

TIMELINE OF KEY EVENTS RE CR4C AND INCINERATOR CONTRACT

Key

GCC's Procurement Process
Freedom of information process
Community R4C actions

WHEN	WHAT
2007	Cabinet approves the Residual Waste Procurement Plan for diversion of residual waste from landfill and the Outline Business Case for submission to DEFRA in order to obtain PFI credits for a long term waste contract.
2008	Gloucestershire County Council (GCC) buys land at Javelin Park for £7.4m, paying more than double what the previous owners had paid just the year before (at c. £250,000 per acre for 12.6 acres = £3.15m)
January 2009	GCC advertises Official Journal of EU (OJEU) notice for a contract for the provision of residual waste treatment capacity that would divert municipal solid waste from landfill with a duration of 20 to 25 years. By going for a 'technology neutral' procurement process, GCC shuts down any public debate on waste options. The process remains secretive throughout. Confidential documents received since show that the intention was always to build an incinerator.
January 2009	GlosVAIN established (an alliance of Parish Councils and individuals to fight plans for incineration in Gloucestershire).
2010	Defra withdraws PFI funding " <i>on the basis that, on reasonable assumptions (the project) will no longer be needed in order to meet the 2020 landfill diversion targets set by the European Union</i> " However, GCC decides to continue with the residual waste procurement process anyway, based on a PFI model.
September 2012	Contract award to UBB agreed at Cabinet for an Energy from Waste plant at Javelin Park. Details kept secret.
November 2012	The Waste Core Strategy – the planning document against which the planning application for the Javelin Park incinerator will be judged – is adopted in November. The WCS is written in order to allow the Javelin Park incinerator to be accepted - it should have been entirely independent.

February 2013	Contract with UBB signed less than 4 weeks before consideration of the application at Planning Committee. Details kept secret
March 2013	Following nearly 5000 objections gathered by GlosVAIN, planning permission refused unanimously by GCC's planning committee at a meeting at Gloucester Rugby Club. 100+ protesters attend and over 20 people present objections. Development 'called in' by Secretary of State Eric Pickles
July 2013	Planning appeal submitted by UBB
Nov 2013-Jan 2014	Public planning enquiry held over 6 weeks. GCC pays for both the claimant (UBB, supported by Residual Waste team) and the defendant (GCC's Strategic Planning team). GlosVAIN is an interested party - and raise £35k to employ consultant.
January 2015	We lose. Planning permission granted by Secretary of State but challenged by Stroud District Council
25 th January 2015	Individual campaigner from GlosVAIN makes FOI request to GCC for 1. the full, unredacted business case, including all financial information. 2. The full, unredacted contract between GCC and UBB. Only a heavily redacted copy, with all financial information blacked out, is made available several weeks later.
February 2015	A petition signed by 7,600 people asking GCC to terminate the contract is submitted. At an Emergency meeting , the Council debates a motion to do just that with immediate effect, but the motion is lost by 24 for and 27 against – a closely split vote. During the debate, Cllr Theodoulou says that the choice is between <i>“The energy from waste solution (which) would provide £150 million worth of savings and the motion before members, which would incur cancellation costs up to £100 million”</i> , but provides no data to substantiate these claims. They are questioned at the time, and later by the judge at the Information Tribunal. The released contract indicates that Cllr Theodoulou's claims were dishonest.
April 2015	After going through GCC's internal complaints process, the campaigner submits formal complaint to Information Commissioner's Office
July 2015	Community R4C established to build our own community-led environmentally and financially sustainable waste plant.

August 2015	Final planning permission following dismissal of Stroud DC's challenge.
October 2015	ICO rules that GCC should "Disclose the withheld information to the complainant". GCC appeals the decision
November 2015	A new contract is negotiated in secret with no competitive tender. In November 2015 the Council's Cabinet agrees the contractor's Revised Project Plan, (the second contract) including a " <i>£17 million one-off financial contribution</i> ". Decision supported by "Affordability Report" from Ernst and Young.
November 2015	Oversight and scrutiny management committee attempt to call in the matter but the vote is defeated by the chair, who mysteriously votes for the motion as a member of the committee but against it in his role of chair with casting vote. We later discover that this is following a 'meeting in the car park' between GCC's CEO and the chair, at which the CEO uses undue political influence to prevent proper scrutiny.
16 th January 2016	New secret contract signed with UBB - Only three years later do we discover it is for £613m over 25 years, approx. £164m more than the 2013 contract (36% increase, a breach of UK procurement rules). First 108,000 tonnes (contractual annual minimum) priced at £189/tonne, compared to market average of £89/tonne (incineration) or £113 / tonne (landfill). So GCC is contracted to pay a minimum of £20.5m pa, at least 35% MORE than historical landfill. Tonnage above that priced at approx. £16 per tonne, encouraging more waste, not less. Commercial waste will be charged at the marginal rate of £62 a tonne, so home owners subsidizing businesses.
2015/2016	Chief Executive of Gloucestershire County Council, Peter Bungard becomes highest paid public sector worker in the South West after receiving a large discretionary award into his pension fund and reducing his working hours.

<p>March 10 2017</p>	<p>First-Tier Tribunal rules that the unredacted 2013 (first) contract and Cabinet report should be released, because public interest overrides commercial interest in virtually every aspect of the contract. Judge Shanks expresses “<i>some incredulity that it could possibly cost £100 million to cancel a contract worth some £500 million over 25 years at a stage when construction had not even started.</i>” He further states that “<i>at the time of the requests in January to March 2015 the controversy was particularly intense and there was a danger that the whole Contract would have to be terminated at a cost, according to the Council, of up to £100 million. At that stage, in our view, the Council’s obligation to act transparently was particularly strong as was the public interest in full disclosure</i>”.</p> <p>It is a very poor deal financially and includes a disincentive to recycling through a two-tiered pricing mechanism that makes it cheaper the more waste that is sent to the plant.</p>
<p>March 21 2017</p>	<p>It becomes clear that the 2013 contract does not represent the final deal, and that Ernst and Young (EY) produced a report about the final deal. Another individual campaigner submits an FOI request to GCC for the EY report.</p>
<p>March 2017</p>	<p>Community R4C submits a complaint to the Competition and Markets Authority on the basis that the pricing structure in the contract, involving huge fixed costs for 25 years and unfair market pricing, has the effect of foreclosing all competition and preventing technological innovation.</p>
<p>April 2017</p>	<p>As local residents, Community R4C directors submit formal complaint to the councils auditors, Grant Thornton, under the Local Audit Act 2014 on Value for Money grounds. Despite acting in a quasi-judicial, independent role Grant Thornton supports GCC in keeping the information about the second contract secret, and refuse to consider the possible breach (now obvious) in procurement law when reaching their preliminary view. This complaint remains unresolved and GCC’s accounts have not been signed off because of the outstanding complaint.</p>
<p>June 2017</p>	<p>A heavily redacted copy of the EY report is released</p>
<p>August 2017</p>	<p>A slightly less redacted version of the EY report is released but the key information is still withheld</p>
<p>March 2018</p>	<p>Campaigner makes complaint to ICO re the EY report</p>
<p>June 2018</p>	<p>Another local campaigner goes on hunger strike and camps outside GCC offices for 16 days asking for the unredacted contract.</p>

June 2018	ICO rules that the unredacted information should be released
July 2018	Council appeals the decision. Some time later the appeal before the First Tier Tribunal is set for January 2019. It is obvious to all that GCC will lose again and are just playing for time.
20 December 2018	Council releases the EY report with all the contract information just before Christmas, faced with an obvious defeat at the Tribunal set for January 2019. The campaigner produces a blog . We discover for the first time the huge, £150m+ increase in cost of the new contract, granted in secret to UBB.
January 2019	Open letter sent to GCC signed by many councillors and others expressing shock at the release of the previously hidden information and calling for an Inquiry. This request is rejected by the CEO and the Cabinet.
18 January 2019	Despite the tight timescale of 30 days, Community R4C submits a claim for damages under procurement law on the basis that we were denied the right to bid for the contract.
2019	The Chairman of the 2015 Scrutiny Committee, Cllr Brian Oosthuysen, makes a complaint to the Police that the CEO of GCC acted unlawfully in influencing the decision at Scrutiny Committee in November 2015. This is thoroughly investigated by two Police authorities over 18 months. Eventually the police conclude there is insufficient evidence for a criminal prosecution. GCC drop a complaint made to them about the CEO on the same grounds.
July 2020	Following a Preliminary Issues trial, the Judge rules for Community R4C on the fact that we were in time to challenge a clear indication of a breach of procurement law; but rules against CR4C on the fact that CR4C have not demonstrated that we were a qualifying economic operator at the time.
7 th August 2020	CR4C submit a request to the court to appeal the judge's second decision on the basis that there have been a number of critical errors of law. CR4C have the pro bono support of a top QC and barrister, both procurement law specialists.