | <b>Tonnage of BMW Landfilled</b> | <b>Landfill Allowances</b> |
|-------------|----------------------------------|------------------------------------|----------------------------------|----------------------------------|----------------------------|
| 2006/7      | 1,189                            | 70,142                             | 31.3                             | 53,549                           | 50,681                     |
| 2007/8      | 85                               | 64,340                             | 33.0                             | 48,000                           | 46,635                     |
| 2008/9      | 83                               | 59,664                             | 35.4                             | 44,146                           | 41,577                     |
| 2009/10     | 82                               | 56,198                             | 37.7                             | 41,911                           | 35,508                     |
| 2010/11     | 83                               | 50,664                             | 42.4                             | 38,647                           | 31,555                     |
| 2011/12     | 84                               | 49,076                             | 43.2                             | 37,903                           | 27,603                     |
| 2012/13     | 84                               | 49,099                             | 42.1                             | 33,474                           | 23,651                     |

LACMW: Local Authority Collected Municipal Waste

BMW: Biodegradable Municipal Waste

### 3 Strategic Waste Management Objectives

#### 3.1 Reviews / amendments to Joint Municipal Waste Management Strategy (JMWMS) since Financial Close

3.1.1 The first Joint Municipal Waste Management Strategy (JMWMS) for Herefordshire and Worcestershire was developed in 2004. It was drafted to form the framework for the management of municipal waste in the counties of Herefordshire and Worcestershire for the next thirty years until 2034. It was prepared jointly by all Local Authorities responsible for managing municipal waste across the two counties.

3.1.2 In 2009, the Strategy was reviewed and it is the aspiration of the authorities to continue to review this every five years. This will ensure the Strategy is adapted to reflect changes and remains relevant as waste management in the United Kingdom continues to evolve. During the most recent review the Local Authority partners and stakeholders were invited to give their opinions on the direction that the revised Strategy should take with the adopted version being published in August 2011.

<http://www.worcestershire.gov.uk/cms/recycling-and-waste/waste-strategy.aspx>

#### Strategy Development

3.1.3 The Strategy review first assessed Herefordshire and Worcestershire's current position and any changes in drivers from the original 2004 strategy document. In response to this, a number of principles which govern the way municipal waste should be managed in Herefordshire and Worcestershire were identified.

#### Summary of Principles

Table 6: 10 Principles

|                    |   |
|--------------------|---|
| <b>Principle 1</b> | <b>Meeting the challenge of climate change by viewing waste as a resource</b> |
| <b>Principle 2</b> | <b>Commitment to the waste hierarchy of which waste prevention is the top</b> |
| <b>Principle 3</b> | <b>Influencing Government, waste producers and the wider community</b>        |
| <b>Principle 4</b> | <b>Continued Commitment to Re-Use, Recycling and Composting</b>               |
| <b>Principle 5</b> | <b>Minimising the Use of Landfill</b>   |
| <b>Principle 6</b> | <b>Partnership</b>  |
| <b>Principle 7</b> | <b>Monitoring and Review</b>  |
| <b>Principle 8</b> | <b>Customer Focus</b>   |
| <b>Principle 9</b> | <b>Value for Money</b>  |

|                     |  |
|---------------------|--|
| <b>Principle 10</b> | <b>Consideration of Social, Environmental and Economic Impacts</b> |
|---------------------|--|

3.1.4 The above principles were used as a framework to guide the creation of 24 policies and 6 targets by which the strategic principles will be delivered. The full range of policies can be found in the web based documentation and a brief summary of targets are presented below.

### Target Summary

Table 7: Targets

|                 |  |
|-----------------|--|
| <b>Target 1</b> | Climat change target measured against NI185, 186 and 188)  |
| <b>Target 2</b> | To achieve the national reduction in kg/head of household waste (not re-used, recycled or composted) of 35% by 2015 and 45% by 2020 based on 2000 levels   |
| <b>Target 3</b> | To achieve national recycling / composting levels of household waste of 45% by 31 March 2015 and 50% by 31 March 2020.   |
| <b>Target 4</b> | To achieve the requirements of the Household Waste Recycling Act 2003 to provide a kerbside collection of at least 2 recyclable materials from all households by 31 December 2010.   |
| <b>Target 5</b> | By 2015, or earlier if practicable, recover value from a minimum of 78% of municipal waste. The aim of this is to achieve the Best Practicable Environmental Option (BPEO) that was identified in July 2003 through a portfolio of treatment options, i.e. a minimum of 33% of waste to be recycled and / or composted, an additional 45% of waste to be recovered with a maximum of 22% landfilled. BPEO continues to be a policy of the Councils |
| <b>Target 6</b> | To reduce the amount of biodegradable municipal waste landfilled in order to meet the yearly allowances set by the Government under the Landfill Allowance Trading Scheme. In particular target years as below:<br><br>102,684 tonnes during April 2012 – Mrch2013<br><br>71,851 tonnes during April 2019 to March 2020  |

3.1.5 The range of options available to enable Herefordshire and Worcestershire to meet their targets was studied as part of the review. Options appraisals were conducted covering: waste prevention, recycling, composting and residual waste treatment.

## 3.2 Waste minimisation schemes

3.2.1 Over the next 20–25 years it is aimed to change the way that municipal waste is managed in Herefordshire and Worcestershire and this is encompassed within the refresh of the JMWMS. The principle upon which the Strategy is built is **waste prevention**, the top of the Waste Hierarchy

3.2.2 Through making opportunities available, designing appropriate collection systems and raising awareness, the Partnership will endeavour to ensure that everyone in communities can play an active role in ensuring that the amount of waste is reduced before it enters the waste stream. The Partnership will continue to promote waste prevention through a variety of campaigns and initiatives that will be reviewed to ensure that the most effective targeting of key waste streams are implemented.

- 3.2.3 As a result of the waste prevention measures introduced in the JMWMS in 2004, the growth in municipal waste arisings in the two counties had stopped and waste was starting to decline. More recently this has started to grow. In future years to 2034, it is estimated that municipal waste will only grow in line with the increase in the number of households across the counties identified in the Regional Spatial Strategy.
- 3.2.4 An important way of minimising residual waste is through a combination of alternate weekly collections and/or decreasing container capacity over time. A "core" level of service has therefore been developed and introduced by all WCA's. This ensures continuity and consistency of service across the Counties
- 3.2.5 The assessment of options carried out when refreshing the Strategy indicated that; home composting, food waste prevention, 'smart shopping', and both re-use and junk mail initiatives could have the biggest impact in terms of reducing both waste collection and disposal costs. Consequently a website has been developed that promotes these and other initiatives and a link is as follows:
- <http://www.letswasteless.com/cms/default.aspx>
- 3.2.6 Home composting continues to provide potentially the single most effective prevention measure. Our approach is to promote home composting in order to reduce the environmental impact of disposing of compostable waste. Promotion of home composting through the sale of subsidised compost bins and provision of advice to residents through the 'Master Composter' scheme will continue. Home composting also reduces collection and disposal costs and ensures that value is recovered from the waste material.
- 3.2.7 The authorities are working with agencies on national waste prevention campaigns. The Waste Resource Action Programme food waste reduction and 'Shop Smart' campaigns are examples. Work is also underway at a local level to develop initiatives to recruit and train volunteers to advise and promote waste prevention.
- 3.2.8 One measure of success in this area can be found on WRAP's website in their case study entitled 'Love Food Hate Waste' campaign (Herefordshire & Worcestershire).
- 3.2.9 Herefordshire and Worcestershire have been and will endeavour to continue to be innovative in developing and promoting campaigns such as the 'Sink your Waste' campaign which offered a cash back incentive for residents who fitted a food waste disposer in their home and reduced the volume of food waste entering the municipal waste stream.
- 3.2.10 The authorities will continue to build upon the success of current waste prevention initiatives where practicable and financially viable, ensuring that they continue to deliver effective results. The approach will be to encourage and achieve waste prevention.
- 3.3 Recycling and composting performance figures**
- 3.3.1 The table below shows the recycling and composting figures for Herefordshire and Worcestershire combined.

Table 8: Recycling and Composting Figures

| Year    | Recycling Actual Figures |       | Year    | Composting Actual Figures |       |
|---------|--------------------------|-------|---------|---------------------------|-------|
|         | Tonnes                   | % HHW |         | Tonnes                    | % HHW |
| 2001/02 | 30,750                   | 8.2   | 2001/02 | 19,075                    | 5.1   |
| 2002/03 | 26,673                   | 7.1   | 2002/03 | 20,487                    | 5.5   |
| 2003/04 | 52,549                   | 13.7  | 2003/04 | 20,451                    | 5.3   |
| 2004/05 | 65,255                   | 16.4  | 2004/05 | 28,552                    | 7.2   |
| 2005/06 | 70,058                   | 18.6  | 2005/06 | 33,909                    | 8.9   |
| 2006/07 | 81,702                   | 21.5  | 2006/07 | 34,812                    | 9.2   |
| 2007/08 | 95,531                   | 26.6  | 2007/08 | 35,296                    | 9.8   |
| 2008/09 | 97,905                   | 27.9  | 2008/09 | 40,862                    | 11.7  |
| 2009/10 | 96,670                   | 28.5  | 2009/10 | 40,045                    | 11.8  |
| 2010/11 | 99,532                   | 29.7  | 2010/11 | 41,507                    | 12.4  |
| 2011/12 | 100,066                  | 30.4  | 2011/12 | 40,148                    | 12.2  |
| 2012/13 | 97,969                   | 29.8  | 2012/13 | 42,400                    | 12.9  |

3.3.2 The original contracted recycling and composting performance is 26.5%, this has increased to 37.5% through the recently concluded contract variation. This is not directly comparable with the national statistics shown above. This is because the composting performance is based on the product produced and not the quantity of waste input into the processing facility. To clarify, the rates shown in Table 8, are calculated based on the old Best Value Indicators 82a and 82b, which in essence are similar to National Indicator 192. In terms of composting they are based on inputs to the compost facility and not outputs. Whereas contractually, the performance is measured against outputs from the composting facility and therefore the contractual recycling performance is recorded as being lower for essentially the same level of performance.

### 3.4 Landfill objectives

3.4.1 The original contract had a recovery rate of 52.5%, this has increased to 65.63% in the recently concluded contract variation.. The end of the Landfill Allowance Trading Scheme in September 2013 means that there are no devolved targets for landfill diversion; however there is a target within the JMWMS (Target 5) to recover value from 78% or more of municipal waste.

### 3.5 Appraisal of technology options for residual waste treatment

3.5.1 It has long been recognised within the two counties, that reliance on landfill is not a sustainable option and the principle of reducing the use of landfill for disposal of residual waste has been followed. Whatever alternative treatment methods are used, the aim is to recycle and recover value from the maximum amount of waste possible and reduce reliance upon landfill.

3.5.2 During the JMWMS review, an appraisal of residual waste treatment options was conducted by ERM – Technical Advisors to the Councils - on the following residual waste treatment options:

|          |   |
|----------|---|
| Option A | a single Energy from Waste (EfW) facility   |
| Option B | a single EfW facility with combined heat and power (CHP)  |
| Option C | two Mechanical Biological Treatment (MBT) facilities, located on two separate sites, one with onsite combustion |
| Option D | two MBT facilities each with offsite combustion   |
| Option E | a single autoclave  |
| Option F | two autoclaves, located on separate sites   |
| Option G | EfW located out of county   |

3.5.3 The options listed above were assessed against a range of environmental, social and economic criteria. Assessment of the different options against the environmental criterion was undertaken using the Environment Agency’s life cycle assessment tool; Waste and Resources Assessment Tool for the Environment, (WRATE). The assessments against the remaining criteria were undertaken using both quantitative and qualitative appraisal methods in accordance with best practice DEFRA requirements.

3.5.4 Option B (EfW with CHP) was identified as the highest ranking technology, scoring the highest marks in; global warming, transport, reliability, compliance with policy, flexibility and end product liability. Whilst all the criteria assessed were seen as important; cost, reliability and resource depletion were seen as key criteria. Option B scored well against these key criteria with the exception of cost, where it was ranked fifth, although income from the heat generated had not been taken into consideration.

3.5.5 It was therefore concluded that the two counties would, with the adoption of the JMWMS, seek to pursue a strategy including the provision of EfW with CHP.

3.5.6 The full appraisal can be found in Annex D to the JMWMS:

<http://www.worcestershire.gov.uk/cms/recycling-and-waste/waste-strategy.aspx>

### 3.6 Assessment of environmental impact of the proposed solution

3.6.1 During the public inquiry following the 'call in' of the Worcestershire County Council Planning Committee decision, who were 'minded to approve' the facility, the environmental impact of the facility was subject to further scrutiny. The Secretary of State decision notice states in paragraph 7.13 (iv):

*'.....EnviRecover has been the subject of a full environmental impact assessment which concludes that there are no significant or unacceptable impacts remaining following the adoption of appropriate mitigation measures. No party has challenged the adequacy of the ES.'*

- 3.6.2 The full environmental statement can be found as part of MWM's planning application in Documents 51 to 126 inclusive: Link to the documents below.

[http://www.worcestershire.gov.uk/PublicAccess/tdc/DcApplication/application\\_detailview.aspx?caseno=L1WFA1RY00800#date-details](http://www.worcestershire.gov.uk/PublicAccess/tdc/DcApplication/application_detailview.aspx?caseno=L1WFA1RY00800#date-details)



## **4 Variation Strategy for the EfW Contract Variation**

4.1 Value for Money is covered in Section 8

### **4.2 Introduction**

4.2.1 The 1998 contract requires the contractor to dispose of the municipal waste arising within Herefordshire and Worcestershire. From this waste the contractor must recycle a minimum of 26.5% and recover value from a minimum of 52.5%.

4.2.2 In order to meet the targets set out in the JMWMS, household recycling/composting must be working towards achieving 45% by 31 March 2015 and 50% by 31 March 2020. Since commencement of the contract, discussions with the contractor have resulted in a number of variations to the contract to drive up the level of recycling. A summary of the contract variations is detailed in **Appendix A**. The JMWMS also requires the recovery of value from a minimum of 78% of municipal waste by 2015 or earlier and also seeks to reduce the amount of biodegradable municipal waste (BMW) landfilled in order to meet the yearly allowances under the Landfill Allowance Trading Scheme.

4.2.3 With a requirement to achieve a 78% recovery of value and increased BMW diversion from landfill to ensure that the Councils are not penalised for landfilling more than their allocated LATS allowance, the contractor – Mercia Waste Management (MWM) - was asked to develop proposals to meet the Councils' revised strategic objectives.

4.2.4 The contractor proposed the development of an EfW facility with a capacity of 200,000 tonnes per annum. Their proposals have been tested against a number of differing waste arising growth scenarios and other criteria, and it has been concluded that they are in accordance with the JMWMS, are robust and offer the councils the flexibility to deliver sustainable waste management services going forwards.

### **4.3 Overall Strategy for executing the Variation**

4.3.1 The strategy for executing the variation focuses on delivery of the original intent of the contract and the final main component of the required Waste Management Infrastructure required to deliver the JMWMS – the EfW facility, ensuring it is affordable and demonstrates value for money.

4.3.2 Under the terms of the existing PFI Contract between MWMMWM and the councils, MWM are procuring an EfW facility in order to fulfil their contractual obligations for the management of waste arising within the two counties. The inclusion of the EfW facility will be the subject of a variation to the existing contract.

4.3.3 A number of options for the financing of the EfW have been considered. The appraisal of these options and an explanation regarding funding proposals are detailed in Section 8.

4.3.4 Under the terms of the existing contract, MWM are procuring the EfW facility directly via an engineering, procurement and construction (EPC) contractor. The councils have used their advisors (as detailed in Section 6) to confirm that the procurement is evaluated on an appropriate value for money basis. MWM engaged Fichtner to run the procurement

process as a fair and transparent competitive process. The following stages of procurement have been followed:

| #  | Stage   |
|----|---|
| 1  | Pre-selection and identification of potential bidders                       |
| 2  | Prequalification  |
| 3  | Preparation of the tender specification and contract conditions             |
| 4  | Issue of the tender enquiries   |
| 5  | Tender clarifications   |
| 6  | Tender assessment   |
| 7  | Tender submission clarifications  |
| 8  | Short listing of preferred bidders  |
| 9  | Call for best and final offers (BAFO)                                       |
| 10 | Tender assessment of BAFO   |
| 11 | Clarifications  |
| 12 | Short listing of final preferred bidders – Revised and Confirmed Bid (RACB) |
| 13 | Final Contract Negotiation  |
| 14 | EPC Contract Award  |

4.3.5 A Project Team was in place to deliver the planned variation. Details of the governance, project team, advisors and the approval steps are detailed in Section 6.

#### 4.4 Changes to the Output Specification

4.4.1 The output specification originally sought in 1996 was the subject of the WMSC signed in December 1998. It included:

- Taking ownership of the Councils' wholly owned waste disposal company;
- Becoming responsible for the treatment and disposal of all the domestic waste arising within Herefordshire and Worcestershire;
- Recycling at least 26.5 % of waste arising;
- Recovering value from at least 52.5% of waste arising;
- Refurbishing and managing all of the Household Waste Sites; and
- Assets are to revert to the Councils upon termination of the contract.

4.4.2 Since the contract was signed, national targets for recycling have increased and it is necessary to increase the level of the diversion of

waste from landfill. Recognising that the new EfW plant will have a useful life which will extend beyond the end of the contract, the Councils have considered the impact of waste growth over the next 25 years. The resulting analysis indicates that a major treatment facility capable of processing up to 200,000 tonnes per year is required.

4.4.3 The contractor has produced a specification for the EfW facility based on the initial contract requirements and incorporating more recent waste growth information from the review of the JMWMS. This specification was evaluated by the Council's Technical Advisors Entec, now AMEC, and following clarification of specific areas accepted as a suitable design specification in terms of life span and deliverability of the Councils requirements.

4.4.4 The existing contract pre-dates SOPC4 therefore the drafting of the variation, where appropriate, draws on WIDP standard guidance.

### **4.5 Technical solution proposed by the Contractor**

4.5.1 MWM propose a single 200,000 tonne per annum EfW facility with an operational commencement date in 2017, CHP enabled, with electricity generation linked to the National Grid. Further details of the proposal can be found on MWM website here:

[www.EnviRecover.co.uk](http://www.EnviRecover.co.uk)

### **4.6 Waste Flow Model**

4.6.1 The key annual waste-flow related performance measures included in the original contract are to:

- Recycle at least 26.5% of Local Authority Collected Waste (LACW); and
- Recovering value from at least 52.5% of LACW.

4.6.2 The contract variation concluded in May 2014 revised these performance measures;

- Recycle at least 35.78% of LACW; and
- Recovering value from at least 65.63% of LACW.

Table 9: Summary of Forecast Waste Flows

|                |           | 2018           | 2019           | 2020           | 2021           | 2022           | 2023           |
|----------------|-----------|----------------|----------------|----------------|----------------|----------------|----------------|
| <b>Inputs</b>  |           |                |                |                |                |                |                |
| WCA            | Residual  | 173,111        | 174,843        | 176,591        | 178,357        | 180,141        | 181,942        |
|                | Recycling | 71,906         | 72,626         | 73,352         | 74,085         | 74,826         | 75,574         |
|                | Green     | 14,582         | 14,727         | 14,875         | 15,023         | 15,174         | 15,325         |
| HRC            | Residual  | 31,861         | 32,180         | 32,502         | 32,827         | 33,155         | 33,486         |
|                | Recycling | 51,508         | 52,022         | 52,543         | 53,068         | 53,599         | 54,135         |
|                | Green     | 28,564         | 28,850         | 29,138         | 29,430         | 29,724         | 30,021         |
| BRING          | Recycling | 5,373          | 5,373          | 5,373          | 5,373          | 5,373          | 5,373          |
| <b>TOTAL</b>   |           | <b>376,905</b> | <b>380,620</b> | <b>384,373</b> | <b>388,163</b> | <b>391,991</b> | <b>395,857</b> |
| <b>Outputs</b> |           |                |                |                |                |                |                |
| Landfill       | EfW       | 46,923         | 47,279         | 47,639         | 46,872         | 48,368         | 48,739         |
|                | TS        | 4,018          | 4,467          | 4,920          | 9,447          | 5,840          | 6,307          |
|                | MRF       | 7,190          | 7,989          | 8,802          | 9,631          | 10,476         | 11,336         |
|                | HRC       | 31,861         | 32,180         | 32,502         | 32,827         | 33,155         | 33,486         |
| Energy         | EfW       | 121,832        | 122,756        | 123,689        | 121,699        | 125,584        | 126,545        |
| Recycling      | Bring     | 5,373          | 5,373          | 5,373          | 5,373          | 5,373          | 5,373          |
|                | HRC       | 51,508         | 52,022         | 52,543         | 53,068         | 53,599         | 54,135         |
|                | MRF       | 64,716         | 64,637         | 64,550         | 64,454         | 64,350         | 64,238         |
|                | EfW       | 338            | 341            | 343            | 339            | 349            | 351            |
| Compost        | Compost   | 43,146         | 43,577         | 44,013         | 44,453         | 44,898         | 45,346         |
| <b>TOTAL</b>   |           | <b>376,905</b> | <b>380,620</b> | <b>384,373</b> | <b>388,163</b> | <b>391,991</b> | <b>395,857</b> |

#### 4.7 Approval process to execute the variation

4.7.1 Councils have progressively built on Cabinet decisions, actively addressing areas of risk as detailed in the Parameters document (referred to in Section 5). The summary of the key steps are shown below:

- The Environment Agency granted the proposed EfW Plant (EnviRecover) an Environmental Permit and issued notification of that fact on the 18<sup>th</sup> April 2011.
- Feb 2012 Cabinet Decision
- July 2012: Following the Planning Inquiry, the Secretary of State for Communities and Local Government issued planning permission for the EfW facility in Hartlebury.
- The contractor – MWM – carried out a procurement for the EPC Contractor.
- Options Appraisal – Value for Money Assessment (progressively updated)

- July 2013: Submission of draft Variation Business Case to DEFRA
- December 2013: Feedback from DEFRA and Treasury
- December 2013: Close / address outstanding "Parameters"
- December 2013: Cabinet decisions for both Herefordshire Council and Worcestershire County Council. The reports focused on; satisfaction of the parameters, affordability, value for money and funding.
- December 2013: DEFRA reassessment of PFI Credits
- Jan / Feb 2014: Councils agree to provide funding via a loan
- May 2014: Negotiations with MWM
- May 2014: Discharge of the pre-commencement planning conditions
- Conclude legal drafting.
- May 2014: Conclude variation to the contract with MWM
- May 2014: Loan Agreement in Place
- May 2014: Joint Working Agreement between the two councils revised and agreed

## 5 Risk Management, Risk Allocation and Contractual Structures

### 5.1 Councils overall approach to risk management

5.1.1 The Councils' overall approach to risk management has been via a defined list of Parameters. Progressively addressing ("closing") each of the parameters is required to enable decision making and financial close for the EfW Variation. The parameters are categorised as follows:

- Planning;
- Financial;
- Contractual; and
- Technical.

5.1.2 Previous Cabinet Reports (Herefordshire Council and Worcestershire County Council) have demonstrated a progressive satisfaction of the parameters and therefore closing of risks, e.g. Planning Parameters were satisfied so closed when the Secretary of State granted planning consent in July 2012.

5.1.3 The latest published parameters report is detailed in the December 2013 Cabinet Reports.

5.1.4 Day to day issues and risks are managed by the Programme Team. A summary of the overall "Programme" Risks associated with completion of the Variation are shown in **Appendix B**.

### 5.2 Proposed changes to the Waste Management Service Contract (WMSC)

5.2.1 Since Financial Close of the existing WMSC, a number of contract Variations have been progressed. A summary of these is shown at **Appendix A**.

5.2.2 A number of outstanding variations were encompassed into the single variation concluded in May 2014, the primary purpose of which relates to the design, construction and operation of an EfW Plant at Hartlebury Trading Estate.

### 5.3 Markets for new process outputs

5.3.1 The EfW facility will have a number of process outputs for which markets will be required e.g.

- a) **Electricity:** The facility should provide 15.5MW of electricity, which is sufficient to power in the region of 20,000 homes.
- b) **Heat/steam:** The facility will be CHP enabled and MWM continue to investigate a local use from the heat/steam on the trading estate. As part of the permit conditions MWM will have to re-evaluate potential uses for the heat/steam every two years.
- c) **Recovered metal:** Work will continue to encourage residents to recycle their scrap metal; however a proportion will remain in the residual waste stream. The EfW facility will be configured to recover this material from the IBA before it is sent for reprocessing or disposal.

## 6 Project Team and Governance

### 6.1 Legal Context

6.1.1 The involvement of both Councils in the contract is as a WDA. The vires context for this variation is as follows:

- As WDA's they have a duty under the Environmental Protection Act 1990 (Section 30) and have a duty to make arrangements for such in accordance with the provisions of that act and in particular section 51 (disposal)
- The Councils have a duty under section 3 of the Local Government Act 1999 to make arrangements to secure Best Value in the manner in which its functions are exercised
- Under section 1 of the Localism Act 2011 the Councils have the power to do anything that individuals generally may do,
- The Councils have the power to enter into contracts for the purposes of or in connection with the discharge of its functions under section 1 of the Local Government (Contracts) Act 1997
- The Councils have the power to certify the contract pursuant to section 3 of the Local Government (Contracts) Act 1997

### 6.2 Project Governance

6.2.1 The two councils have an established working arrangement that is governed under the **Joint Working Agreement** between Herefordshire Council and Worcestershire County Council. This agreement set out the governance arrangements used for the management of the existing contract with MWMMWM. Specific governance arrangements are in place for the project, including reporting updates via the normal operational routes. **This agreement was revised in May 2014.**

6.2.2 The project was overseen by the **Waste Advisory Steering Group (WASG)** which includes Cabinet Members with Responsibility for Waste, Directors responsible for Waste, Chief Executives, Chief Finance Officers, Council Solicitors, Project Director and other members of the Project Team as required. This met 3 or 4 times per year or as necessary around strategic points within the project. **Some revisions to the Governance arrangements are detailed in the revised Joint Working Agreement.**

6.2.3 Regular updates were provided to the Directors responsible for Waste and also Chief Finance Officers as well as Cabinet Members.

6.2.4 The **project was structured** via a series of workstreams including:

- Financial: Financial Model and Value for Money;
- Funding;
- Legal and commercial;
- Technical, including EPC contract;
- Joint Agreement – changes to the existing agreement between Herefordshire Council and Worcestershire County Council;

- Programme, including communications and stakeholder management; and
  - Reporting, including formal reporting to Cabinet etc.
- 6.2.5 Each **workstream** had a lead officer, officers from the councils and where appropriate, was supported by advisors. The workstream leads, other officers and advisors made up the Project Team lead by the Project Director.
- 6.2.6 The **Project Team** held weekly conference calls to provide workstream updates and to progress key matters.
- 6.2.7 Regular sessions were held between the **client and contractor** on key aspects of the project as required, e.g. EPC, Commercial Issues, Technical.
- 6.2.8 In addition to this, specific **workstream meetings** / sessions were held as required in order to progress the variation.

### 6.3 External Advisors

The Councils appointed advisors in key areas to assist them with the Variation. The advising organisations are as follows. There was a lead advisor from each of the organisations with other colleagues supporting workstream work as required.

| Advice                | Organisation |
|-----------------------|--------------|
| Finance - Purchaser   | Deloitte     |
| Legal - Purchaser     | Eversheds    |
| Technical – Purchaser | AMEC         |
| Insurance - Purchaser | Marsh        |
| Finance - Funder      | Deloitte     |
| Legal - Funder        | Ashurst      |
| Technical – Funder    | Fichtner     |
| Insurance - Funder    | Aon          |

### 6.4 Outline of partnership arrangements with other WDAs

6.4.1 There is an existing partnership agreement – Joint Agreement - between Worcestershire County Council and Herefordshire Council for the management of the WMSC that was signed at contract close in 1998. This agreement has been revised to deal with arrangements following the end of the current contract term to recognise the useful life of the EfW Facility. The main areas of change within the agreement are: Governance, Payment Mechanism, Funding, Property / Assets, Extension.

### 6.5 District Council involvement in their capacity as WCAs

6.5.1 The two WDA's and the six WCA's within Worcestershire meet under the auspices of the Strategic Waste Management Board. This is a group of Councillors and senior officers who monitor and review the strategic development of waste management within the two Counties. This group were actively involved in the development of the JMWMS and are kept



informed of progress against strategic targets and the delivery of infrastructure.

## **7 Sites, Planning and Design**

### **7.1 Identification of site(s) for new facilities/activities**

7.1.1 In 2007 MWM commissioned a specialist waste planning consultancy to identify possible sites for a residual waste treatment facility or facilities within the Counties of Herefordshire and Worcestershire.

7.1.2 This process is referred to as the Site Search Exercise (SSE) and was carried out in five stages resulting in a number of reports and executive summary. The Stage 3 assessment identified only two sites which were likely to be suitable for an EfW facility:

- Ravensbank Business Park, Bromsgrove; and
- Hartlebury Trading Estate, between Kidderminster and Worcestershire County Council.

7.1.3 At this stage the Ravensbank Site was judged to be marginally preferable. During the course of investigations and negotiations that MWM undertook, to secure a freehold interest in the site, it became apparent that the Ravensbank site was subject of a number of restrictive covenants preventing the site being used for the intended purpose. As a consequence, it was dismissed.

7.1.4 It then followed that the Hartlebury site should be pursued. A Stage 4 study was undertaken to; (1) ascertain whether any new sites had become available or could be identified and (2) review sites previously commercially not available in order to establish if now potentially available.

7.1.5 This identified seven sites plus Hartlebury for detailed assessment, however Stage 4 concluded none of these other seven locations were suitable.

7.1.6 Following third party scrutiny of the whole SSE and a Stage 5 update study, it confirmed that the land at Hartlebury Trading Estate was the only suitable and available site for the EfW proposal.

7.1.7 An executive summary and the full report (in documents 10 – 27 inclusive) can be found using the link below as part of MWM's planning application:

[http://www.worcestershire.gov.uk/PublicAccess/tdc/DcApplication/application\\_detailview.aspx?caseno=L1WFA1RY00800#associated-documents](http://www.worcestershire.gov.uk/PublicAccess/tdc/DcApplication/application_detailview.aspx?caseno=L1WFA1RY00800#associated-documents)

### **7.2 Legal Titles to the Sites**

7.2.1 The identified site for the EfW Plant had previously been secured by Worcestershire County Council under a 999 year lease from March 2006 and has been made available to MWM for the development of the EfW facility under a licence. This licence has been converted into a lease. Herefordshire Council holds a deed of trust interest in the same site.

### **7.3 Points arising under the Planning Health Framework**

7.3.1 The Secretary of State for Communities and Local Government issued planning permission for the EfW facility on 19 July 2012, his decision letter can be found here:

<http://www.worcestershire.gov.uk/cms/pdf/Secretary%20of%20State%20>

[Decision%20Letter%20and%20Inspectors%20Report%20v1.pdf](#)

- 7.3.2 The Environment Agency issued an Environmental Permit for the EfW facility on 18 April 2011.

#### **7.4 Design Issues**

- 7.4.1 MWM have retained responsibility for the design of the EfW facility, commissioning both experienced engineering and architectural support. This process has been monitored throughout by the Councils technical team including advisors.

- 7.4.2 Detailed designs were included with the planning application submitted in May 2010, which can be found via the link below:

[http://www.worcestershire.gov.uk/PublicAccess/tdc/DcApplication/application\\_detailview.aspx?caseno=L1WFA1RY00800#date-details](http://www.worcestershire.gov.uk/PublicAccess/tdc/DcApplication/application_detailview.aspx?caseno=L1WFA1RY00800#date-details)

- 7.4.3 The pre-commencement planning conditions were discharged on 29 April 2014.

#### **7.5 Realising environmental benefits deriving from the project**

- 7.5.1 The major environmental benefit from the project will be realised when the EfW facility becomes operational as it will be capable of diverting up to 200,000 tonnes of residual waste away from landfill giving rise to the associated environmental benefits identified in both the residual waste options appraisal and the planning process.

## **8 Costs, Budgets & Finance**

### **8.1 Introduction**

8.1.1 This section provides an update of the cost analysis detailed in the December 2013 Cabinet Reports (links below). This is based on the Cabinet decisions and the position reached at Financial Close (May 2014) in terms of the EfW Variation solution submitted by the Sponsors of MWM (the Solution) and compares this against both the budget available and the cost of a range of alternatives ('options') open to the Councils to assess the affordability of the Solution.

[Herefordshire Council December 2013 Cabinet Report – Item 4](#)

[Worcestershire County Council December 2013 Cabinet Report – Item 4](#)

8.1.2 The analysis within this Variation Business Case does not seek to duplicate that detailed within the December 2013 Cabinet reports. It is aimed at providing an update following Financial Close. The analysis has been carried out on a consistent basis as that used for the December 2013 Cabinet decisions and leads to a consistent conclusion.

8.1.3 Between the December 2013 Cabinet decisions and Financial Close in May 2014, the Councils monitored how modelled project costs changed from those previously considered and continued to proceed to Financial Close on that basis.

8.1.4 The EfW Solution has a forecast Useful Asset Life of approximately 25 years. However, given the issues obtaining planning consent, the EfW Variation, is to cover the period 2014 to the end of 2023, a period of ten years to the end of the contract period. This section summarises the cost of the proposed Solution over the remaining PFI Project Period with the Value for Money analysis later considering the EfW Variation not only within the remaining PFI Project Period but also across the Useful Life of the EfW Plant to ensure Value for Money is considered on a whole life cost basis.

8.1.5 It is usual to compare the EfW Variation cost to the cost of the reference case at the OBC stage. However, there have been a number of changes in the fifteen years since Financial Close was reached on this Project in 1998. These include changes to:

- a) Waste tonnage and growth rate assumptions made by the Councils in respect of the average annual tonnage of residual waste requiring treatment in the EfW Facility;
- b) Technical Specifications required of a modern EfW Facility are different to those in 1998;
- c) EfW Plant inflation has increased well above the index used in this contract, the GDP deflator; and
- d) Alternative waste sorting facilities have been introduced alongside other Contract Variations to cater for changes to legislation or operational requirements of the Contract.

8.1.6 Therefore, the cost of the EfW Variation is primarily compared to the range of alternative decisions that could be made by the Councils at this point. These options are summarised in the following table and are expanded further later in this section.

8.1.7 The options considered:

| Option | Detail   |
|--------|--|
| 1      | Execution of the Energy from Waste Facility Variation to the Contract with the Senior Term Loan Facility financed by a Commercial Bank   |
| 1a     | Execution of the Energy from Waste Facility Variation to the Contract with co-financing (Senior Term Loan Facility financed by the Private Finance AND the Councils through a drawdown from the Public Works Loans Board ) |
| 2      | Execution of the Energy from Waste Facility Variation to the Contract with the Senior Term Loan Facility financed by the Councils through a drawdown from the Public Works Loans Board                                     |
| 3      | Continue 'As is' with the existing Contract and do not execute the Energy from Waste Variation   |
| 4      | Terminate the existing Contract with Mercia Waste Management, procure an Energy from Waste plant as a separate Design, Build, and Operate procurement and procure all other services                                       |
| 5      | Terminate the existing Contract with Mercia Waste Management, do not procure Energy from Waste plant and procure all other services.   |

8.1.8 The EfW Variation Financial Model has been updated to reflect all changes agreed since Financial Close in 1998 as well as this proposed Variation for the EfW Facility. The execution of this EfW variation also allows the formalisation of changes made over the life of the contract as the contract moves out of "Standstill". The structure of the 1998 Project was for the Councils to pay MWM a Baseline fee for each tonne of contract waste they handle and then supplements for the diversion from landfill. Examples of supplements include:

- Recycling;
- Composting;
- Energy from Waste.

8.1.9 The payment for this EfW Variation will therefore be through an EfW Supplement rather than a Gate Fee. This will result in a step up of the Unitary Charge once the EfW Plant is operational.

8.1.10 From the Quantitative Analysis (**updated to reflect the position at Financial Close**) carried out by the Councils, supported by the council's financial advisors Deloitte, the options that include a variation to the WMSC to construct and operate an EfW Plant at Hartlebury Trading Estate (Options 1, 1a and 2) are between £152 million and £163 million lower in Net Present Cost (NPC) terms than the option to continue as is (Option 3). This shows an improved position since Cabinet in December 2013 when the Options 1, 1a and 2 were between £106 million and £128 million lower in NPC terms than Option 3.

8.1.11 From the Quantitative Analysis (**updated to reflect the position at Financial Close**), referenced above, the options that include a variation to the WMSC to construct and operate an EfW Plant at Hartlebury Trading Estate (Options 1, 1a and 2) are between £564 million and £577 million lower in Nominal Cost terms than the option to continue as is

(Option 3), over the useful life of the EfW. This shows an improved position since Cabinet in December 2013 when the Options 1, 1a and 2 were between £458 million and £517 million lower in Nominal Cost terms than Option 3.

- 8.1.12 Based on the similar Net Present Costs of the differing financing routes (Options 1, 1a and 2), the Cabinets also considered a number of qualitative matters.
- 8.1.13 Based on the analysis, **the preferred option as per the December 2013 Cabinet Report was Option 2**, i.e. Execution of the EfW Facility Variation to the contract with the Senior Term Loan Facility financed by the Councils through a drawdown from the Public Works Loans Board. This is the Option progressed to reach financial close and the variation agreed with MWM in May 2014.
- 8.1.14 Following work with DEFRA it was confirmed, in December 2013, that the level of Waste Infrastructure Grant (WIG) credits received by the Councils reduce by £30million from 1 April 2014 to the end of the WMSC in December 2023. This reduction does not affect the Value for Money assessment as, per the Her Majesty's Treasury Green Book does not consider WIG credits. However this was a consideration in relation to affordability.
- 8.1.15 To mitigate the impact of the reduction in WIG Credits, as required the councils intend to use a portion of their accumulated Reserves that have been established, to smooth the uplift in costs for the EfW Plant together with the anticipated surplus from the Councils' provision of debt finance for this variation.
- 8.1.16 At the point of the Cabinet decision in December 2013, the uplift in Unitary Charge was £6.55million. This was £0.55 million greater than the affordability envelope of £6.0 million. Following negotiations with MWM the position at financial close in May 2014, shows a much improved position in terms of affordability with the **contract uplift in Unitary Charge being £2.7million**.
- 8.1.17 The remainder of this section sets out key financial information, updated to reflect the position reached at Financial Close in May 2014. **It does not attempt to repeat the full set of financial details as per the December 2013 Cabinet Reports.**

## **8.2 The Cost of the Mercia Waste Management Solution**

- 8.2.1 The proposal incorporates:
- a) The design, construction and operation of the EfW Plant (as envisaged by the WMSC albeit on a different site and with a different start date) until the contract comes to an end in 2023; followed by
  - b) The Councils taking on or re-procuring lifecycle replacement and operational and maintenance services for the remaining useful life of the EfW Plant until 2042.
- 8.2.2 The Value for Money assessment focused on the 6 options as detailed below.
- 8.2.3 **Option 1: EfW Variation procured through PFI with commercial finance**

As envisaged in the WMSC this includes the requirement for MWM to construct, finance and be responsible for the operations and maintenance of an EfW Plant albeit on a different site – Hartlebury Trading Estate, and at a different time.

This would be until the end of the WMSC at December 2023 and then the Councils would take on these responsibilities after 2023 to 2042.

This option has been modelled on a delay in reaching Financial Close of 9 months recognising the due diligence required for this option.

In addition, the Councils would need to manage the risk that it is exposed to, where interest rates may increase by 2023.

The payment for the EfW Variation would be through an "EfW Supplement" as envisaged in 1998 rather than a Gate Fee. This is payable based on the £/tonne incinerated and is in addition to the Baseline Fee of £25 payable on all tonnes of waste passed to MWM to recognise the cost of discharging the Councils overall waste disposal responsibilities.

#### 8.2.4 **Option 1a – EfW Variation financed by Council's Prudential Borrowing and Private Finance (co-financing)**

This Option includes an EfW variation that would be made to the existing WMSC, including the requirement for MWM to construct and be responsible for the operations and maintenance of an EfW Plant until the end of the WMSC and then for the Councils taking on these responsibilities after 2023 to 2042.

The payment for the EfW Variation would be through an EfW Supplement rather than a Gate Fee, as envisaged in the 1998 Contract. This is payable based on the £/tonne incinerated and is in addition to the Baseline Fee payable on all waste tonnes.

This would be included within the Unitary Charge paid by the Councils and would be used by MWM to service the debt. This element of the Unitary Charge would be passed through MWM and repaid to the Council and a Commercial Bank in its role as the lender to the scheme. This is required to ensure the contractual mechanisms agreed in 1998 are not changed materially in relation to debt finance, with particular reference to the Council's reliance on WIG credits and Central Governments Balance Sheet Accounting rules around risk recognition.

Similar to Option 1, the project would suffer a delay, and therefore attract additional costs due to delay. In addition, and again similar to Option 1, the Councils would need to consider how to manage the risk that it is exposed to, where interest rates may increase by 2023.

The Councils do generate cash sums and have cash shortfalls prior to 2023 due to MWM paying interest and capital repayments per the financial model to the Councils that is based on a different profile to that which Councils will use to repay PWLB debt until later years. The impact of this in terms of interest gained on cash balances or interest paid on in effect overdrawn balances has been included in the financial model.

#### 8.2.5 **Option 2 – EfW Variation financed by Council's Prudential Borrowing**



This Option includes an EfW variation that would be made to the existing WMSC, including the requirement for MWM to construct and be responsible for the operations and maintenance of an EfW Plant until the end of the WMSC and then for the Councils taking on these responsibilities after 2023 to 2042.

The payment for the EfW Variation would be through an EfW Supplement rather than a Gate Fee as envisaged in the 1998 Contract. This is payable based on the £/tonne incinerated and is in addition to the Baseline Fee payable on all waste tonnes.

This would be included within the Unitary Charge paid by the Councils and would be used by MWM to service the debt. This element of the Unitary Charge would be passed through MWM and repaid to the Council in its role as the sole lender to the variation. This is required to ensure the contractual mechanisms agreed in 1998 are not changed materially in relation to PFI debt finance.

The Councils can move more quickly to financial close when compared to Options 1 and 1a as all required due diligence has been undertaken by the Councils as the sole provider of funding for the project.

In this scenario, there is no requirement to purchase any financial products to manage interest rate risks in 2023 as the Councils will purchase debt at the end of construction. The Councils borrowings are repaid in a similar way to a repayment mortgage until 2042. As such there is no need to purchase new debt in 2023. In this option, the Councils do generate cash sums and have cash shortfalls prior to 2023 due to MWM paying interest and capital repayments per the financial model to the Councils that is based on a different profile that the Councils will use to repay PWLB debt until later years. The impact of this in terms of interest gained on cash balances or interest paid on in effect overdrawn balances has been included in the financial model.

8.2.6 **Option 4 - Termination of the Waste Management Services Contract (WMSC) and for the Councils to procure an EfW Plant and other services through a new Design, Build, and Operate contract.**

The Councils would terminate the existing WMSC and procure separately the construction and operation of an EfW Plant, financed by Councils' prudential borrowing together with associated operational and maintenance services.

8.2.7 **Option 5 - Terminate the Waste Management Services Contract (WMSC) and re-procure existing services without the construction of an EfW Plant.**

The Councils would terminate the existing WMSC and procure all existing waste disposal services but **not** including procurement of an EfW Plant.

8.2.8 These options have been considered against one key comparator as would normally be expected within a value for money assessment, that is:

**Option 3 – Continue As Is**

Continuing within the current WMSC without executing the proposed EfW variation.



Following the expiry of the WMSC in 2023 the current forecasts are for the Councils only landfill site to be full or nearly full. The Councils would procure new waste disposal services that may include the procurement of a new EfW Plant or purchasing spare capacity from the merchant market. Whilst, this option is agnostic to the choice of how the Councils residual waste is disposed of, these services post 2023 have been modelled at a capped price of £125 per tonne based on appropriate technical advice and therefore the choice of waste disposal route would be made within a capped budget.

The £125 per tonne price cap is calculated by taking the current baseline gate fee paid for the disposal of all waste plus a forecast of landfill tax costs in 2023 in accordance with most recent Central Government guidance.

- 8.2.9 DEFRA and HMT undertook a review of the models, since July 2013. Their scrutiny process has added significant value to the Councils in terms of support and challenge and has resulted in some improvements to the analysis undertaken.
- 8.2.10 Given the degree of difference in the Quantitative Analysis between 'Continuing As Is' and procuring an EfW Plant variation the Councils were clearly able to arrive at a judgement around Value for Money. However, at the point of the Cabinet decision in December 2013, from a commercial perspective the requirement remained for further negotiations with Mercia to obtain a better price than currently contained in the financial models as the year 1 step up in Unitary Charge was £0.55 million above the Councils indicative affordability envelope.
- 8.2.11 The information used to support the quantitative value for money analysis was sufficient to be considered as a ceiling price in order to demonstrate the preferred option.

#### **Value for Money – Methods of Financial Evaluation**

- 8.2.12 Even though only 10 years of the WMSC remain, it was important to undertake the Value for Money assessment over the estimated useful life of the EfW Plant to ensure there is comparability across each option. Whilst this is the focus for the Quantitative Analysis, a comparison was made of costs incurred to the end of the WMSC to understand the impact of the preferred option in the short term.
- 8.2.13 Reliance is placed on the comparison over the useful life of the EfW plant together with all other waste disposal / management services, as this sets out the whole life cost of the different options. This allowed for a full analysis of the costs and benefits of each option to be undertaken on a comparable basis. The accepted basis by HMT of undertaking this quantitative analysis is on a Net Present Cost Term to ensure the different timing of cash flows in each option are set out in an equivalent present cost today.
- 8.2.14 To arrive at Net Present Costs, Nominal costs are established that describe the actual forecast cash flows of each option after taking account of inflation forecasts. This is to ensure the time value of money and the opportunity cost of spending that money is taken into account, e.g. you can buy more for £1 today than £1 in ten years' time.

- 8.2.15 The HMT's Green Book sets out how these nominal costs are then adjusted to consider risks relevant to each Option to arrive at the nominal costs included below. Each relevant risk has been considered by the Councils' Advisor Team alongside Council Officers to ensure there has been independent rigour to the development of each Options Nominal costs.
- 8.2.16 Within the Options considered, the Councils will spend cash at different times and be exposed to different risks at different points. In order for these different cash flows to be comparable the Councils have reviewed the Options over the forecast asset life of the EfW Plant and rebased those costs to determine their present day equivalent value in Net Present Cost terms.
- 8.2.17 The Councils' Net Present Cost analysis has been undertaken in accordance with HMT Green Book to ensure that the Councils make a decision based on a comparable methodology to similar projects across the UK.
- 8.2.18 The Councils' Financial Advisor, Deloitte, is one of only a few accredited Green Book practitioners and so the Councils can take comfort that the methodology used is consistent with HMT and DEFRA requirements.

**Value for Money – Outcome of Financial (Quantitative) Analysis**

- 8.2.19 Set out below is the outcome of the Councils' quantitative assessment of Value for Money in respect of its role as the Waste Disposal Authority. The provision of funding for Options 1a, 2 and 4 is intended to come from the Councils and should the Councils become the funder of any variation it would be taking on some new risk, as a lender rather than as Waste Disposal Authority. This was covered within the December 2013 Cabinet Report.
- 8.2.20 The table below summarises the outcome of this Quantitative Analysis, updated to reflect the position at Financial Close (May 2014). This has been developed with the support of the Councils Financial Advisors, Deloitte and describes:
- a) Net Present Cost calculated over the estimated useful life of the EfW Plant (until 2042) on a whole life cost basis to be used as the basis for decision making;
  - b) Nominal Cost calculated in accordance with the HMT Green Book: appraisal and evaluation in Central Government over the estimated life of the EfW Plant (until 2042) on a whole cost basis for information; and
  - c) Nominal Cost calculated in accordance with HMT Green Book: appraisal and evaluation in Central Government' over the remaining life of the WMSC (2023) to provide a sense of the short to medium term impact for information.

**Table 10: Financial Analysis summary (risk adjusted) – The December 2013 figures are shown in brackets**

| Option | Net Present Cost | Nominal Cost            |                         |                |
|--------|------------------|-------------------------|-------------------------|----------------|
|        | £ million        | Whole Life Cost to 2042 | Whole Life Cost to 2042 | WMSC – to 2023 |
| 1      | 691 (722)        | 1,637 (1,689)           | 502 (543)               |                |
| 1a     | 688 (720)        | 1,632 (1,685)           | 497 (539)               |                |
| 2      | 680 (700)        | 1,624 (1,656)           | 485 (512)               |                |
| 3      | 843 (828)        | 2,201 (2,173)           | 491 (475)               |                |
| 4      | 755 (752)        | 1,645 (1,649)           | 610 (599)               |                |
| 5      | 826 (851)        | 1,949 (2,043)           | 602 (604)               |                |

8.2.21 The conclusion of the updated analysis remains as per the December 2013 Cabinet Reports, albeit the absolute numbers are slightly different. A significant change is that the final negotiated position now shows that as well as over the whole life, executing the variation is cheaper within the remaining PFI term than continue as is.

8.2.22 The key headlines from the table above are:

- In terms of Net Present Cost over the useful life of the EfW Plant, the Option with the lowest Net Present Cost is Option 2, execution of an EfW Variation supported by Councils' provision of debt finance. In accordance with acknowledged best practice in the financial assessment of projects, this represents the best value for money option for the Councils from a quantitative perspective.
- The Net Present Cost of Option 2 is £680 million over the full asset life of the EfW Plant. This was £700 million in December 2013. The options analysis demonstrates that Options 1, 1a and 2 all have a significantly lower net present cost than Option 3, 'continuing as is'. This illustrates the delivery of a residual waste solution demonstrates clear value for money when considered against not doing anything.
- Option 3, Continue as is, is now ranked the lowest of the options in Net Present Cost terms over the forecast asset life of the EfW Plant.
- **Option 2 now has the lowest Net Present Cost and Nominal Cost over the forecast life of the plant AND within the remaining contract term / PFI concession period**

8.2.23 The above analysis does not incorporate the effect on each Option of any changes to the current Waste Infrastructure Grant (WIG) credits which were formerly known as PFI Credits that the Councils have received since 1998. This is due to the HMT Green Book not permitting these to be included to arrive at a Value for Money conclusion as this conclusion is reached on a pan-public sector basis with WIG credits at this level cancelling out. The Councils have therefore not included WIG credits to ensure Green Book Compliance with DEFRA and HMT.

### **Value for Money - Sensitivity Analysis**

8.2.24 As part of the value for money analysis carried out in 2013, the Councils assessed the impact of changes in some key assumptions used to model the costs of each Option. A series of sensitivities have been included within the financial analysis that include:

- a) Changes to waste volumes;
- b) Increases to Landfill Tax;
- c) Increase to Landfill Gate fee; and
- d) Increases to termination costs.

8.2.25 In all cases where more pessimistic assumptions were modelled, Option 2 remained the preferred option from a financial value for money perspective.

### **Qualitative Analysis**

8.2.26 This remains unchanged since the December 2013 Cabinet Reports.

### **Councils Affordability and Deliverability of Option 2**

8.2.27 The forecast completion of construction of the EfW Plant is Spring 2017. The Councils will need to pay an increased Unitary Charge from that point, incurring full year uplift costs from the 2017/18 financial year.

8.2.28 In the absence of formally setting their budgets, each Council indicated a potential affordability envelope of £6.0 million uplift in the first full year post construction.

8.2.29 In December 2013, at point of the Cabinet decisions, the uplift position was £6.55 million and therefore above the Councils affordability envelope. **Following the cabinet decision and further negotiation with MWM the position at financial close is an uplift of £2.7 million, well within the affordability envelope.**

8.2.30 As part of the negotiations with MWM there are two elements that the Councils need to account for outside of the Unitary Charge. As part of the negotiations, the Councils have chosen to account for the final build-up of the maintenance reserve separately to improve VfM. However to ensure that the VfM analysis is comparable this has been added back in to the "uplift" taking the uplift from £2.7 million to £2.9 million. In addition, the Councils removed a 'loan buffer' from their lending as would normally happen on any bank financed deal. This too has been added back to the uplift to ensure it is comparable with the December 2013 Cabinet Reports. This means a total equivalent uplift of £3.8 million. **This is £2.2 million lower than the affordability envelope set** resulting in a good outcome for the Councils.

8.2.31 The value for money analysis presented to Cabinet in December 2013 demonstrates that Option 2 is the best value for money. The position reached at Financial close confirms this and also delivers a more affordable solution. In addition there are a number of other benefits over the other options in terms of deliverability and mitigating risk. These are:

- a) Enabled the Councils to conclude the variation in the first half of 2014.
- b) Enables planning permission to be secured.

- c) Construction can start in 2014 to deliver a plant that is operational thereby diverting waste from landfill in 2017.
- d) Provides certainty of future costs.
- e) Allows for letting of an Operate and Maintain contract in 2023 when the WMSC expires.
- f) Certainty over the cost of the Engineering, Procurement and Construction (EPC) contract let by MWM.
- g) Makes use of proven technology.
- h) Removes uncertainty regarding future landfill and waste treatment capacity and costs.

### **8.3 Waste Flow Forecast**

8.3.1 All EfW Variation costs are based on an EfW Facility capable of dealing with circa 200,000 tonnes per annum – dependent on the calorific value of the waste inflow.

8.3.2 In 2012/13 the total Local Authority Collected Waste (LACW) in Herefordshire and Worcestershire was: 362,273 tonnes of which:

- 120,425 tonnes were Recycled;
- 42,400 tonnes were composted;
- 199,448 tonnes was Residual Waste.

8.3.3 Taking account of planned housing growth in the two counties, by 2023/4 it is forecast that the Local Authority Collected Waste in the two counties will be: 404,177 tonnes / year of which it is forecast:

- 134,555 tonnes would be Recycled;
- 47,304 tonnes would be composted;
- 222,518 tonnes would be for Residual Waste treatment / disposal.

#### Third Party Income

8.3.4 The EfW Variation Solution proposes the generation of Third Party Income from (i) gate fees relating to the acceptance of Third Party Waste, and (ii) revenue from the sale of electricity generated by the Facility through the treatment of both contract and Third Party Waste.

8.3.5 Third Party Income included in the base case EfW Variation Financial Model is guaranteed by MWMMWM. and any shortfall will not impact on the cost to the Councils.

### **8.4 Affordability and Value for Money Analysis**

#### Financial Analysis

8.4.1 The following table provides an update of the position following Financial Close.

8.4.2 These figures cover only the costs associated with the proposed EfW Variation and include the impact on the Unitary Charge across the other Waste Disposal Services provided by MWM. It is important to consider each decision point across each option as the timings and nature of decisions differ dependent on the Option chosen, for example, when

contracts are re-procured and any time related risks in that decision point. This is necessary as the analysis has to be undertaken across the Useful Life period of the EfW Plant (25 years post construction) which runs significantly beyond the remaining period of the contract – seven years post construction.

8.4.3 The analysis has been undertaken in accordance with the H.M Treasury's Green Book with the support of the Councils' financial advisors Deloitte. An optimism bias risk workshop attended by AMEC, Deloitte and the Councils enabled Deloitte to apply risk evaluations to each option. Optimism Bias is the judgement of the risk associated with each option converted to a cash amount.

8.4.4 Risk Adjustments were considered under each of the following areas:

- a) Risk Area 1: price risk relating to the Engineering, Procurement and Construction (EPC) contract for the EfW Facility;
- b) Risk Area 2: the future cost of landfill and the availability of landfill void space;
- c) Risk Area 3: the future merchant facility rate;
- d) Risk Area 4: termination costs;
- e) Risk Area 5: operation risk of future waste service contracts following the completion / termination of the existing WMSC;
- f) Risk Area 6: EPC fall away risk.

**Table 11: Comparison of Nominal Charges for each Option across different time horizons excluding Optimism Bias**

| £ million | Pre – commissioning      | Year 1 Post Construction | Year 2 Post Construction to end of Contract | Post Contract Period     | TOTAL |
|-----------|--------------------------|--------------------------|---|--------------------------|-------|
|           | 1 Jan 2013 – 31 Dec 2016 | 1 Jan 2017 – 31 Dec 2017 | 1 Jan 2018 – 31 Dec 2023                    | 1 Jan 2024 – 31 Dec 2042 |       |
| Option 1  | 162                      | 43                       | 291   | 1,040                    | 1,536 |
| Option 1a | 167                      | 39                       | 280   | 1,040                    | 1,526 |
| Option 2  | 161                      | 41                       | 266   | 1,045                    | 1,513 |
| Option 3  | 155                      | 42                       | 268   | 1,558                    | 2,023 |
| Option 4  | 198                      | 42                       | 270   | 950                      | 1,460 |
| Option 5  | 196                      | 52                       | 349   | 1,252                    | 1,849 |

**Table 12: Comparison of Nominal Charges for each Option across different time horizons inclusive of Optimism Bias**

| £ million | Pre – commissioning     | Year 1 Post Construction | Year 2 Post Construction to end of Contract | Post Contract Period     | TOTAL |
|-----------|-------------------------|--------------------------|---|--------------------------|-------|
|           | 1 Jan 2013– 31 Dec 2016 | 1 Jan 2017 – 31 Dec 2017 | 1 Jan 2018 – 31 Dec 2023                    | 1 Jan 2024 – 31 Dec 2042 |       |
| Option 1  | 163                     | 44                       | 295   | 1,135                    | 1,637 |
| Option 1a | 169                     | 40                       | 288   | 1,135                    | 1,632 |
| Option 2  | 163                     | 43                       | 279   | 1,139                    | 1,624 |
| Option 3  | 155                     | 43                       | 293   | 1,710                    | 2,201 |
| Option 4  | 273                     | 51                       | 286   | 1,035                    | 1,645 |
| Option 5  | 196                     | 53                       | 353   | 1,347                    | 1,949 |

8.4.5 The following table compares the Net Present Value of each Option over the construction period and 25 year life of the proposed EfW Facility Variation.

**Table 13: Comparison of Net Present Value of each Option excluding Optimism Bias**

| Option    | £ million |
|-----------|-----------|
| Option 1  | 661       |
| Option 1a | 654       |
| Option 2  | 642       |
| Option 3  | 780       |
| Option 4  | 650       |
| Option 5  | 796       |



**Table 14: Comparison of Net Present Value of each Option inclusive of Optimism Bias**

| <b>Option</b> | <b>£ million</b> |
|---------------|------------------|
| Option 1      | 691              |
| Option 1a     | 688              |
| Option 2      | 680              |
| Option 3      | 843              |
| Option 4      | 755              |
| Option 5      | 826              |

- 8.4.6 As per the December 2013 Cabinet Reports, the table above shows that Option 2, to deliver the EfW Facility financed by a Prudentially Financed Senior Term Loan Facility, offers a lower cost alternative for the Councils relative to the "continue as is" case scenario and other options open to the Councils at this time.
- 8.4.7 The Councils have estimated termination costs on a no-fault termination basis based on advice from its legal advisors and through without prejudice support from MWM in accordance with Schedule 13 (Compensation on Termination) of the WMSC.
- 8.4.8 For the purpose of the Treasury Green Book exercise PFI credits (now Waste Infrastructure Grant Credits) have been disregarded in the analysis above. However, from a Councils perspective it is important that we do consider how PFI credits in each of the options affect the Net Present Value Analysis as detailed in the December 2013 Cabinet Report.
- 8.4.9 The table below provides updated information following financial close to illustrate the impact on the Treasury Green Book Analysis of the inclusion of assumptions on PFI Credits. Whilst this does not formally feed into the Economic Case it was relevant for the Councils' affordability analysis.



**Table 15: Impact on Net Present Value Analysis of PFI Credit assumptions excluding optimism bias**

| £ millions | Future Availability of WIG (formerly PFI) Credits                                   | Green Book | Adjustment for Credit Assumptions |     |
|------------|---|------------|-----------------------------------|-----|
|            |   | NPC        | Impact                            | NPC |
| Option 1   | No change to Credits  | 661        | (41)                              | 620 |
| Option 1a  | No change to Credits  | 654        | (41)                              | 613 |
| Option 2   | Partial allocation of PFI Credits due to absence of privately financed EfW facility | 642        | (22)                              | 620 |
| Option 3   | Partial allocation of PFI Credits due to absence of EfW facility                    | 780        | (22)                              | 758 |
| Option 4   | No PFI Credits following contract termination                                       | 650        | (5)                               | 645 |
| Option 5   |   | 796        | (5)                               | 791 |

**Table 16: Impact on Net Present Value Analysis of PFI Credit assumptions including Optimism Bias**

| £ millions | Future Availability of WIG (formerly PFI) Credits                                   | Green Book | Adjustment for Credit Assumptions |     |
|------------|---|------------|-----------------------------------|-----|
|            |   | NPC        | Impact                            | NPC |
| Option 1   | No change to Credits  | 691        | (41)                              | 650 |
| Option 1a  | No change to Credits  | 688        | (41)                              | 647 |
| Option 2   | Partial allocation of PFI Credits due to absence of privately financed EfW facility | 680        | (22)                              | 658 |
| Option 3   | Partial allocation of PFI Credits due to absence of EfW facility                    | 843        | (22)                              | 821 |
| Option 4   | No PFI Credits following contract termination                                       | 755        | (5)                               | 749 |
| Option 5   |   | 826        | (5)                               | 821 |

8.4.10 **The Councils reached agreement with DEFRA in December 2013 regarding the reassessment of WIG Credits.** From 1 April 2014 the Councils WIG Credits will be reduced by £30 million to the end of the PFI Concession period (end of 2023). This was part of the consideration as detailed in the December Cabinet Reports. Whilst the reduction in WIG Credits was a major factor for the Councils to consider, it was viewed that a reduction would make the preferred option deliverable and acceptable for Central Government whilst remaining (1) Value for Money

for local tax payers when considered against the alternative options and (2) affordable.

Risk Analysis

8.4.11 Each Option in the Affordability and Value for Money analysis presents different risks to the Councils. The Councils' advisors have supported a risk analysis to enable the Councils to consider the risk inherent in each of the Options described in this section.

8.4.12 The outcome of this analysis is set out in the following table.

Table 17: Summary risk analysis for each VFM Option

| Option                 | Risk Assessment   |
|------------------------|---|
| <p><b>Option 1</b></p> | <p><b>Standard Risk Transfer as envisaged in the 1998 deal</b></p> <p>This option is in line with the risk allocation as set out in the 1998 deal. The 1998 deal represented the first Waste PFI in England and therefore was more Contractor friendly than more recent waste PFI deals. For instance, in cases of no fault or Councils' default the senior term loan facility would have to be repaid by the Councils. Construction risk is retained by MWM subject to the adequacy of the Security Package in place.</p>  |
| <p><b>Option 2</b></p> | <p><b>Construction Period EPC Default</b></p> <p>An analysis has been undertaken by Legal and Technical Advisors to inform the Councils of the additional risks that the Councils can either decide to mitigate or absorb. In the majority of cases mitigation strategies have been put into place. The main change, given the Contractor Friendly position of the 1998 Deal in the operating period is the need to consider risk of EPC Contractor Default in the Construction Period. This would be deemed Contractor Default and would therefore not attract the protections from the Councils under the No Fault and Councils Default regime. The Councils as lenders have agreed to absorb and mitigate this risk in the following ways:</p> <ul style="list-style-type: none"> <li>• Engage appropriate Financial, Legal, Technical and Insurance Advice where all advisors are engaged on terms that would be expected by a Commercial Bank in a similar position pre EfW Variation Financial Close.</li> <li>• Undertake appropriate Due Diligence on the EfW Variation and EPC provider including ensuring that a commercial position is achieved that would at least be expected by a Commercial Bank pre EfW Variation Financial Close.</li> <li>• Agree a Security Package with MWM to be provided by the EPC Contractor and MWM that is at least what was envisaged within the 1998 deal and is at least what Commercial Banks demand in similar deals at this time. This includes the agreement of further protections to be provided by MWM. where the EPC Contractor risk position leaves the lenders at risk, e.g. initial period of time before any Delay and Start Up Insurance is activated.</li> <li>• Demand a commensurate rate of interest on the Senior Term Loan and Equity Bridge Facility that creates a 'risk reserve' from which any unmitigated risks can be met in a financial sense.</li> <li>• Engage Technical and Financial advice post EfW Variation Financial Close to oversee the operation of the EPC (Construction and Operation) as well as existing Operations in line with how a</li> </ul> |

| Option                 | Risk Assessment  |
|------------------------|--|
|                        | Commercial Bank would exercise this duty.  |
| <p><b>Option 3</b></p> | <p><b>Overall Risk Position</b></p> <p><b>Potential Default costs</b></p> <p>Planning Permission has now been achieved and whilst the Councils may choose not to agree the EfW Variation, MWM may argue that any refusal on the part of the Councils to execute the EfW Variation having presented a 'suitable' proposal. In these cases, the Councils run the risk of either having to pay reasonable breakage costs and payout against the indemnities issued separately from the formal standstill arrangement against all unamortised Capital Expenditure and maybe liable for loss of profits under a Council Default scenario.</p> <p><b>Capacity of Waste Disposal Streams</b></p> <p>An assessment of the Councils existing landfill capacity has confirmed that all landfill capacity within the Councils area is likely to be used by 2023/24. Therefore under this option the Councils are likely to be exposed to both the cost and availability of alternative out of Counties waste disposal options post 2023/24. Assessments have been made on the likely availability and costs of disposal from the out of County market post 2023 but with recent failures by neighbouring local authorities and the potential for the landfill market to be both high cost (given Landfill Tax) and a Supplier biased market as demand outstrips supply in post 2023 it is likely that the Councils would be exposed to increased costs. In addition, the environmental impact of hauling waste to out of County disposal sites would have a detrimental impact on the Counties of Worcestershire and Herefordshire as well as surrounding Counties.</p> |
| <p><b>Option 4</b></p> | <p><b>Potential Default costs</b></p> <p>In this option, the Councils choose to terminate the whole contract. The Councils would seek a no fault termination and therefore would have to meet reasonable breakage costs and any unamortised capital expenditure within MWM. MWM may argue that the termination is in fact a Council Fault Termination as the terms of the existing operations have been met and both planning permission and a 'suitable' scheme has been presented to the Council. In this case there is a possibility that the Councils are required to pay MWM for loss of profits.</p> <p><b>Re-procurement costs</b></p> <p>The re-procurement of all services including a Design, Build, Finance and Operate for EfW Facility will incur significant additional costs. The price certainty, currently achieved under Option 1 and 2 would now not be achieved. Therefore an appropriate level of risk is reflected in the Optimism Bias adjustments to the VFM options.</p> <p><b>Expiry of Planning Permission conditions</b></p> <p>The Planning Permission for the EfW Facility at Hartlebury comes with a number of planning conditions. One places a time limit on the construction requiring the construction to have begun by July 2015. In the case where the Councils look to procure a new EPC through a Design, Build, Finance and Operate Contract there is a high risk that the EPC contractor would not meet the requirements of the Planning Permission in terms of time period and therefore planning permission may need to be obtained again. In this scenario it would be appropriate</p>                           |

| Option   | Risk Assessment  |
|----------|--|
|          | to reflect that it has taken around 15 years to obtain current planning permission and there may be a significant risk to the Councils achieving their required waste disposal within the Counties by the end of the current PFI Contract (2023).  |
| Option 5 | <p><b>Potential Default costs</b></p> <p>In this option, the Councils choose to terminate the whole contract. The Councils would at least be in the position of executing a no fault termination and therefore would have to meet reasonable breakage costs and any unamortised capital expenditure within MWM. MWM may also argue that the termination is in fact a Council Fault Termination as the terms of the existing operations have been met and both planning permission and a 'suitable' scheme has been presented to the Council. In this case there is a possibility that the Councils are required to pay MWM for loss of profits.</p> <p><b>Re-procurement costs</b></p> <p>The re-procurement of all services will incur significant additional costs and price certainty, currently achieved under Option 1 and 2 would now not be achieved. Therefore an appropriate level of risk is reflected in the Optimism Bias adjustments to the VFM options.</p> <p><b>Expiry of Planning Permission conditions</b></p> <p>The Planning Permission for the EfW Facility at Hartlebury comes with a number of planning conditions. One places a time limit on the construction requiring the construction to have begun by July 2015. In the case where the Councils look to procure a new EPC through a Design, Build, Finance and Operate Contract there is a high risk that the EPC contractor would not meet the requirements of the Planning Permission in terms of time period and therefore planning permission may need to be obtained again. In this scenario it would be appropriate to reflect that it has taken around 15 years to obtain current planning permission and there may be a significant risk to the Councils achieving their required waste disposal within the Counties by the end of the current PFI Contract (2023).</p> <p><b>Capacity of Waste Disposal Streams</b></p> <p>An assessment of the Councils existing landfill capacity has confirmed that all landfill capacity within the Councils area is likely to be used by 2023. Therefore under this option the Councils are likely to be exposed to both the cost and availability of alternative out of Counties waste disposal options post 2023. Assessments have been made on the likely availability and costs of disposal from the out of County market post 2023 but with recent failures by neighbouring local authorities and the potential for the landfill market to be both high cost (given Landfill Tax) and a Supplier biased market as demand outstrips supply in post 2023 it is likely that the Councils would be exposed to increased costs. In addition, the environmental impact of hauling waste to out of County disposal sites would have a detrimental impact on the Counties of Worcestershire and Herefordshire as well as surrounding Counties.</p> |

## 8.5 Funding Approach for the EfW Facility Variation

### Summary Strategic Case

- 8.5.1 The preferred option, Option 2, in December 2013 required that the Councils act in the Capacity of Funders. This required that the Councils:

- a) Make changes to their Treasury Policy Strategy and associated Treasury Management Statements to permit the provision of funding to MWM including the increase in Authorised Borrowing Limits and council credit ceilings;
- b) Make changes to their Statement of Prudential Indicators Minimum Revenue Provision Plans and Capital Programmes in advance of the years where funding will be advanced to MWM to support the construction payments profile.
- 8.5.2 The Strategic Case for the Councils becoming lender is clear and summarised below:
- Market Failure in the provision of a Commercial Bank Senior Term Loan Facility within the time needed to execute the Contract Variation;
  - The market for the provision of Commercial Bank Finance has been tested on two occasions by the Financial Advisor to MWM Credit Agricole (CACIB).
- 8.5.3 Further information regarding the Councils as Lender is detailed in the December 2013 Cabinet Reports and also a report to Worcestershire County Council in January 2014, link below.
- [Worcestershire County Council Report Jan 2014 – Item 7](#)
- 8.5.4 In December 2013, Cabinets recommended that Full Council approve the provision for Lending for the variation (Option 2), including consideration that the risks to the Councils do not outweigh the financial benefits to the Councils of becoming the Lenders. Worcestershire County Council approved this at full Council in January 2014 and Herefordshire Council approved this at Council in February 2014.
- 8.5.5 The Councils established a separate advisor team to support negotiations with MWM on the EfW Variation from a Funding perspective as set out below:
- Lenders Technical Advisor Fichtner
  - Lenders Insurance Advisor Aon
  - Lenders Financial Advisor Deloitte
  - Lenders Legal Advisor Ashurst
- Post Financial Close - Deliverability of Solution
- 8.5.6 The Councils as lender have made arrangements post Financial Close to ensure appropriate technical and financial advice is available to fulfil its oversight role of MWM.
- 8.5.7 Ultimately this service will be responsible to the Chief Finance Officer in Worcestershire and the Chief Officer (Finance and Commercial Services) in Herefordshire who will in turn be responsible to the arrangements established in each authority to ensure there is sufficient separation of roles between the Councils as Funder and the Councils as a Waste Disposal Authority.
- 8.5.8 The Cabinets will continue to be responsible for exercising the role of the Councils' executive, acting as a waste disposal authorities within the

overall budget and policy framework set by the Council. It will have no supervisory or other responsibility for the WMSC Lending arrangements.

- 8.5.9 The Councils recognise that ultimately all decisions either flow up to (if required) or are delegated from Full Council. However, knowing that this scenario is fixed then effort has been made to ensure that delegated separation of duties for Members is as clear as possible.

## **8.6 Councils' Budgets**

### Revenue Budgets

- 8.6.1 The Councils budgets are set out in their Medium Term Financial Plans (MTFP) which covers the current year plus a three year period for both Worcestershire County Council and Herefordshire Council.
- 8.6.2 The level of any borrowing by each Council is controlled by its borrowing limits set as part of its prudential indicators. These indicators incorporate the plans set out in the MTFP and require each Council to undertake an affordability assessment to ensure that the Councils are not able to over borrow. Prudential Indicators are incorporated into each MTFP and approved by each Full Council in February each year at the same time as the budget is approved. Any subsequent changes to the prudential indicators in year will be by the approval of Full Council.
- 8.6.3 The commitment to the EfW Variation and the impact will be incorporated into the Councils MTFP process and will therefore be taken into account when determining what each Council can do with regards to other projects.
- 8.6.4 The expected additional budget for the disposal of waste covered by this solution was set at £6 million in 2016/17 (the "affordability envelope"). This was the level currently modelled in the MTFP. The position at Financial Close shows a total requirement (including uplift in unitary charge) of £3.8 million.

### Landfill Tax

- 8.6.5 Over the period of the procurement, the cost of landfill has escalated in accordance with Central Government published guidance. At the start of the project, in 1998, the Landfill Tax rate was set at £7 per tonne. At the time of considering the EfW Variation in the 2013/14 financial year, Landfill Tax is currently set at £72 per tonne. Central Government has issued guidance to confirm that this will escalate to £80 in 2014/15 but has not confirmed future rises beyond 2014/15. For the purpose of financial modelling, Landfill Tax increase at the rate of inflation from 2015/16 onwards and sensitivity analysis has been undertaken to confirm the impact on the Options Appraisal of any further changes. These assumptions have been applied in the EfW Variation Financial Model (Options 1, 1a & 2) in respect of unrecyclable residues and the portion of waste which cannot be treated and across all applicable waste streams in Options 3-5.
- 8.6.6 Rising Landfill Tax costs have been the key driver in encouraging the Councils to seek alternative waste treatment and disposal options through executing this EfW Variation – originally envisaged in 1998. While rates beyond 2014/15 have not yet been announced, it is considered unlikely that rates would decrease sufficiently to alter the affordability position of the Solution relative to the "as is" scenario, with



rate increases being more likely. However, the Councils are mindful of potential socio-economic and political changes which may occur in the short to medium term which may affect the affordability position or the "continue as is" scenario.

## **8.7 Cost Impact of Carbon**

8.7.1 MWM is responsible for compliance with the Carbon Reduction Commitment (CRC) Energy Efficiency scheme as the holder of the supply contract for energy consumed in operations of the facility. Severn Waste (MWM O&M Subcontractor) has indicated that they do not qualify for the scheme and therefore no costs will apply.

## **8.8 Position at Financial close**

8.8.1 Following the Cabinet decisions in December 2013 and the approval for the councils as Lenders (Jan / Feb 2014), the Councils progressed the conclusion of the Contract Variation with MWM in line with Option 2 as approved. Financial Close was reached on 21 May 2014 and the final position is reflected in this document. This shows:

- The EfW Variation Options Analysis shows that the MWM Solution (Option 2) represents a cost to the Councils of:
  - c£680 million in Net Present Cost terms across the Useful Life of the EfW Plant;
  - an uplift of circa £2.7 million in Unitary Payment in Year 1 following construction (with an additional £1.1 million commitment from the councils, totalling £3.8m); and
  - a saving in nominal terms of £577 million across the Useful Life of the EfW Plant when compared with the "continue as is" option (Option 3).

8.8.2 The Net Present Cost of £680 million therefore includes the repayment of the PWLB debt principle, the financing costs, contract management costs, business rates and the monthly gate fee payable during the operational phase of the project.

8.8.3 The base case "continue as is" scenario, which assumes the Councils' residual waste flow is sent directly to landfill during the same period, represents a Net Present Cost to the Councils of £843 million over the assumed Useful Life of the EfW Plant. This indicates that the MWM Solution is £163 million cheaper than the "continue as is" alternative for the disposal of Councils' residual waste over a 25 year period post construction in Net Present Cost terms.

## **9 Stakeholder Communications**

### **9.1 Changes to the communications strategy since Financial Close**

9.1.1 All the major operational facilities provided under the Joint Municipal Waste Management Strategy (JWMS) have an established Community Liaison Group (CLG) chaired by the Local County Councillor. These groups consist of:

- The local County Councillor
- Representatives of MWM
- Representatives of the client team
- Representatives from the local Parish Councils
- Representatives from local interest groups
- Representatives from the Environment Agency

9.1.2 From time to time other parties will be invited to attend these meetings to discuss specific concerns or developments e.g. planning, permitting and nuisance.

### **9.2 Staff Transfers**

9.2.1 As this is a variation to the original contract that was signed in 1998 there are no staff transfers required.

### **9.3 Engagement with other relevant authorities**

9.3.1 Engagement with the statutory consultees started prior to the planning application being submitted, continued through discharging the pre-commencement conditions and into the operational phase of the EfW facility. This engagement has proven to be successful on other waste projects helping all parties to obtain the best results for those involved in operating, policing and living with the facility.

### **9.4 Engagement with local population since Financial Close**

9.4.1 Through the period before the planning application was submitted and during the planning process MWM undertook a series of consultation events in the vicinity of the proposed plant and established a Community Liaison Group.

9.4.2 A link to the Contractors Community Liaison Group webpage is available below.

<http://www.envirecover.co.uk/clg.htm>

### **9.5 Engagement with any community groups or NGOs involved or interested in waste management in the area**

9.5.1 A local opposition group was established in the early stages of the process to co-ordinate opposition of local people. W.A.I.L - Worcestershire Against Incineration and Landfill - have been the focal point of local objection. Members of this group have attended the CLG previously mentioned.

9.5.2 In addition there have been a number of FOI and EIR requests all dealt with by various teams within the Councils. Both Herefordshire and Worcestershire have ensured a consistent approach to communications and responses to information requests where appropriate.



**9.6 Details of any public consultations**

9.6.1 The review of the JMWMS was widely consulted on and the details of that consultation can be found here in Annex H:

<http://www.worcestershire.gov.uk/cms/recycling-and-waste/waste-strategy.aspx>

## 10 Timeline

### 10.1 Timetable

| Activity  | Date           |
|---|----------------|
| Submit Draft Variation Business Case to DEFRA         | July 2013      |
| VBC Clarification                                     | August 2013    |
| VBC Feedback from DEFRA and Treasury                  | Sept 2013      |
| Ongoing dialogue with DEFRA and HMT                   | December 2013  |
| Cabinets – Herefordshire and Worcestershire           | December 2013  |
| DEFRA confirmed reassessment of WIG Credits           | December 2013  |
| Councils (Funding) – Herefordshire and Worcestershire | Jan / Feb 2014 |
| Discharge of pre-commencement Planning Conditions     | May 2014       |
| Negotiations with MWM concluded                       | May 2014       |
| Financial Close                                       | May 2014       |
| Agree Variation to WMSC                               | May 2014       |
| MWM agree EPC Contract                                | May 2014       |
| Site Mobilisation                                     | May 2014       |
| EfW Operational                                       | 2017           |
| Handback to Councils (end of Contract)                | 2023           |

## **11 APPENDICES**

APPENDIX A: Contract Variations

APPENDIX B: Programme Risk Register

APPENDIX C: Organisation

## APPENDIX A: Summary of Contract Variations

| Variation Number | Subject of Variation   | Date of expiry |
|------------------|--|----------------|
| 1                | Alternative arrangements for the collection, storage and treatment/disposal of fridges/freezers.   | 01-Jan-08      |
| 2                | Delay of refurbishment of Malvern Household Waste Disposal Site.   | 13-Jan-03      |
| 3                | Confirmation of date to complete Hill & Moor Landfill Site and Rotherwas MRFs.   | 31-Mar-03      |
| 4                | Dealing with the cost consequences of sending waste to landfill rather than to an EFW plant.   |                |
| 5                | The Source Separation Service no longer been required under the Contract.  | 30-Sep-03      |
| 6                | Extending the opening hours at Upton Household Waste Site.   |                |
| 7                | Variation to excess rejects drafting in Variation 5.   | 28-Feb-03      |
| 8                | Trial use of the Coventry EFW and the cost of transporting waste to the same.  | 30-Sep-03      |
| 9                | Approval to apply for planning permission at the Worcester East Household Waste Site.  |                |
| 10               | Provision of Recyclate Bulking Facilities in Bromsgrove, Redditch and Wyre Forest.   |                |
| 11               | Extended opening hours for Tenbury Household Waste Site and licence fee for the same.  | 21-Nov-03      |
| 12               | Extended opening hours of Upton on Severn Household Waste Site.  |                |
| 13               | Extended opening hours for Tenbury Household Waste Site.   | 21-Feb-04      |
| 14               | Store and load kerbside recycling bags at Leominster Transfer Station and Rotherwas Materials Reclamation Facility.                        |                |
| 15               | Extended opening hours for Tenbury Household Waste Site.   |                |
| 16               | Trial of additional staff, improved signage and wood recycling on the household waste site recycling rate.                                 | 01-May-05      |
| 17               | Separate collection system at Household Waste Sites and an alternative disposal route for all tyres received in the contract waste stream. |                |

## Herefordshire and Worcestershire

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| Variation Number | Subject of Variation  | Date of expiry |
|------------------|---|----------------|
| 18               | Extra transport and tipping cost through the use of licensed third party sites for the disposal of asbestos.  | 31-Mar-06      |
| 19               | Introduction of new demountable waste collection system at Bromsgrove District Council.   | 01-Apr-08      |
| 20               | Extra transport and processing cost through the use of third party sites for composting green waste.  | 31-Mar-05      |
| 21               | Extra transport and processing cost through the use of third party sites for composting green waste.  | 31-Mar-06      |
| 22               | Provision of additional staff, improved signage, site modifications and wood recycling.   | 31-Mar-06      |
| 23               | Extra collection, transport and tipping costs through the use of third party sites for the disposal of cathode ray tubes.   | 01-Jan-08      |
| 24               | Use of third party contractors for the collection and disposal of fluorescent tubes.  | 01-Jan-08      |
| 25               | Not used  |                |
| 26               | Use of the Coventry EFW and the cost of transporting waste to the same.   |                |
| 27               | Use of bulking bays as a bulking facility for commingled recyclables delivered by Redditch Borough Council, Worcester City Council and Wyre Forest Borough Council. |                |
| 28               | Allocation of cost for administration and consignment fee for collection of hazardous waste.  |                |
| 29               | Allocation of costs arising under the Aggregates Levy.  |                |
| 30               | Allocation of costs arising from the requirement to have a PPC permit.  |                |
| 31               | Initiation of negotiations with a developer to agree the purchase of land and the development of a Commingled Materials Reclamation Facility.                       |                |
| 32               | Additional staff, signage and site modifications.   | 31-Mar-07      |
| 33               | Acquisition of land and progression of planning application for commingled MRF.   |                |
| 34               | Initiation of negotiations with a developer to agree the purchase of land and the development of a Commingled Materials Reclamation Facility.                       |                |

## Herefordshire and Worcestershire

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| Variation Number | Subject of Variation  | Date of expiry |
|------------------|---|----------------|
| 35               | Extra transport and processing costs for the composting of green waste.   | 31-Mar-07      |
| 36               | Allocation of costs for modifications to the site licences and working plans to enable the handling of CRTs, fluorescent tubes and equipment containing ozone depleting substances. |                |
| 37               | Input Restrictions on Household Waste Sites.  |                |
| 38               | Extra transport and processing costs for the composting of green waste.   | 31-Mar-08      |
| 39               | Provision of additional staff, improved signage, site modifications and wood recycling.   | 31-Mar-08      |
| 40               | Not used  |                |
| 41               | Not used  |                |
| 42               | Extra transport and processing costs for the composting of green waste.   | 31-Mar-09      |
| 43               | Adjustment in respect to WEEE.  | 31-Dec-09      |
| 44               | Food Waste  | 10-Jan-14      |
| 45               | Introduction of new collection vehicles.  | 26-Aug-09      |
| 46               | Introduction of new collection vehicles.  | 31-Mar-12      |
| 47               | Extra transport and processing costs for the composting of green waste.   | 31-Mar-10      |
| 48               | Mercia to enter into a lease for use of Kington Household Waste Site.   | 04-Dec-09      |
| 49               | MWM to enter into a lease for use of Rotherwas Composting Plant.  | 02-Dec-13      |
| 50               | Plasterboard  | 31-Mar-12      |
| 51               | EnviroSort  |                |
| 52               | WEEE  | 31-Mar-12      |
| 53               | Additional staff, signage and site modifications.   | 31-Mar-12      |
| 54               | Landfill permit   | 31-Mar-12      |

## Herefordshire and Worcestershire

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| Variation Number | Subject of Variation   | Date of expiry |
|------------------|--|----------------|
| 55               | Extra transport and processing costs for the composting of green waste.                      | 31-Mar-11      |
| 56               | Battery Directive  | 31-Dec-09      |
| 57               | Extra transport and processing costs for the composting of green waste.                      | 31-Mar-12      |
| 58               | Timber   |                |
| 59               | Asbestos   | 31-Mar-12      |
| 60               | Additional staff, signage and site modifications.  |                |
| 61               | Allocation of cost for administration and consignment fee for collection of hazardous waste. |                |
| 62               | Introduction of new collection vehicles.   |                |
| 63               | Kington Household Waste Site lease   |                |
| 64               | Plasterboard   |                |
| 65               | Green Waste (Wyre Forest)  |                |
| 66               | Landfill permit  |                |
| 67               | WEEE   |                |
| 68               | Tyres  |                |
| 69               | Third party landfill   |                |
| 70               | Extra transport and processing costs for the composting of green waste.                      |                |
| 71               | Asbestos   |                |
| 72               | Rotherwas Composting Plant lease termination.  | 30-Apr-14      |

**APPENDIX B:**

**Herefordshire & Worcestershire Waste Management Contract Variation: Risk Register (Summary)**  
**Programme: EfW Contract Variation**

| #  | Subject / Workstream | Risk Description   | Mitigation  |
|----|----------------------|--|---|
| 1  | Planning             | <b>Parameter - Planning:</b> No planning conditions that degrade the performance of the plant to such an extent it is not suitable to meet the output specification. | Planning Conditions will have no impact on the performance of the Plant.  |
| 2  | Planning             | <b>Parameter - Planning:</b> No planning conditions that render the Variation not value for money for the Authorities  | Conditions will have no impact on the Value for Money of the Plant  |
| 3  | Finance              | <b>Parameter - Financial:</b> Not affordable for HC  | Financial plans incorporate likely increase in costs. Improved position at Financial Close more favourable.   |
| 4  | Finance              | <b>Parameter - Financial:</b> Not affordable for WCC   | Financial plans incorporate likely increases in costs. Improved position at Financial Close.  |
| 5  | Finance              | <b>Parameter - Financial:</b> Total cost of Waste contract and Variation (for life of waste contract) is within overall affordability envelope                       | Negotiations with Mercia. Well within affordability envelope at Financial Close.  |
| 6  | Finance              | <b>Parameter - Financial:</b> Affordable in relation to likely costs of ownership and operation beyond the life of the Waste Contract                                | Included in financial plans (WCC and HC). Improved position at Financial Close/   |
| 7  | Finance              | <b>Parameter - Financial:</b> Additional cost of the Variation represents value for money  | Mercia's competitive procurement process for EPC Contract – reviewed by advisors  |
| 8  | Finance              | <b>Parameter - Financial:</b> Satisfactory EPC contractor procurement (managed by Mercia)  | Competitive process operated by Mercia. Oversight by authority and input from advisors to authority.<br><br>EPC Contract now in place (May 2014)  |
| 9  | Finance              | <b>Parameter - Financial:</b> IRR over the whole life of the contract shall not exceed the IRR used in the financial model in the original procurement               | IRR is lower than the original WMSC   |
| 10 | Finance              | <b>Parameter - Financial:</b> DEFRA (WIDP) approval of the Variation Business Case   | Draft VBC submitted end of July 2013. Progressed points of clarification with DEFRA. Value for Money assessment included within December 2013 Cabinet Report. DEFRA reassessment of WIG credits in December 2013. |



## Herefordshire and Worcestershire

| #  | Subject / Workstream | Risk Description   | Mitigation   |
|----|----------------------|--|--|
| 11 | Finance              | <b>Parameter - Contractual:</b> DEFRA / HMT – approval of the variation on grounds of VFM  | VBC included VFM assessment. Progressed points of clarification with DEFRA and HMT. Value for Money assessment included within December 2013 Cabinet Report. DEFRA reassessment of WIG credits in December 2013. |
| 12 | Legal                | <b>Parameter - Contractual:</b> No alterations to Waste Contract (structure or financial basis) resulting from incorporation of the variation other than changes necessary to (a) give effect to the variation, (b) bring Waste Contract into compliance with current and foreseeable legislation and (c) net effect of which is to deliver commercial benefit to the Councils | Variation drafted on basis of minimal change other than where necessary. All parties agreed.<br><br>Updated to reflect current legislation and good practice provisions.   |
| 13 | Legal                | <b>Parameter - Contractual:</b> Execution of the variation by the authorities seen as ultra vires the power of the Councils  | Legal opinion from Leading Counsel   |
| 14 | Legal                | <b>Parameter - Contractual:</b> Procurement challenge resulting in delay   | Legal opinion from Leading Counsel   |
| 15 | Legal                | <b>Parameter - Contractual:</b> Extension of the period of the Waste Contract  | Authorities have confirmed that the Waste Contract will not be extended beyond 2023  |
| 16 | Legal                | <b>Parameter - Contractual:</b> WCC and HC Agreement to extend the Joint Agreement   | Revised Joint Working Agreement in place (May 2014) between Herefordshire Council and Worcestershire County Council.   |
| 17 | Technical            | <b>Parameter - Technical:</b> Reliability, Availability, Maintainability and Safety and Life Cycle Costs are such that the costs of running the facility no worse than the market  | Evaluation by Authorities Technical Advisors. Part of competitive procurement process.   |
| 18 | Technical            | <b>Parameter - Technical:</b> Reliability, Availability, Maintainability and Safety and Life Cycle Costs are such that the costs of running the facility are not deflated during the period in the run up to the end of the Waste Contract   | Evaluation by Authorities Technical Advisors. Part of competitive procurement process.   |
| 19 | Technical            | <b>Parameter - Technical:</b> Handback condition of the facility at the end of the Waste Contract to be: <ul style="list-style-type: none"> <li>• In accordance with specifications pursuant to which procured</li> <li>• In a condition consistent with proper use to that time</li> </ul>  | Evaluation by Authorities Technical Advisors.<br><br>Full details of Handback finalised as part of the contract variation agreed with Mercia (May 2014)  |

## Herefordshire and Worcestershire

| #  | Subject / Workstream | Risk Description   | Mitigation  |
|----|----------------------|--|---|
|    |                      | <ul style="list-style-type: none"> <li>• Capable of being operated for the remainder of their design life</li> <li>• Capable of being refinanced at commercial rates</li> <li>• In a condition having regard to the maintenance reserve</li> </ul> |   |
| 20 | Technical            | <b>Parameter - Technical:</b> Incorporation of any prescriptive specification items  | No prescriptive restrictions currently required.  |
| 21 | Technical            | <b>Parameter - Technical:</b> Incorporation of an operating restrictions required by the authorities   | No operating restrictions currently required  |
| 22 | Technical            | <b>Parameter - Technical:</b> component warranties requested in Mercia' contract documents   | Evaluated by Councils' Technical and Legal Advisors.  |
| 23 | Technical            | Financing arrangements "   | Legal opinion from Leading Counsel  |
| 24 | Programme / Planning | Impact on planning permission should construction be delayed   | <p>Mandate to carry out pre-engineering / advanced works secured (WCC Cabinet Dec 2012).</p> <p>Advanced works contact scoped (not entered into) and some enabling work authorised</p> <p>Pre-commencement planning conditions discharged May 2014.</p> <p>Contract Variation agreed May 2014</p> <p>Site Mobilisation started May 2014</p> |
| 25 | Operation            | Trespassers on site  | Covered under conditions of licence. Fencing in place. Lease in place.  |
| 26 | Finance              | Contractors become insolvent   | Sponsors and EPC Security Package in place and financial due diligence completed.   |
| 27 | Programme            | Delay in Cabinet Decision - WCC  | Cabinet date – 12 December 2013   |
| 28 | Programme            | Delay in Cabinet Decision - HC   | Cabinet date – 12 December 2013   |
| 29 | Lending              | Prudential Borrowing cannot be secured - HC  | Full Council – February 2014  |
| 30 | Lending              | Prudential Borrowing cannot be secured - WCC   | Full Council – January 2014   |
| 31 | Finance              | Foreign exchange rate movements  | Once Financial Model finalised assessed the risk to financial close. Monitor Forex Rates.   |

## Herefordshire and Worcestershire

| #  | Subject / Workstream | Risk Description  | Mitigation  |
|----|----------------------|---|---|
| 32 | Finance              | Inflation changes - increases further                           | Inflation is fixed at agreed indexation from 1998.  |
| 33 | Finance              | Escalation of EPC contractor costs                              | Fixed Price with defined escalations  |
| 34 | Programme            | Cabinet decide not to progress with the contract variation      | Consider alternative options<br>Cabinet decisions reached – December 2014   |
| 35 | Operational          | Changes in Waste tonnages                                       | Financial Model and plans built on forecast waste tonnages – reviewed by authorities  |
| 36 | Finance              | Third party income levels are below levels assumed in the model | Various sensitivities considered. The C&I waste represents a fairly small element of the total waste processing plant capacity.   |
| 37 | Operational          | Waste is not accepted   | As per the Waste Management Services Contract, the EfW is only one element of an integrated waste service management contract. Mercia has overall responsibility for the waste to be disposed of including the Mixed MRF, EfW and Landfill.   |
| 38 | Operational          | Changes in the composition of waste                             | Details covered within the contract   |
| 39 | Legal                | Changes in law in relation to waste                             | Details covered within the contract   |
| 40 | Legal                | Land appropriation  | WCC has 'appropriated' the site for planning purposes. Mercia will benefit from WCC appropriation. Lease agreed as part of concluding the contract variation  |
| 41 | Legal / Finance      | Damage to facility  | Insurances in place. Insurance advise to authorities as WDAs and as Lenders   |
| 42 | Programme            | Under Performance   | Covered by the contract   |
| 43 | Operational          | Landfill options beyond 2023                                    | Consideration of various options  |
| 44 | Programme            | Delay in concluding the contract variation                      | <ul style="list-style-type: none"> <li>• Cabinet and Council decisions in each authorities</li> <li>• DEFRA reassessment of WIG Credits</li> <li>• Communications – Members, Mercia, WCC / HC, DEFRA, HMT</li> <li>• Mercia progressed EPC contract</li> <li>• Keep Programme Team engaged, including advisors</li> </ul> |

**APPENDIX C: GOVERNANCE**

**ADVISE / DECISION LEVEL**

