

# HILL DICKINSON

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ENERGY FACILITIES PROJECTS FOR LOCAL AUTHORITIES

# USE OUR ENERGY TO DELIVER BETTER ENERGY FACILITIES ACROSS YOUR ORGANISATION

Through our experience, we understand that a crucial motivator for local authorities is to derive value for money - against a backdrop of increasing regulatory compliance and an uncompromising demand from the public for high quality services.



### Conserve your energy for what matters:

- Achieving guaranteed cost savings
- Meeting mandatory carbon emissions targets
- Minimising risk
- Implementing Government policy
- Delivering high quality, sustainable services



**Innovation Award winner,  
Combined Heat and Power  
Association Awards 2009**

Rapidly rising energy prices and uncertainty in global energy supplies are pushing cost effective and sustainable energy provision ever higher up government agendas. As a result of this, the pressure on local authorities is increasing.

In 2008, prior to the current instability in the economy and the energy market, the UK Government passed the Climate Change Act. The Act imposes a legally binding obligation on the Government to reduce the UK's carbon emissions by 80% over the period from 1990 to 2050.

The role of local authorities in meeting these targets is twofold. They must:

- lead by example and show a reduction in their own carbon emissions levels; and
- make a political commitment to encourage carbon emissions targets to be met locally.

Did you know...

From 1 April 2011, most organisations who used more than 6,000MWh of electricity during 2008 (a bill of approximately £800,000 per annum) will be charged £12 per metric tonne of CO<sub>2</sub> they emit under the UK Government's Carbon Reduction Commitment. UK Government departments are likely to be charged regardless of their energy consumption.

## Leading by example

It is important for the credibility of UK Government energy targets that local authorities lead by example. It is for this reason that Parliament has ensured that carbon and energy consumption reduction targets apply first and foremost to the public sector, and then to the private sector more generally.

The current overriding UK Government target, brought about under the Climate Change Act 2008, is for the reduction of UK carbon emissions by 80% by 2050.

One of the means by which this target will be achieved is through the implementation by the UK Government of the Carbon Reduction Commitment or CRC Energy Efficiency Scheme (CRC), a carbon trading scheme requiring participants to offset their carbon emissions against purchased allowances, thereby penalising inefficient energy use.

Although the final CRC legislation has yet to be finalised, the scheme is

already well underway, with the first requirement to participate in April 2010. The CRC legislation provides that local authority bodies for an area will be grouped together for the purposes of CRC participation. This means council buildings, state schools, leisure centres and county fire authorities will be grouped together, and, if their collective electricity consumption for 2008 was more than 6,000MWh, they will have to buy and surrender carbon allowances.

Initially these allowances will be sold by the UK Government at £12 per tonne of carbon, but there is also provision for allowances to be traded on the secondary market, meaning that once the UK Government starts capping the number of allowances they sell, prices will increase. The UK Government intends to start capping the number of allowances sold as early as 2013.

The challenge for local authorities then is to decrease energy dependency, increase energy efficiency (including, where appropriate, by promoting district heating schemes) and reduce carbon emissions across their estate and deliver all this with significant cost savings.



## Political commitment



Beyond leading by example, local authorities have a regulatory role to play in incentivising and assisting local communities in meeting stringent UK Government targets.

There are several key frameworks that the UK Government has created, which local government can rely on or use when making this political commitment. These include:

- **Local Government White Paper**  
- this highlights the role of local authorities in coordinating reductions in carbon emissions, including calling for Local Area Agreements which set out climate change targets. The new Comprehensive Area Assessment also includes action on climate change as a priority target.
- **Local Government Act 2000** which allows local Government to be a 'strategic leader and place shaper', coordinating, facilitating and directly engaging in the development of community energy projects.
- **Supplement to Planning Policy Statement (PPS) 1 on Planning and Climate Change** which, together with PPS 3 and 22, establishes a robust framework on how planning can be used to tackle climate change whilst making local energy more sustainable.

- **Building a Greener Future** - this policy statement confirms the UK Government's intention that all new UK homes will be zero carbon by 2016, implemented via a process of tightening energy efficiency building regulations, firstly by 25% in 2010, and by 44% in 2013.
- **Code for Sustainable Homes** - this is brought about through 'building a Greener Future' above, and will bring in mandatory requirements for publicly funded development to reduce carbon emissions from 2010.

Also frameworks at a central Government level can be used to assist at a local level. These include:

- **Climate Change Act 2008** - which introduces carbon budgeting, the Committee on Climate Change, and enables carbon trading schemes.
- **Energy Act 2008** - which allows regulations to be passed promoting the use of renewable energy sources.
- **The Stern Review** - this paper established a fiscal argument for a precautionary approach to climate change, with planning identified as one of the four priority areas for action.

Whilst 'leading by example' can be seen as a completely different approach to 'political commitment', they should not be considered in isolation, with the two approaches complimenting one another. Where we have assisted clients who have chosen to procure an energy services project, we have also gained a firm understanding of the political incentives which have caused them to choose that course of action and effect such a project. Consequently we are well equipped to advise local authorities on the most effective forms of political commitment.

Also, through our extensive experience of energy services projects, we have had first hand experience of the problems inherent in the various types of local government political pressure. As a result, we are well-placed to advise local authorities on how to best deal with such political pressures.



## A complete energy solution



An energy facilities project involving combined heat and power (CHP) or other energy saving technology can help your authority to:

- Achieve significant annual savings against existing energy costs
- Achieve exemption from climate Change Levy on fuel for quality assured CHPs
- Meet mandatory carbon emissions targets
- Reduce carbon emissions, typically by 20%
- Decrease energy dependency and increase energy efficiency
- Procure new or replacement plant and equipment
- Reduce CRC payments

The installation of CHP and other energy saving technology is generally achieved by an outsourcing arrangement, following a PPP project structure, under which (as well as bearing the capital cost) the service provider guarantees savings against existing energy costs. Such arrangements are contractually complex and involve elements not encountered in a normal PPP or PFI project.

Hill Dickinson is the leading law firm in the country in the field of energy facilities projects involving CHP and/or other energy saving technology, and a long-standing provider of legal services to the public sector and so (working with other professional advisers, as appropriate) is ideally placed to help local authorities to achieve these objectives.

We have worked on more energy facilities projects involving CHP and/or energy saving technology than any other UK law firm, on behalf of public sector bodies. These projects have a combined capital value in excess of £50 million. Each of these projects has delivered energy facilities with significantly improved energy efficiency, generating a combined annual saving in excess of £7 million, as well as reducing carbon emissions.

We are unparalleled in offering an established and nationally recognised team dedicated to energy facilities projects involving CHP and other energy saving technology.

The energy team is led by Stephen Lansdown, a well-known and respected legal expert in the field of energy facilities projects, recognised in the Legal 500 Guide to the UK legal profession 2009.

We have built up strong relationships over a number of years with the major service providers, intermediaries and consultants in the energy sector. These links help to position us at the forefront of developments in this hugely important area.

## What we do:

- Advise and lead on the delivery and development of energy facilities projects involving CHP and/or energy saving technology
- Provide pragmatic legal guidance at every stage of the process, from initiation and procurement through to completion, commissioning and operation
- Draft complex sets of agreements and contracts between an organisation and its service provider partner for:
  - Design and installation of new CHP and/or other energy saving plant and equipment
  - Delivery of electricity, steam, heat and/or cooling solutions
  - Provision of energy management services

## We can help your authority to:

- Achieve guaranteed cost savings
- Meet mandatory carbon emissions targets
- Optimise use of capital allowances
- Derive best long-term value
- Manage risk

## Hill Dickinson quality assured through:

- Status as recognised legal experts in energy facilities projects
- Diverse and extensive experience
- Unparalleled understanding of the energy services landscape
- Membership of the Combined Heat and Power Association, and winner of its Innovation Award in 2009
- Working with industry leaders within the energy sector
- Long-standing provider of legal services to the public sector
- Strong relationships with key intermediaries
- Seamless access as a full service law firm to experts in other areas of law

## Don't just take our word for it...

In Year 1 of its energy facilities project, our client Kingston Hospital NHS Trust saved:

- **£124,848 on energy costs**
- **10,279t<sub>e</sub> in carbon emissions**

*"Hill Dickinson demonstrated, to considerable effect, their ability to obtain and utilise a comprehensive understanding of our needs as a client... delivering guaranteed savings and reducing our carbon emissions within Government and NHS deadlines... With comprehensive experience in the field, the trust benefited by receiving considered and proactive advice, and avoided 'reinventing the wheel' or learning at our expense."*

Allan Morley, ex-Kingston Hospital NHS Trust





## Experience counts

Procurement of an energy facilities project is a complex process. To maximise the benefits for local authorities, dedicated and highly experienced legal advisers are essential to navigate you through the potential pitfalls and ensure the most suitable options are considered and explored.

- The installation of CHP and/or other energy saving plant and equipment not only allows the generation of electricity, steam, heat and/or cooling in a carbon and cost-efficient way - CHP systems can also permit the export of surplus generated electricity to the National Grid and surplus heat to a district heating scheme, thereby allowing further revenues to be derived from the plant and equipment and benefitting nearby housing and other sites.
- The Carbon Trust is offering limited venture capital to help pay for more energy efficient equipment - we can advise on eligibility for Carbon Trust funding and assist in the application process.
- Purchased CHP plant and other energy saving equipment qualifies not only for capital allowances but also for enhanced capital allowances - correct application of this allowance by a service provider can result in the recoupment of capital investment in as little as two years.
- Energy facilities projects can be structured to guarantee to the user a pre-agreed level of savings against existing utilities and other expenditure - we have the market knowledge and experience to help our clients find the most cost effective option for their circumstances.
- Alternatively, some energy facilities projects allow the user simply to pay for the generated electricity, heat and cooling without the user making any capital investment, and with the cost agreed in advance - we can advise on these discount energy purchase arrangements, taking into account suitability for purpose and the whole life cost.

## Contact

To discuss how energy facilities projects involving CHP and/or other energy saving technology can control the cost of energy usage, lower your energy consumption, deliver new systems and reduce your authority's carbon emissions, and how we can work with you, contact:

Stephen Lansdown  
+44 (0)151 600 8643 or  
+44 (0)161 817 7278  
[stephen.lansdown@hilldickinson.com](mailto:stephen.lansdown@hilldickinson.com)

Glyn Dale-Jones  
+44 (0)151 600 8644  
[glyn.dale-jones@hilldickinson.com](mailto:glyn.dale-jones@hilldickinson.com)

For further information about the UK Government's carbon emissions targets, visit [www.carbontrust.co.uk](http://www.carbontrust.co.uk)

For independent advice on CHP and the Combined Heat and Power Association, visit [www.chpa.co.uk](http://www.chpa.co.uk).

Alternatively, speak to us.

## About Hill Dickinson

The Hill Dickinson Group offers a comprehensive range of legal services from offices in Liverpool, Manchester, London, Chester, Piraeus and Singapore. Collectively the firms have more than 1,100 people and 160 partners.

Hill Dickinson is a major force in energy and procurement, and in November 2009 won the Innovation Award at the Combined Heat and Power Association Awards.

The firm is well respected in the company and commercial arena, and is widely regarded as a leader in the fields of insurance, intellectual property, health services, NHS clinical/health-related litigation and wealth management. Hill Dickinson also has a highly reputable commercial litigation practice and its marine expertise is internationally renowned.

As a recognised leader in commercial property and employment law, Hill Dickinson won the Insider North West's Property Law Firm of the Year 2009 and 2006, as well as The Liverpool Law Society's Employment Team of the Year 2009.

# HILL DICKINSON

### WINNER

National law firm of the year  
Legal Business Awards 2010

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