

Commissioner Stavros Dimas
Commissioner for Environment
European Commission
Rue de la Loi, 200
Bruxelles 1049

22 November 2005

Dear Commissioner,

Re: Request for investigation in to waste arrangements in East Sussex, UK

I am writing to ask for an investigation into the arrangements around Integrated Waste Management Services Contract (IWMC) and the Waste Local Plan (WLP) in East Sussex.

Waste matters in East Sussex are dealt with by a Joint Waste Authority made up of Brighton & Hove City Council and East Sussex County Council.

Approval to let the IWMC to Onyx Aurora Ltd was granted on March 12 2003¹ and subsequently it was signed on March 31, 2003. This contract² is worth £1billion, and was awarded under a 25 year Private Finance Initiative arrangement and attracted some £49million of UK government grants. The contract covers collection, management and disposal of waste in the county of East Sussex.

I am concerned by the lack of public participation facilitated by the Joint Waste Authority in their considerations leading up to the award of the IWMC.

The Århus Convention³ establishes a number of rights of the public (citizens and their associations) with regard to the environment. Public authorities (at national, regional or local level) are to contribute to allowing these rights to become effective. The Convention provides for:

- the right of everyone to receive environmental information that is held by public authorities ("**access to environmental information**"). This can include information on the state of the environment, but also on policies or measures taken, or on the state of human health and safety where this can be affected by the state of the environment. Citizens are entitled to obtain this information within one month of the request and without having to say why they require it. In addition, public authorities are obliged, under the Convention, to actively disseminate environmental information in their possession;

¹ <http://www.eastsussex.gov.uk/yourcouncil/agendasreportsminutes/cabinet/reports/C12Mar2003Item4ContractAward.pdf>

² <http://www.eastsussex.gov.uk/environment/rubbishandrecycling/managingwaste/download2.htm>

³ <http://europa.eu.int/comm/environment/aarhus/>

- the right to participate from an early stage in environmental decision-making. *Arrangements are to be made by public authorities to enable citizens and environmental organisations to comment on, for example, proposals for projects affecting the environment, or plans and programmes relating to the environment, these comments to be taken into due account in decision-making, and information to be provided on the final decisions and the reasons for it ("public participation in environmental decision-making");*
- the right to challenge, in a court of law, public decisions that have been made without respecting the two aforementioned rights or environmental law in general ("**access to justice**").

As can be seen from the reports presented to the Joint Waste Authority, and on which they made their decision (attached at footnote 1) there is no reference to public consultation, and to the best of my knowledge none was undertaken.

Further there is no evidence that public comments were taken into account in reaching the decision to award the contract. This would appear counter to the Aarhus Convention, which specifically requires public bodies to do so.

My second area of concern is that the IWMC was let prematurely, as it was awarded *in advance* of the adoption of the WLP.

It is the function of the WLP to set down definitions, capacity, disposal methods and specifications for the management and disposal of waste. The councils of the Joint Waste Authority are only now close to adopting their WLP, and there is still significant concern that household waste recycling levels are being set too low, against the recommendations of the WLP Public Inquiry.

Further, the household recycling levels advocated by the Joint Waste Authority are below those set in the emerging Regional Waste Plan, which will be a statutory document in 2007.

During the six-week public consultation period on adopting these lower recycling levels some 8,200 letters of objection were received.

Without agreement on fundamental issues such as the recycling rates of household waste and in the light of major public opposition, I am very concerned that the IWMC was awarded before the WLP was adopted. It is my fear that the WLP has been unduly influenced by the commercial contract, whereas the opposite should be the case.

Accordingly I would be grateful if you could look into this matter.

Yours sincerely,

Dr. Caroline Lucas MEP