



Energy efficiency

The low carbon building agenda

The low carbon agenda is gaining pace: the government has confirmed its commitment to all new build homes being zero carbon by 2016 and new build commercial units being zero carbon by 2018. There are opportunities to improve the energy efficiency of existing domestic and non-domestic stock, with several schemes coming to the fore including the Green Deal. The Utility Act 2011 requires that from 1 April 2018 private sector domestic and non-domestic units must meet a certain energy efficiency rating before they can be rented, which will also see a rush of energy efficiency improvements to rental properties over the next few years in preparation for this.



Energy efficiency can range from training staff to use energy more efficiently, to improving waste management, to low carbon retrofit: replacing old and inefficient plant and equipment with more energy efficient alternatives with the potential for maintenance and operation contracts linked to this. Projects can be structured through a range of finance options providing for both on and off balance sheet solutions. Whether you are an owner occupier, landlord or tenant, in the manufacturing, retail, office or domestic markets, energy efficiency installation and management can provide tangible benefits including reduced energy costs, increased asset value, reduced CRC Energy Efficiency Scheme liability, potential tax benefits, e.g. enhanced capital allowances, and potential income through the Feed in Tariff and Renewable Heat Incentive. In addition, an energy efficiency project could provide an anchor load for wider community and district heating schemes, and could be part of off-site allowable solutions counting towards zero carbon new build.

THE CHALLENGE

A successful energy efficiency project will address a number of key commercial and legal issues, including:

- measuring performance in energy performance contracts: in particular identifying baseline parameters, categories of savings measured and addressing modifications to buildings and occupancy
- warranties and energy saving guarantees
- liquidated damages on time dependent installations linked to successful testing and commissioning of plant and equipment
- navigating split incentives: tenants get the benefit of reduced energy costs; who will fund the capital and can this be derived from service charges?
- default and termination provision, including funder step-in where relevant
- interface arrangements with any existing facility management providers.

HOW WE CAN HELP

Walker Morris' Renewables, Energy & Resources Group is a multi-disciplinary team capturing expertise including in retrofit and FM contracts, landlord and tenant issues and planning. We can advise you on the purchase and provision of turnkey solutions, contractor financed solutions to your property portfolio and the landlord and tenant interface. Examples of our recent experience include:

Energy performance contracts

We advised an international food retailer on a large energy centre fit out and facilities management contract using energy performance criteria to assess performance.

Finance

We can advise on options including owner occupier funding, occupier contributions through service charges, third party and ESCO funding, and asset and lease finance solutions. We can also advise on the tax benefits and disincentives of funding options.

Landlord and tenant

We can draw on our experience of advising a range of landlords including those in the retail, higher education and housing sectors and can advise on the use of green lease provisions, service charge contribution options, co-ordinating tenant buy-in and apportioning of risk and cost in multi-occupancy buildings.

Energy Service Companies (ESCOs)

We have experience of providing bespoke and joint venture arrangements in the energy, renewables, private and public sector arenas including a number of public private partnerships delivering heat and power offtake through energy from waste facilities.

Planning / environmental

Our Planning Team recently successfully secured planning permission for a solar project in a designated Special Landscape Area.

Grid connection, power purchase and offtake

We have recently advised on heat and power offtake agreements on a number of anaerobic digestion (AD) and energy from waste projects including two major PFIs and London's first food waste AD project.

WALKER MORRIS

Walker Morris is uniquely recognised for its strong multi disciplinary teamwork and straight forward advice. With national and international reach, the depth of our expertise and skill assures clients all their needs can be met by one firm. We make it our priority to understand the dynamics of your business and appreciate that in today's business world, you need lawyers who are willing to offer support and advice beyond the 'legals'.

We are instinctively commercial and our goal is to add value at all stages of our relationship with you. We offer inquisitive people, who ask all the right questions; who work tirelessly on your behalf; and who work effectively as members of your own team to help you achieve results.

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