outsourcing the cuts:

pay and employment effects of contracting out

THE SMITH INSTITUTE

The Smith Institute

The Smith Institute is an independent think tank which provides a high-level forum for thought leadership and debate on public policy and politics. It seeks to engage politicians, senior decision makers, practitioners, academia, opinion formers and commentators on promoting policies for a fairer society.

UNISON

UNISON is one of the UK's largest trade unions, serving more than 1.3 million members. We represent full-time and part-time staff who provide public services, although they may be employed in both the public and private sectors.

outsourcing the cuts:

pay and employment effects of contracting out

The case studies in this report are based on available information and interviews and opinions of employees and union officers.

Published by The Smith Institute

Contents

Foreword: about the report

Contracting out public services in the UK is now well established. Nevertheless it is still a deeply divisive issue and the debate about outsourcing tends to generate more heat than light. What is particularly surprising given the scale and scope of contracting out is how little researched it is, not least in terms of how it affects employees.

This report, commissioned by UNISON, seeks to help bridge that information gap by profiling and evaluating in some detail the impact of contracting out on employee pay, terms and conditions in five case-study contracts. Each study is based on information provided by UNISON officers and members and from other available sources of information. As outlined in Appendix 1: Methodology, the report also includes a desk review of literature on the subject, informed by independent experts, unions and employers' organisations.

The case studies below represent a range of providers working in different sectors in different part of England and Wales. Their selection was also influenced by the availability of information and relevant evidence:

- supported-living services for Rochdale Borough Council, some of which were outsourced to community interest company Future Directions CIC in 2012;
- NHS patient transport services in North Staffordshire, which were outsourced to Parkwood Holdings, then brought back in-house again before being contracted back out to the service provider NSL;
- support services for West Sussex County Council, which were outsourced to Capita in 2012, involving the transfer of around 600 staff;
- a Chartwells/Compass contract to provide school meals for children living in the area of Newport City Council, which involved the transfer of around 220 school catering staff on a six-year contract from April 2011; and
- a partnership contract between Lincolnshire Police and global security firm G4S, which saw 575 police support staff transferred on a 10-year contract – the widest-ranging police outsourcing arrangement in the UK.

The key findings from these case studies are stated at the end of each chapter, and are summarised in the following executive summary. The findings raise some important issues for politicians, policy makers, and contracting authorities and agencies, some of which should cause deep concern. In particular, the lack of information about terms and conditions, the impact of the cuts on outsourced low-paid workers, and the growth of the two-tier workforce (and the widening gap between them). It also raises wider questions about the impact of outsourcing on the quality of public services and the broader social effects (not least the public cost of failing to pay public-sector workers a decent wage).

The Smith Institute would like to thank UNISON for supporting this project and for all their help with the case studies. In particular we would like to thank Gavin Edwards and the UNISON members and officers who gave up their time to be interviewed.

The information given in this report is based on what was documented and reported. We have provided where possible explanations and references to comments and published and unpublished paper and reports.

Paul Hackett, Director of the Smith Institute

Executive summary

Executive summary

The following executive summary is based on the five case study findings and literature review.

Key finding 1: **Huge public-sector cuts are determining the objectives, nature and outcomes of the latest outsourcing deals in public services. On some contracts, the cuts are being passed directly on to low-paid workers. On others, there is a more mixed picture, with cuts being met via reduced pay and benefits for staff alongside other changes to working patterns and processes.**

The scale of spending cuts across the public sector is setting the objectives and tone of current public service outsourcing strategy, which can only be understood in this context. For local authorities, for example, core funding will have been reduced by 40 percent by the end of this parliament,[1] squeezing service budgets in an unprecedented way.

At all the case-study organisations, making cost savings in response to public spending cuts was the key objective of the outsourcing. In social care, budgets are being driven down to the extent that a huge worsening of terms and conditions is the only way of providing a service to the agreed price. The case study of Future Directions CIC – which provides skilled support workers for disabled adults with complex needs – has seen staff lose up to 40 percent of take-home pay, with worsened sick pay and annual leave. Plenty of examples of similar cases suggest that this is not exceptional but typical, with UNISON officers reporting that this is "happening everywhere".[2] As UNISON regional organiser Lizanne Devonport says when asked if changes to job roles have been made: "No, not at all. These are people doing the same job, at the same place, for the same clients, on their third employer, for dramatically different wages."

In other sectors, the picture is more complex. There are examples of infrastructure and process efficiency improvements delivered by G4S for Lincolnshire Police, for example, or by Chartwells in delivering the school meals service to Newport schools (such as improved recycling). Savings have also come from labour costs in both these cases.

In between these two types of savings, there are cost savings generated by, to put it simply, getting more from staff for less. While increased work intensity accompanied by greater job insecurity and low or non-existent pay increases have been characteristics of working life for many employees across the public sector and the whole UK economy since the downturn,[3] outsourced public servants are at the sharp end of this pressure. At Chartwells in Newport, for example, fewer staff are delivering more meals (albeit there have been price increases for parents) and report a higher workload. They are not being rewarded for this higher workload, however, with pay rates tracking the minimum wage.

Key finding 2: **While moving out of the public sector can open up new avenues for progression for some specialist employees, for low-earners – who make up the vast majority of outsourced public-sector workers – it too often narrows opportunity.**

There is anecdotal evidence from the restructuring on larger contracts (illustrated by the G4S case study in this report) that some employees – particularly those in professional and managerial roles – can benefit from better individual opportunities for progression and development in the private sector. There can also be pay increases for individuals in some roles in which firms will pay a premium, such as in IT.

For most lower-paid employees, however, there is more evidence that progression paths can be reduced or cut off, with employees moving from the progression frameworks associated with public-sector pay and grading systems such as Agenda for Change in the NHS (supported by its training and development framework) to spot rates of pay with no clear path of progression. The example of the non-emergency patient transport service, where it no longer makes business sense for a contractor to invest in employees to become paramedics and join the emergency ambulance service, is a good illustration of how fragmentation can break career paths and remove the business case for investment.

Key finding 3: **Transferred employees have kept public-sector pensions, with new employers contributing to them, but the new generation of outsourced public servants are not being provided with an opportunity to earn an adequate level of pension for retirement.**

While the evidence on pensions is patchy, pension arrangements for new starters appear to be unfavourable to those of their transferred colleagues on many of the contracts examined. While transferred employees have been able to maintain membership of defined-benefit public-sector schemes at every case-study contractor (as the Fair Deal policy requires[4]), new starters typically join a money-purchase scheme with lower employer contribution rates in the region of 3 percent – which is lower than the average employer contribution rate to defined-contribution schemes in the private sector.[5] As such it represents a massive levelling-down of pension provision over the longer term for public service workers and is insufficient to provide an adequate pension in retirement.

There is also some evidence of employers providing an incentive for low-paid employees to opt out of their public-sector pension.

1 Local Government Association *Future Funding Outlook 2014* (July 2014)
2 Care workers for disabled adults working for Your Choice Barnet have been campaigning on cuts to pay resulting from budget cuts, while *The Guardian* has been reporting the story of the Doncaster care workers taking action against their employer, owned by Bridgepoint Capital, which has made similar cuts to terms and conditions.
3 See: "More Work, Less Pay? Employees in Recession" in *The 2011 Workplace Employment Relations Survey: First Findings* (2013)
4 This ensures that staff transferred from the public sector can retain their public-sector pension membership
5 According to the ACA survey report *Time to Save for Tomorrow*, 2014 employer contributions into defined-contribution pension schemes are averaging between 4½ percent and 7 percent of earnings as a whole, with an average of 6.9 percent for trust-based DC schemes, 5.8 percent for group personal pensions, and 4.4 percent for stakeholder pensions

In the Future Directions CIC case study, for example, support workers were offered slightly lower cuts to pay should they opt out of their public-sector pension, an offer that many accepted when faced with the impact of pay cuts on their finances.

Key finding 4: **The two-tier workforce appears to be returning, following the withdrawal in 2010 of the Code of Practice on Workforce Matters in Public Sector Service Contracts. Together with the impact of the Alemo-Herron vs Parkwood judgment and recent changes to TUPE,[6] the employment rights framework affords employees much less protection than before.**

At three of the case-study organisations (with the exception of the Newport school catering contract in Wales, where the Code of Practice on Workforce Matters is still in force) there was at least some evidence that new starters were being appointed on lower rates of pay (see table 1). The case studies suggest that this is now widespread practice. Yet the continued operation in Wales of the code of practice (often referred to as the two-tier code) illustrates how contractors can adapt to a more level playing field, having had experience of a two-tier code in operation for many years in England.

The case studies also illustrate the impact of the changed employment rights framework (see introduction). While none of the case-study organisations argued that TUPE did not apply, these were organisations where there was relatively high trade union membership and strong representation. Grimshaw, Marino and Rubery[7] reported widespread use of the practice of fragmenting contracts, making it difficult to establish which employees were previously assigned to a particular service. More research needs to be done on the realities of TUPE compliance, particularly in the vast majority of cases where there is a weak or absent trade union presence.

Key finding 5: **In order to help the lowest-paid employees, commitments to paying the living wage need to cover staff working for contractors as much as possible.**

None of the case-study contracts were covered by any commitment to pay the living wage. In Rochdale, the lowest pay rate for new employees at Future Directions CIC is below the rate of the national living wage, while for transferred employees it is not. In Newport, the council's decision to phase in the living wage for in-house staff, but not to require contractors to do the same, created a 15 percent differential between the lowest-paid employees of the council and those working to provide school meals, for whom the minimum wage is the benchmark rate.

Key finding 6: **Successive retendering of contracts and reconfigurations of services have produced a staggering array of different terms and conditions among people providing the same public service. At the same time, when staff move into the private sector, transparency around their pay decreases. This calls into question whether it is possible for outsourced services to meet their equal-pay obligations and is storing up potentially costly equal pay problems for the future.**

It was not possible to gather detailed information on whether any contractors had taken action to identify or address gender pay gaps. However, outsourcing usually moves employees from a job-evaluation-based, equality-proofed pay system in the public sector to a pay system where, in most cases, pay setting is often done on an individual basis. Managerial discretion over pay is higher, performance pay is more common and there is a complex array of groups of staff on different terms and conditions. Transparency around pay is lower than it is in most of the private sector. These features make it much more difficult to identify or challenge pay discrimination.

Moreover, most companies to which public services are outsourced state their intentions to provide pay and benefits that are in line with market rates. In the private sector, market rates for jobs predominantly performed by female, part-time workers are much lower than those in the public sector.

6 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014, which protect employees' rights when the organisation or service they work for transfers to a new employer.
7 Grimshaw, D, Marino, S and Rubery, J *Public Sector Pay and Procurement in the UK* (November 2012)

Table 1: Pay and benefits for transferred and new staff on five case-study contracts

Contract	Basic pay rates	Other pay-related allowances	Working time and employment status	Sick pay and annual leave	Pension
Rochdale Borough Council contract with Future Directions CIC (supported living for disabled adults)	Significant reductions in pay made following the transfer, with an ex-NHS support worker receiving 28% less per hour in 2014 than the NHS rate in 2012. New starters in 2014 are appointed on an hourly basic rate that is 37% lower than ex-NHS employees received in 2012. Non-consolidated "quality payment" made to staff as a result of settlement of dispute by the council	Removal of overtime premium, weekend working allowances etc for transferred staff meant some staff lost up to 40% of total pay and allowances. No working-time-related payments for new staff	Same working hours for transferred and new staff	Worsened sick pay and annual leave terms for ex-NHS and ex-local authority staff.	Transferred employees retain membership of local government or NHS pension scheme; defined-contribution scheme for new staff (3% employer contribution)
North Staffordshire NHS contract with Parkwood (non-emergency patient transport services)	New starters were recruited on lower pay rates. ACAS described the overall package received by new starters as "markedly inferior". Cost-of-living increases due to transferred staff were withheld. As per TUPE requirements transferred terms unchanged	Transferred staff maintained on-call, standby and antisocial hours payments, but new staff did not receive them	Some employees recruited on casual or zero-hours basis by Parkwood	Sick pay and annual leave received by new starters were less favourable than terms for transferred staff	Transferred staff were able to maintain their NHS pension. Pension arrangements for new starters are unknown
West Sussex County Council contract with Capita (office support services)	Individualised pay arrangements make it impossible to assess pay for new starters (although one example of a Capita salary for a particular job role is lower than the council rate for that job). As per TUPE requirements transferred terms unchanged	Not known	Hours of work are the same for transferred and new staff	Transferred employees retain same terms and conditions. Sick pay and annual leave seem to be broadly comparable for new starters	Transferred WSCC employees keep membership of the Local Government Pension Scheme. New employees are eligible to join a money-purchase scheme
Chartwells/Compass and Newport City Council contract (school meals)	Implementation of the living wage for council staff will mean that contractor staff will be earning 15% less per hour than those on the same pay point in-house. Pay rates for transferred and new employees are the same, in line with the requirements of the two-tier code in Wales	None known of. Retail discount scheme for Chartwells' employees	Unknown	Broadly comparable sick pay between transferred and new staff in line with two-tier code. Annual leave reduced compared with previous local authority terms, with holiday calculated on term time not whole year	Transferred employees remain members of LGPS, while new recruits can join a defined contribution scheme (employer contribution 3%) or the National Employment Savings Trust (NEST) scheme
Lincolnshire Police contract with G4S (police support staff)	Some evidence of lower pay rates for new starters. For example, on the Police Staff Council pay range the hourly pay for a caretaker would be £8.84 to £10.40 on current rates, while the same job advertised on the G4S contract in July 2014 was at £7.36, around 17% lower than the bottom of the in-house pay scale and 29% lower than the top. Transferred pay terms unchanged as per TUPE requirements	Transferred employees receive allowances for working weekends, bank holidays or shifts, but new G4S staff do not	Standard working week of 37 hours for transferred employees; G4S standard working week is 40 hours	Annual leave entitlements are not very different between transferred and new staff. G4S sick pay arrangements not known	Transferred staff retain Local Government Pension Scheme membership. Pension arrangements for new starters are unclear but UNISON officers report that new staff can join a money-purchase scheme

The information presented above is sourced in the detailed case studies below and is compiled from interviews with UNISON officers, and checked against information published by contracting authorities and contractors where this is available.

Introduction

Introduction

The UK now has a "mature" public services outsourcing market, with 30 years' experience of contracting public services out to the private and voluntary sectors.

In response to both government policy and austerity, the pace and extent of outsourcing has quickened since 2010, leading the situation to be described by some as a "historic shifting of public sector functions and services to third party business process outsourcing providers".[8] As the CBI's *Open Access* report[9] noted in 2012: "We are in the middle of the biggest wave of government outsourcing since the 1980s, with more than £4bn of tenders being negotiated in 2012 in services ranging from prisons and police to defence and health." One recent estimate pointed to a doubling of spend on outsourcing since 2010, with the public sector outsourcing at twice the pace of the private sector.[10]

The debate and evidence on outsourcing is deeply polarised. While business groups provide evidence of the potential savings that outsourcing can bring and argue that contestability can drive up performance, trade unions and public campaigns point to the failures of high-profile contracts,[11] strong evidence of market "gaming" behaviours and a lack of convincing evidence that outsourcing saves money or improves services.

Meanwhile, independent and government bodies, such as the Institute for Government, the Audit Commission, the National Audit Office and others, seek to find ways in which risks can be minimised, openness can be encouraged and services improved. This work has tended to focus on the need to improve commissioning, procurement and commercial skills, the need for increased transparency and accountability, and more effective contract management and monitoring mechanisms. Yet it rarely touches on the people management and HR issues involved in the contracting-out process.

In view of the fact that a majority of the costs of the average business services contract will tend to be made up from labour costs, remarkably little of the research, policy development and guidance published to date touches on the experience of those workers providing outsourced services. This is also true of most literature published by employers' associations, which rarely mention the role played by employees in determining whether or not a contract is successful.

There is also little effort made to learn *from* the knowledge and experience of those who are performing the services in question, which could help to tackle some the biggest problems with the effectiveness of outsourcing. For example, one of the key underlying problems for the sector identified by the Institute of Government[12] was the "failure to understand the nature of the services being delivered". A greater and more methodical role for employees in the debate over outsourcing could greatly add to the understanding of how public services can be better delivered.

This report covers one aspect of this debate by seeking to shed more light on the employee experience of outsourcing. The question of what happens to employee terms and conditions as a result of outsourcing is important, because it helps develop a greater understanding of the costs and benefits of outsourcing and who takes responsibility for the implications of contracting decisions. One commissioner interviewed by the Institute for Government argued that what happened after a reduction in price had been negotiated with a contractor was "a level of detail which perhaps is not required". This report hopes to add to the evidence base on such "detail" and identify the key factors determining it.

With employee engagement shown to be critical to service delivery, terms and conditions for staff have important implications for the quality and effectiveness of public services. Good employment practices are directly linked to excellent service delivery. Both government and the public face a very real choice as to whether there is either a "race to the bottom" in quality or a partnership between employers and employees in delivering quality services in a harsh financial climate.

The extent and nature of UK outsourcing

Establishing the extent of outsourcing from the public sector is not a simple task. A review carried out for what was then the Department for Business, Enterprise & Regulatory Reform by Dr DeAnne Julius in 2008 was the first attempt to define the "public services industry" and to assess the size of that industry in the UK, across all sectors, local and central government, and all service functions. Her report estimated the size of the UK public services industry in 2007/08 as 5.7 percent of GDP, with turnover estimated at £79 billion.

Separating the procurement of services and goods (such as infrastructure) is not always possible, because in many projects the two are bound up together. Public finance initiatives and similar public-private-partnership models are an obvious example of this. In addition, some services are not ones with transferred staff but are new public services provided by private-sector employees, such as the controversial electronic-tagging contracts.

While initially public services contracts were for limited business processes that were considered to be "non-core", such as cleaning, the trend in recent years has been for firms to "move up the value chain" by managing a range of functions for a public body based on the achievement of outcomes. These contracts are more likely to involve a greater level of risk, involve a higher level of integration with the client organisation and last over a much

8 "Public Sector Outsourcing in the UK to Soar" in *HRO Today*, April 2011

9 Oxford Economics *Open Access: Delivering Quality and Value in Our Public Services* (CBI, September 2012)

10 Figures from the Information Services Group Consultancy cited in "UK Outsourcing Spend Doubles to £88bn under Coalition" in *Financial Times*, 6 July 2014

11 For example, see: White, A and Belgrave, K "Nine Spectacular Council Outsourcing Failures" in *New Statesman*, 29 August 2013; or the examples given in the Committee on Standards for Public Life's *Ethical Standards for Providers of Public Services* (June 2014), pp14-15

12 Gash, T, Panchamia, N, Sims, S and Hotson, L *Making Public Service Markets Work: Professionalising Government's Approach to Commissioning and Market Stewardship* (Institute for Government, July 2013)

longer period of time. In the public sector, examples of these are the 20-year contract won by Capita to provide school support services in Staffordshire, or the police support services contract managed by G4S covered in this report.

Table 2, sourced from an Oxford Economics report for the CBI,[13] sets out the extent of outsourced provision in various areas of the public services. Some of these figures will have since changed or are due to do so, in view of the wide-ranging outsourcing of offender management services which started to take effect from June 2014,[14] for example, or plans to tender for large areas of NHS care, but they remain the most up-to-date summary available.

Table 2: Extent of public-sector outsourcing in the UK, 2012

Service area	Total expenditure (£m)	Proportion outsourced
Police custody suite management	450	18%
Prison management	2,730	14%
Local authority waste management	2,420	47%
Local authority HR and payroll services	130	30%
Hospital cleaning	1,090	32%
Hospital catering	690	32%
Hospital security	120	48%
School catering	1,000	27%
School facilities management	2,050	32%
School workforce development	210	10%
Work programme	1,000	100%

Source: Oxford Economics

Public services that are transferred outside the public sector are still overwhelmingly provided by profit-making rather than not-for-profit organisations, with the latter's share on public services delivery remaining relatively low. While some contracts involve voluntary-sector providers on a subcontracting basis (as with the Work Programme), the overall share of contracts for goods and services held by voluntary-sector providers in 2013 was 9 percent in local government and 5.6 percent in central government.[15]

The employment rights framework

It is important to understand the employment law context to outsourcing in determining outcomes for staff. The Transfer of Undertakings (Protection of Employment) Regulations 2006 – amended by the Collective Redundancies & Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 – known as TUPE for short, protects employees' rights when the organisation or service they work for transfers to a new employer.

In its consultation on amending the regulations in 2013, the government estimated that between 1.42 and 2.11 million employees were likely to be affected by a TUPE transfer each year.[16] The objective of TUPE is essentially to protect and preserve continuity of service and contractual rights for staff, but it also sets out a framework of rights and responsibilities governing consultation, transfer-related dismissals, employee liability information and other issues.

Amendments to TUPE

In 2013 the government consulted on changes to TUPE, which it argued meant "unfair legal risks" for firms. In the event it stopped short of making major changes, the most significant proposal of which was to remove the extended definition of a "service provision change" which would have created widespread uncertainty over when the regulations applied.

While strict limits determine the ways in which employers can vary terms and conditions in connection with a transfer, the amendments purported to make it easier for employers to do so in certain circumstances, although some guidance points out that a number of the changes may be open to challenge.[17]

One of the amendments which took effect on 31 January 2014 means that when a provision in a collective agreement covering the terms of transferred staff is agreed after the transfer, and the new contractor does not participate in the collective bargaining relating to it, it is under no obligation to implement it. This means that where the terms and conditions of staff are determined by Agenda for Change in the NHS, for example, or the National Joint Council for Local Government Services (under the NJC national agreement), the staff have no right to receive any future pay increases agreed by those bodies. This simply codified the European Court of Justice's landmark judgment in the case of *Alemo-Herron vs Parkwood Leisure Ltd* that employers would only be bound by collective agreement provisions in force at the time of the transfer – in other words a "static" rather than a "dynamic" interpretation of TUPE. At some of the case-study organisations in this report (Capita, for example) the judgment is already having an effect.

The two-tier code

A further protection that has recently been removed was the Code of Practice on Workforce Matters in Public Sector Service Contracts, also known as the two-tier code. This was introduced in 2005 in response to widespread concerns that a "two-tier

13 Oxford Economics *Third-party Delivery of Public Services in the UK – Method Document* (CBI, July 2012)
14 See: TUC *Justice for Sale: The Privatisation of Offender Management Services* (May 2014)
15 National Council for Voluntary Organisations *Civil Society Almanac* (2014)

16 Department for Business, Innovation & Skills *Transfer of Undertakings (Protection of Employment) Regulations 2006: Consultation on Proposed Changes to the Regulations: Impact Assessment* (2013), p16. For the best explanation of TUPE and how the regulations work, see: ACAS *Handling TUPE Transfers: The ACAS Guide* (June 2014) (http://www.acas.org.uk/media/pdf/i/h/handling-tupe-transfers-the-acas-guide.pdf)
17 See: "How to Avoid Falling Foul of the Law on Harmonising Contractual Terms and Conditions Following a TUPE Transfer" at www.xperthr.co.uk

workforce" was emerging between transferred public-sector employees and new private-sector recruits. It built on a local government version of the Code that had been introduced in 2003. The two-tier workforce code never covered pensions, but required that pensions offered to new starters should be "reasonable". While there were many instances of non-compliance, these protections set out a much more level playing field between transferred and new staff. On 13 December 2010, Francis Maude announced that the government would be withdrawing the code with immediate effect.

The public-sector code was replaced by six voluntary principles of good practice, which state that new staff should have "fair and reasonable pay, terms and conditions". As Margie Jaffe highlighted in a 2012 UNISON report,[18] the accompanying notes to suppliers emphasise that "there is no obligation on suppliers to implement the principles and contracts will still be awarded on the basis of value for money and not on the basis of who signs up to the principles as these are a voluntary set of principles".

As one international law firm commented[19] following the code's withdrawal, "The principles of good practice have been subject to criticism as, given they are not mandatory, it is likely that they may be ignored in practice. Of wider concern is that the quality of service delivery will now be driven down, particularly if what happens in reality is that contracts are awarded to those contractors who drive down their price by hiring lower paid workers."

Combined with the weakening of other protections, such as the extension of the qualifying period for unfair dismissal rights to two years and the introduction of fees for tribunal claims, these changes add up to a significant weakening of the employment protections surrounding employee transfers, but particularly for new starters as a result of the removal of the two-tier codes. Moreover, the fact that significant protections remain in place for public-sector workers on pensions – via the Fair Deal,[20] which ensures that staff transferred from the public sector can retain their public-sector pension membership – means the continuation of a significant two-tier situation regarding pension provision, which the case studies in this report illustrate.

The weakening of employment protections in the outsourcing sector has led to calls for the code of practice to be reinstated. John Tizard, who as a senior director at Capita was the CBI's representative on negotiations on the code in 2005, is among those who support this course of action, alongside rights for staff to be involved in monitoring outsourcing contracts.[21] As he argues:

The reality is that if the public sector pays bargain basement prices it is likely to be purchasing shoddy goods and services. The public sector has a responsibility for all staff delivering public services which it funds and/or regulates. It can secure good terms and conditions for staff through contract terms and a willingness to pay for them.... It is vital that we stop any return to the dark days of the worst excesses of compulsory competitive tendering where contracts were won on the basis of who could drive employment terms and wages down the most. This was not clever then. It is most certainly not sustainable in a modern society and, ironically, even less so in times of austerity when motivated and highly productive staff are more essential than ever.

18 Jaffe, M *Protecting Public Service Workers: Procuring Employment Rights* (November 2012)
19 Ashurst *The Two Tier Code: Where Are We Now?* (May 2011)
20 See: Nabarro pensions briefing, "The New Fair Deal for Public Sector Pension Transfers," 8 October 2013
21 John Tizard, "We Need a New Code of Practice for Public Service Providers to Protect Staff" in *The Guardian*, 19 March 2014

Setting the scene: evidence on the impact of outsourcing

Setting the scene: evidence on the impact of outsourcing

Direct, recent evidence on the effects of outsourcing on terms and conditions is relatively thin on the ground. The case studies in this report seek to contribute to filling this gap, especially in view of the need for up-to-date evidence on what is happening now, given recent changes in the types of services and jobs being outsourced and the changed employment rights framework.

This section:

- considers the availability of pay statistics on the outsourced services sector;
- summarises research on the impact of outsourcing from the public to the private sector on pay, terms and conditions, progression, training, employee voice, equal pay and work intensity; and
- looks at the changing procurement regime and available information on what part employment issues play in it.

Pay benchmarking information and official statistics
In the public sector, published national collective bargaining agreements, such as the National Joint Council for Local Government Services' national agreement on pay and conditions (the NJC agreement) or Agenda for Change in the NHS, mean that pay rates and terms and conditions of service are transparent in most areas. While this is changing to some extent, with increased pay "freedoms" for academies and foundation trusts, in the vast majority of the public sector it is still possible to find out what pay and benefits employees receive.

Even in most of the private sector where there is a stronger culture of secrecy around pay, it is still usually possible to gather a reasonable amount of information about pay rates and the "going rate" of various terms and conditions such as sick pay or annual leave, by using resources from services such as the Labour Research Department, Incomes Data Services or XpertHR.

In the outsourced services sector, this is not the case, with pay benchmarking information much more difficult to come by. Moreover, most large public-sector outsourcing firms tend to set pay budgets and rates on a contract basis where a high use of individualised, performance-based pay also makes it difficult to understand pay levels in the sector. Moreover, independent public services providers are not covered by the same obligation to publish a pay policy and data on staff pay as are public authorities.

Establishing the impact of outsourcing on pay is also hampered by the fact that outsourced service providers will appear scattered across the industrial classifications used in official labour market and earnings statistics, making analysis of staff moves to non-public-sector providers difficult. There is therefore scope for more research to be done using ONS datasets on establishing pay impacts when employees move outside the public sector.

Academic evidence
There is limited direct research on the impact of outsourcing from the public to the private sector on employees' terms and conditions. Grimshaw, Marino and Rubery[22] summarise the findings of academic research on the impact of outsourcing as follows:

- deterioration in manual workers' pay following outsourcing;
- improvements in pay among white-collar workers;
- increase in work intensification;
- transferred low-wage workers facing weakened bridges to more extended internal labour market in public-sector organisations;
- improvements in perceived career prospects;
- specialist private-sector firms' narrow range of skills required in jobs and strengthened monitoring of work effort;
- multiple layers of control and authority, caused by involvement of multiple contracting partners, with reduced potential for worker empowerment; and
- reduced job security as a direct result of redundancies, and lower perception of job security caused by recurrent changes of employer.

These summarised findings illustrate how outcomes can vary for different groups of workers, but there are some consistent messages about lower levels of pay, employee voice, increased insecurity and work intensification as the result of outsourcing. The research that has been carried out strongly suggests a negative impact on pay outcomes for manual employees, while the evidence on professional and managerial workers is a little more mixed. It should be noted that much of this research is on the compulsory competitive tendering regime, and dates from the 1980s or 1990s, so does not necessarily reflect the range and breadth of roles performed by some of the public-sector workers now being outsourced, such as children's home managers or custody officers. However, the vast majority of outsourced public services are still low-paid employees. The Office for National Statistics explains[23] the effect this has had on the job profiles of the public and private sectors:

Over time the public sector has outsourced some jobs to the private sector. While some of this outsourcing has involved contracting out high skill jobs to the private sector, for example, information technology (IT) support, much of the outsourcing that has occurred has been in lower-skilled jobs, for example, cleaning. The result of this outsourcing has been to take many of the low skilled jobs that would have been carried out in the public sector and transfer them to the private sector.

Pay and benefits pushed down for manual workers
Some of the evidence gives very clear indications of downward pressure on pay as a result of outsourcing. For example, Escott and Whitfield's 1995 study[24] found that full-time and part-time manual workers had experienced job reductions of 12 percent and 22 percent respectively during the first round of CCT between

22 Op cit
23 Office for National Statistics *Public and Private Sector Earnings* (March 2014)
24 Escott, K and Whitfield, D T*he Gender Impact of CCT in Local Government*, research discussion series no 12 (Equal Opportunities Commission, 1995)

1988 and 1993. A study of the CCT regime in Australia[25] found pay rates largely unchanged but significant cuts to working-time premiums and supplementary allowances. A review by Jensen and Stonecash[26] cites a study which found that increased profitability did not come at the expense of workers' terms and conditions, but also four other studies that found evidence of reductions in pay and benefits when employees were outsourced.[27] Lastly, a study[28] of terms and conditions for prison officers in prisons run via the Private Finance Initiative found that they included lower basic pay, longer hours, less favourable overtime and less annual leave, although these PFI projects did not involve staff transferred from the public sector.

Dube and Kaplan[29] used industrial and occupational codes to study the changes in pay of contracted-out janitors and security guards over the 1980s and 1990s. While this research concerned outsourcing within the private sector in the US, it is relevant that the researchers identified a penalty resulting from a worker being assigned to an outsourced job as opposed to an in-house one of 4-7 percent for janitors and 8-24 percent for guards. The findings on health benefits mirrored those on wages. It also suggested that outsourcing "tilts" the pay-benefits ratio towards pay, with a small decrease in the contribution of benefits to total remuneration. The research suggested that the penalty was due to the outsourcing itself, controlling for skill, demographic, geographic and a range of other factors.

The case of the adult social care sector

The adult social care sector provides the most dramatic, whole-scale example of the role of outsourcing in pushing down pay rates further for low-paid workers. Widespread non-compliance with the minimum wage (a 2013 HM Revenue & Customs investigation[30] found 48 percent of providers non-compliant), poor levels of training and development, the widespread use of zero-hours contracts and rushed visits for homecare workers have led UNISON to launch an Ethical Care Charter in a drive to improve standards.

An extensive independent report for the Department of Health in 2011 found a strong link between the profit status of the residential or domiciliary care provider and the quality of employment conditions.[31] For example:

- Pay rates were much lower for private-sector providers and clustered around the level of the minimum wage, with the pay rate for care workers in local authority domiciliary care providers one-third higher than in the private sector.
- Paying a premium for overtime was largely confined to the public sector, with most public-sector providers doing so but fewer than one in four independent providers.
- The bulk of independent domiciliary care providers used zero-hours contracts for all their workers, while local authority providers did not.
- While all local authority providers in the study recognised unions, only 8 percent of independent domiciliary care providers did so and 1 percent of independent care homes.
- More than half of local authority home care providers had more than 70 percent of care workers qualified to NVQ level 2, compared with one in three independent providers.
- Severe recruitment and retention difficulties in the sector (despite the fact that much of the research took place post-recession) were more starkly related to pay in the private rather than the public sector, with almost 40 percent of independent domiciliary care providers listing pay as a "main reason" for recruitment difficulties, compared with no public-sector providers.

While it is now widely acknowledged that there is a serious problem of funding in the sector, there is evidence that even where funding is more generous, independent social care providers fail to improve employment practices.[32] As Denise Kingsmill's recent review of the sector[33] argues, money is not the only issue, "the problems of poor working conditions and low professional standards are exacerbated by the weak regulatory environment, commissioning practices that fragment service provision and poor workforce planning".

Pay and progression for managers and professionals

While those caring roles performed predominantly by part-time, female employees attract lower market rates in the private sector, there can be significant pay premiums for managerial or specialist workers where private-sector employers are prepared to pay a significant premium, as suggested by the findings of the G4S case study in this report, where pay increases for IT and other technical roles were found. Kessler et al[34] found evidence of both pay increases and increased progression opportunities for some white-collar workers who had been contracted out.

One research study on IT outsourcing[35] found that recruitment difficulties were a major reason for some public authorities to outsource their IT services in the 1990s. For two out of four local authorities studied, recruitment issues were the main reason to outsource IT because of "the inability to attract skilled staff due to higher pay in the private sector". This implies that both public

25 Walsh, J and O'Flynn, J "Managing through Contracts: The Employment Effects of Compulsory Competitive Tendering in Australian Local Government" in *Industrial Relations Journal* vol 31, no 5 (2000), pp454-470 (https://crawford.anu.edu.au/pdf/staff/janine_oflynn/2009/2000_employment_effects_irj.pdf)
26 Jensen, P and Stonecash, R "Incentives and the Efficiency of Public Sector Outsourcing Contracts" in *Journal of Economic Surveys* vol 19, no 5 (December 2005), pp767-787
27 These include: Domberger, S, Jensen, P and Stonecash, R "Examining the Magnitude and Sources of Cost Savings Associated with Outsourcing" in *Public Performance & Management Review* vol 26, no 2 (2002), pp148-168; and Pack, J "Privatization and Cost Reduction" in *Policy Sciences* no 22 (1989), pp1-25
28 Sachdev, S *Paying the Cost: Public Private Partnerships and the Public Service Workforce* (2004)
29 Dube, A and Kaplan, E "Does Outsourcing Reduce Wages in the Low-wage Service Occupations? Evidence from Janitors and Guards" in *Industrial and Labor Relations Review* vol 63, no 2 (January 2010)
30 HMRC *Minimum Wage Non-compliance in the Social Care Sector* (November 2013) (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262269/131125_Social_Care_Evaluation_2013_ReportNov2013PDF.PDF)
31 Rubery, J et al *The Recruitment and Retention of a Care Workforce for Older People* (February 2011)

32 Rubery, J, Grimshaw, D and Hebson, G "Exploring the Limits to Local Authority Care Commissioning: Competing Pressures, Variable Practices and Unresponsive Providers" in *Public Administration*, June 2013 (http://onlinelibrary.wiley.com/doi/10.1111/j.1467-9299.2012.02066.x/references)
33 Kingsmill, D *Taking Care: An Independent Report into Working Conditions in the Care Sector* (May 2014)
34 Kessler, I, Coyle-Shapiro, J and Purcell, J "Outsourcing and the Employee Perspective" in *Human Resource Management Journal* vol 9, no 2 (1999)
35 Cox, M, Roberts, M and Walton, J "Motivations for IT Outsourcing in Public Sector Local Government" in *Proceedings of the European Conference on Information Management & Evaluation, Como, Italy* (Karlstad University, 2011)

and private-sector providers are prepared to pay a premium for technical skills that are highly valued by the market in the way that they are not for caring skills, despite evidence of skills and staff shortages in these occupations.

Career progression for low-paid workers

A recent report from the Resolution Foundation, which sought to identify the key factors associated with progression out of low pay, found that the numbers of years working for central or local government had a positive correlation with progression, while the number of years working for a private-sector company had a negative correlation.[36] This implies that a move from the public to the private sector will have a negative effect on progression for low-paid workers, although there appears to be no specific evidence on outsourcing in this regard.

Other research shows that progression for the low-paid may suffer when the employees delivering a public service move from the public to the private sector, with social care being an obvious example. A report by local government improvement organisation IDeA on "learning the lessons" from the outsourcing of the social care workforce highlighted the lack of progression paths for low-paid workers as "a serious problem which led to people being lost to the service". Two studies mentioned by Grimshaw et al[37] also examine how progression opportunities may be closed off for transferred low-wage workers when they move away from a public-sector organisation.[38]

Transferred employees' pay over time

There is little recent evidence on what happens to transferred staff over time and the extent to which their terms become harmonised with those of new employees, but a 2004 survey by the National Audit Office in 2008[39] showed a gradual narrowing of differences. The survey, carried out in October 2004, looked at the impact on staff who were transferred to a private-sector contractor between 1992 and 2004 as part of a PFI deal, 94 percent of whom were in manual roles. It found that there was indeed a two-tier pay situation in operation, stating: "Transferred staff received higher rates of pay than other staff in all grades except for middle management and clerical. Differences had, however, narrowed over time for the majority of the affected staff; across all the soft FM [facilities management] contracts in the survey 94 per cent of transferring staff were in the manual grade where differences had narrowed to an average of 10p per hour."

For manual, transferred staff on soft facilities management contracts, their pay premium appears to narrow from 64p an hour at the start of contracts to 3p an hour from October 2004.[40] In her 2008 report, Julius used these findings to conclude that "the NAO study found that the rates of pay received by transferred staff were not uniformly higher than those received by other staff and over time the two tended to converge". While pay rates did converge, this was because those for transferred employees gradually went down.

Low to high pay ratios

At the top end of the pay scale, the differential between the lowest-paid staff on outsourcing contracts and the remuneration packages received by the most senior directors of the same firm has been well documented.[41] When services are outsourced, the evidence shows that the difference between the lowest-paid staff and the highest widens dramatically, with the top-pay comparator sometimes becoming the chief executive of a major, global business services firm. The Hutton review of fair pay in the public sector[42] found that the pay multiple of top to bottom earners in the public sector was typically around 10:1 in 2009. In the private sector, however, FTSE chief executive officers achieved a pay ratio of 88 times the median UK wage in 2009, or 202 times the national minimum wage. Hutton recommended that outsourcing firms should be required to report on fair pay in the same way as are public authorities, but this was not implemented by government.

A more meaningful comparison in terms of understanding the effect of contracting out on managers' pay would be to look at the pay of the most senior manager responsible for the performance of a specific contract. However, there is a complete lack of evidence on senior managers' pay on outsourced contracts, and it was not possible to gather any information in this area on the case-study organisations in this report. While public bodies are required to publish information on pay for senior staff as part of the government's transparency requirements, this requirement does not cover private companies. Neither does this level of management normally come within the scope of corporate reporting requirements on executive pay.

Equal pay and outsourcing

A study commissioned by the Equal Opportunities Commission on the effects of compulsory competitive tendering on employment conditions identified worse outcomes for female part-time workers than for their male colleagues, with nine out of 10 experiencing pay cuts following outsourcing to the private sector.[43] A further study in this area was carried out for UNISON and the Institute of Employment Rights in 2008[44] and examined the legal barriers placed in the way of women seeking equal pay once transferred outside the public sector.

The issue of the lack of transparency in outsourced public services makes it difficult both to identify the existence of gender pay gaps and to take action to address them. The differences between the public and private-sector pay-setting structures, as detailed below, mean that women are often moving from a transparent,

36 Hurrell, A *Starting Out or Getting Stuck? An Analysis of Who Gets Trapped in Low-paid Work and Who Escapes* (Resolution Foundation, November 2013) (http://www.scribd.com/doc/187541060/Starting-out-or-getting-stuck)

37 Grimshaw, D, Marino, S and Rubery, J *Public Sector Pay and Procurement in the UK* (November 2012)

38 Kessler et al, op cit; Cooke, FL, Earnshaw, J Marchington, M and Rubery, J "For Better and for Worse: Transfer of Undertakings and the Reshaping of Employment Relations" in *The International Journal of Human Resource Management*, vol 15, no 2 (2004)

39 National Audit Office *Protecting Staff in PPP/PFI Deals* (http://www.nao.org.uk/wp-content/uploads/2008/03/0708_protecting_staff.pdf)

40 Ibid, table 19, p19

41 For example, see: *High Pay Centre The Customer is Always Right: How to Reduce Executive Rewards with Procurement Contracts* (May 2014) (http://highpaycentre.org/files/FINAL_Outsourcing_report1.pdf)

42 Hutton, W *Hutton Review of Fair Pay in the Public Sector: Interim Report* (HM Treasury, December 2010)

43 Escott, K and Whitfield, D *The Gender Impact of CCT in Local Government*, research discussion series no 12 (Equal Opportunities Commission, 1995)

44 Jaffe, M, McKenna, B and Venner, L *Equal Pay, Privatisation and Procurement* (Institute of Employment Rights, August 2008)

inequality-proofed pay structure based on analytical job evaluation to one where there is far less structure and logic underpinning the rate for the job. As an ACAS policy paper points out,[45] many of the key rights in the Equality Act 2010 rely on the principle of comparison. "In situations where the workforce is increasingly fragmented, spatially and contractually, with changing employers and different inherited terms and conditions, these principles are becoming difficult to apply."

Work intensity and productivity

Many of the reports produced by business organisations centre on making the case that productivity improvements result from an external organisation taking over the running of a public service. The CBI's *Open Access*[46] report gives the example of Interserve's introduction of microfibre cleaning at University College London Hospital, which it says has resulted in a productivity saving of 10-30 percent by enabling cleaners to complete multiple tasks per shift.

Leaving aside the debate about whether outsourcing leads to higher productivity, some research suggests that the intense pressure to meet key performance indicators and targets increases work intensity for staff while decreasing the level of autonomy and control they have over their work.

A paper from ACAS[47] cites a number of studies suggesting that one result of outsourcing has been the "increased propensity to manage workers by results" and the way in which this can lead to lower levels of job satisfaction, higher stress and higher turnover. In turn this can be compounded by the lack of employee influence over "the pace of work and the targets to be met", which is ultimately determined by the contracting authority, not the worker's direct employer. While working to demanding performance objectives has become a common feature across the private sector since the 1980s and more recently across the public sector, some studies show that this is particularly intense on outsourced contracts. Moreover, some research suggests that such "high-powered incentives" can "crowd out" the intrinsic motivation of public-sector workers.[48]

Fragmented workplaces and employee voice

A paper published by academics at the Working Lives Research Institute in 2009[49] found that those involved in delivering the services of the average local authority worked for between 40 and 50 employers, compared with one in 1994. It is not only the number of different employers, but the proliferation of different terms and conditions within workforces (as twice-contracted-out workers work alongside those who have been contracted in from another organisation and those who are newly appointed) that has led to multiple changes in employment and the fragmentation of organisations, complex supply chains and complex employment relationships. One study of an NHS independent treatment centre[50] found numerous employment arrangements within the centre, which the authors argued had implications for organisational outcomes.

On a practical level, fragmentation makes this environment a deeply challenging one for trade unions in representing their members, and more generally for effective employee consultation mechanisms to work.[51] For HR and people managers, it is not impossible to use good people management practices where such a high level of fragmentation has taken place, but it is more challenging, especially in view of the fact that in many organisations the HR function itself has been outsourced. There are examples of where people management can adapt effectively to this environment (as illustrated by a case study of IT services company Capgemini UK[52]), but there is a lack of attention given to this area and a feeling that once employees have been outsourced they are no longer the concern of the principal employer. Two studies[53] recently published by the Chartered Institute for Personnel & Development dispute this, arguing that, in view of the increase in partnering relationships between organisations, there is a need for employers to recognise that they must find different ways of working "beyond the organisation".

Building employment practice into the procurement framework

Revisions to the EU procurement framework due to come into force, together with the implementation of the Public Services (Social Value Act) in January 2013 in England and Wales, requiring public bodies to consider the wider social or economic benefit to an area of any contract they are awarding (over a certain value and with some other exclusions), should make it easier for commissioners to build employment concerns into the procurement and contract process, should they so wish.

A recent report from innovation charity Nesta[54] states: "There are, of course, legal and regulatory rules around procurement that commissioners must follow, but these are often less constraining than is assumed. The key principles that must be rigidly applied are parity, fairness and transparency, along with robust evidence that the approach being adopted is in the best interest of the public and those who use services."

Guidance from the Equality & Human Rights Commission notes, for example, that it is perfectly possible to build in provisions on the training and recruitment of workers who will be delivering a contract, provided that this relates to the performance of the contract and is not used to "regulate the workforce generally".[55]

45 ACAS *Outsourcing and the Fragmentation of Employment Relations: The Challenges Ahead* (August 2012)

46 CBI *Open Access: Delivering Quality and Value in Our Public Services* (September 2012)

47 http://www.acas.org.uk/media/pdf/p/8/Outsourcing-and-the-fragmentation-of-employment-relations-the-challenges-ahead.pdf

48 Jensen, P and Stonecash, R "Incentives and the Efficiency of Public Sector Outsourcing Contracts" in *Journal of Economic Surveys* vol 19, no 5 (December 2005), pp767–787.

49 http://workinglives.org/fms/MRSite/Research/wlri/Working%20Papers/WLRI%20Working%20Paper%20no%2011%20Progress%20at%20work%20or%20work%20in%20progress.pdf

50 Bishop, S and Waring, J "Inconsistency in Healthcare Professional Work: Employment in Independent Sector Treatment Centres" in *Journal of Health Organisation and Management* vol 25, no 3 (2011), pp315-331

51 See: ACAS *Outsourcing and the Fragmentation of Employment Relations* (2012)

52 Chartered Institute of Personnel & Development *Employee Relations at Capgemini UK*, case study (November 2011) (http://www.cipd.co.uk/binaries/employee-relations-at-capgemini-uk_2011.pdf)

53 Chartered Institute of Personnel & Development *Beyond the Organisation: Organising HR for Partnering Success* (November 2013)

54 Nesta *People-powered Commissioning: Embedding Innovation in Practice* (August 2013)

55 Equality & Human Rights Commission *Buying Better Outcomes: Mainstreaming Equality Considerations in Employment* (March 2013)

While some concerns remain as to the risks of including employment requirements in public-sector contracts,[56] changes to the regulatory environment are making it more straightforward to do so.

The Scottish government has taken a proactive approach to building social responsibility into public-sector procurement, with the Procurement Reform (Scotland) Bill,[57] although the government stepped back from requiring all contractors to pay the living wage, which it argued would be unlawful and would arguably have been risky.[58] In England and Wales, a recent study by the Joseph Rowntree Foundation also sets out how "targeted recruitment and training opportunities" in public contracts can help address unequal labour market opportunity.[59]

Evidence on whether this scope is being used

Because of a lack of transparency around the procurement process, it is difficult to identify the extent to which employment considerations, such as positive promotion of good practice, are mentioned in contracts, but the evidence suggests that this remains rare. Grimshaw, Marino and Rubery[60] concluded from six local government case studies that social clauses are "rarely used" in local authority procurement due to a fear this would break rules against "non-commercial considerations".

In fact some evidence suggests the inclusion of employment conditions that already inhibit, rather than promote, pay fairness. According to anecdotal evidence from one expert consulted as part of this project, it is common for a contract clause to prohibit pay increases during the final six months of a contract, in order to prevent firms from increasing the contract cost shortly prior to its retendering. As it is common for some (particularly low-value cleaning, catering or security) contracts to see a series of one-year extensions, this can effectively prolong a pay freeze for employees for a number of years.

There is growing evidence that some public authorities are acting in a more confident way to build fair employment into the procurement process. A study carried out by One Society[61] of 173 major local authorities in England found that 20 percent were committed to paying their staff the living wage, 7 percent required contractors to do so and 11 percent were considering requiring contractors to do so. Similarly, both a report from the Greater London Assembly's economic committee[62] and one from the New Economics Foundation on using procurement to improve pay and conditions for low-paid workers looked at the work done by the Greater London Authority, Islington and other local authorities to successfully build this into the procurement process.[63]

56 A summary of the main concerns can be found in this advice on the Supply Management website: http://www.supplymanagement.com/analysis/law/2014/tailor-your-criteria.
57 http://www.scottish.parliament.uk/parliamentarybusiness/Bills/68170.aspx
58 See: "Living Wage Contract Move Defeated by MSPs" on BBC news, 13 May 2014
59 Macfarlane, R et al *Tackling Poverty through Public Procurement* (Joseph Rowntree Foundation, April 2014) (http://www.jrf.org.uk/sites/files/jrf/poverty-procurement-social-mobility-full.pdf)
60 Grimshaw, Marino and Rubery, op cit (2012)
61 One Society *Leading the Way on Fair Pay: An Assessment of Principal Local Authorities in England and Wales* (Autumn 2012). The report contains details of the local authorities that extend their living wage commitment to contractors.
62 GLA Economic Committee *Fair Pay: Making the Living Wage the Norm* (February 2014)
63 New Economics Foundation *Raising the Benchmark: The Role of Public Services in Tackling the Squeeze on Pay* (December 2013) (http://b.3cdn.net/nefoundation/1f187cec006e76fabb_cgm6b8517.pdf)

Case study 1
Supported living: Rochdale Borough Council and Future Directions CIC

Case study 1
Supported living: Rochdale Borough Council and Future Directions CIC

Background
The public services that are the subject of this case study are supported-living services that enable adults with disabilities to live either in their own home or in supported, cluster accommodation. These services were once funded wholly by the NHS, but under the previous government the funding was moved to local councils in order to better provide supported independent living and housing for adults with learning disabilities.

The employees who provide this service are predominantly support workers, although they have been renamed "personal assistants" at Future Directions CIC, which UNISON says was deeply unpopular with members and seen as pejorative. They perform care work with a high level of responsibility and complexity, often caring for individuals with profound and multiple disabilities and/or challenging behaviour. Across the UK, this role has been classified as coming under pay band either three or four of the NHS pay framework, Agenda for Change, using the 16 factors measuring skills and responsibilities in the NHS job evaluation system. The support workers at Rochdale had been evaluated as band four on the Agenda for Change pay structure, giving them a pay range of between £18,402 and £21,798[64] (on the rates applicable in October 2012 when the transfer occurred) as well as various working-time allowances set out in the national agreement, such as antisocial hours payments, which can be worth up to 25 percent of salary.

In June 2007, the particular area of work that was eventually transferred to Future Directions CIC was outsourced for the first time. The successful contractor was a company called McIntyre Care, which ran the service from June 2007 to September 2012, on the basis of a three-year contract that was then extended for one, then two, further years. Other areas of the council's learning-disability supported-living services had also been outsourced, with five contractors in total providing the services by 2012. Other provision was made for individuals on a spot purchase basis, while some services remained with the council.

The retendering and its objectives
In April 2012 Rochdale Borough Council began the process of finding a new provider for those learning-disability supported-living services provided by McIntyre Care.

UNISON officers describes the original outsourcing to MacIntyre Care as being done on a price that reflected the costs of then-current terms and conditions. During the time that McIntyre operated the contract, there were no significant changes to terms and conditions, although some new staff had been recruited on lower pay rates.[65]

The 2012 retendering, however, was very different. There was a significant reduction in the unit price. Underlying the process was the council's objective of reducing the hourly rate for this type of care to £13.20 by April 2014 as part of its efficiency proposals.[66] This meant, as a PowerPoint presentation prepared for the supplier briefing confirms, that "the budget will reduce over the period of the contract". The Q&A document adds: "[The] Challenge in 1st/2nd year [is] to reach [a] sustainable market rate in year two."

According to UNISON's regional organiser Lizanne Devonport, the Future Directions CIC bid was the "only bid left on the table". Current provider McIntyre Care did not submit a bid for the contract. Its 2012 annual report explains: "We were unable to negotiate a continuation of this contract at a reasonable outcome from our perspective, as that would have involved service quality cuts and significant cost reductions." Devonport adds: "The only way that they could provide the service for that cost was to reduce terms and conditions and McIntyre knew that – that's why McIntyre did not re-bid for the contract."

Profile: Future Directions CIC
Future Directions CIC was incorporated on 23 April 2012, as a community interest company (CIC). This form of company status was introduced in 2005 to provide a legal framework for social enterprises that want to use their profits and assets for the public good.[67] CIC status does not attract the tax advantages that charitable status does, but CICs are free to operate more commercially than charities and are lightly regulated.

Future Directions CIC started trading in September 2012. It is a wholly-owned subsidiary of Calderstones Partnership NHS Trust, which is a specialist provider of learning-disability services. The company reports to the trust's board and its initial leadership team all held senior positions within the trust, whose deputy chief executive is chief executive of Future Directions CIC. It was set up with a £600,000 loan from the trust, with the facility to draw down a further £400,000 "in the future".[68] It also uses office premises that are funded by the trust.

As a note to the company's 2012/13 accounts points out, "Subsidiary entities are those over which the trust has the power to exercise control or a dominant influence so as to gain economic or other benefits." The trust's 2013/14 annual plan sets out this explicit and close relationship.[69] It states: "Future Directions will relieve the trust of contracts that have become loss-making over the past years with the potential to turn them round to become profitable, those profits will be donated to the Trust through its Charitable Trust and used to support service users, research training and other charitable purposes." However, to date, this profitable future has not materialised. In the 2012/13 financial year, the annual accounts show that the company made a £278,756 loss.

64 Pay circular (AfC)2/2012, on the NHS employers website
65 As a Q&A prepared by the council for a supplier briefing held on 23 April 2012 states: "T's and C's haven't changed as far as we are aware. This is a second generation TUPE situation."
66 This is the price quoted in a report to the cabinet member for adult care at Rochdale Council, dated 18 November 2013, on the Rochdale Council website.
67 Office of the Regulator of Community Interest Companies, "Frequently Asked Questions", April 2013, on the Department for Business, Innovation & Skills website
68 Future Directions CIC reports and accounts for the 12 months ending 31 March 2013
69 Calderstone Partnership NHS Trust's annual plan for 2013/14, on the trust's website

The start of the contract and staff transfer
In the event, the clusters within the contract were awarded to two different contractors, Future Directions CIC and another (unrelated) company called Community Integrated Care, which took on a smaller part of the contract. Some of the clients covered by the contract were also taken on by in-house council staff. On 1 October 2012, around 140 employees working for clients belonging to the service "cluster" for which Future Directions CIC had successfully bid were transferred from McIntyre to their new employer.

Changing terms and conditions of transferred staff
There was no question that TUPE applied in this case, with agreement on all sides that a TUPE transfer had taken place. Soon after the transfer, however, Future Directions CIC put to staff that the cost price simply did not allow it to continue to honour existing terms and conditions as protected by TUPE. At first the company sought the agreement of staff to sign up to new terms and conditions, but UNISON states that negotiations were very problematic. According to Devonport, "We negotiated originally when people first transferred and we tried to reach a better settlement. We continually asked [the company] what their financial situation was and they continually provided us with no information as to what their financial picture was." In addition, the union says, the company discovered staff opposition to be much stronger and resolute than anticipated.

UNISON states that not only was it difficult to establish the financial situation, but also the proposed revised terms and conditions put forward by the company were unreasonable and unacceptable to members. The proposals included cutting hourly staff pay by up to a third, with reductions across the board to antisocial working-time allowances, sick pay, annual leave and overtime.

The company told the media at the time that there was simply "no more money in the contract" with which to barter.[70] However, UNISON representatives argued that the company knew that the contract was sustainable only if terms and conditions were cut.

The dispute
Having tried, and failed, to renegotiate employee terms and conditions, in January 2013 the company gave notice that it would dismiss and re-engage all staff, appearing to have argued that financial realities constituted an "economic reason" for doing so under the TUPE regulations. The new contracts took effect on 1 May 2013 following a three-month period of notice.

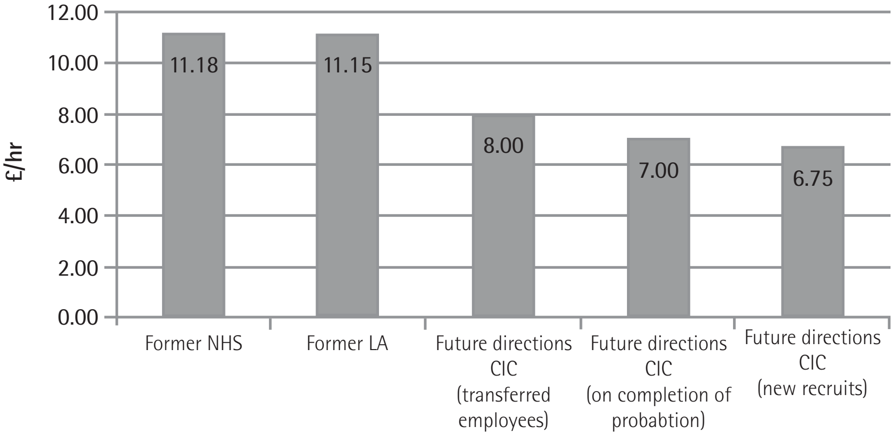
Shortly afterwards, UNISON balloted its members on taking industrial action. This was undertaken with huge reluctance, Devonport states, by "a group of people who were very loyal to the service users they cared for". Over the summer of 2013, a series of strikes took place, with UNISON members at Future Directions CIC undertaking a total of 29 days of industrial action, including a final period that lasted 10 days in total.

While the company accused UNISON of putting service users at risk, UNISON says that both local residents and service users and their advocates were supportive of the union members' campaign. Devonport describes the action as "highly distressing" for all involved, but reports that service users were "supportive of the reasons we took strike action".

Settlement
Talks at ACAS between UNISON and Future Directions CIC took place in late October 2013, and were protracted. A breakthrough came in November 2013 when Rochdale Borough Council took the decision to make funding available for an annual, on-going "quality premium payment" to the staff of its five learning-disability supported-living providers, costing the council around £370,000 over 2013/14 and a similar amount in future years. This payment, adding a small, monthly (non-consolidated) supplement to the pay packets of personal assistants, is based on the number of service users with complex needs within each contract area and is conditional on staff achieving certain quality targets, with support and training.

Changes to basic pay
While the settlement made some significant improvements to the new terms and conditions that Future Directions CIC had implemented, cuts to basic pay for those staff that had been employed by the NHS or the local authority prior to being transferred to Future Directions CIC were largely maintained. The chart shows hourly basic pay rates of staff before and after contracting out. For context, the rate of the national minimum

NHS and local authority basic pay rates compared with Future Directions



70 "War of Words as Carers' Pay Row Goes On" in *Manchester Evening News*, 10 October 2013

wage was £6.31 from 1 October 2013, while the national rate of the living wage was £7.65 from November 2013.

While the chart only shows a comparison of basic pay, it was the removal of the various allowances received by local authority and NHS staff that contributed most to the erosion of employees' overall remuneration package. These payments reflected the fact that employees provide a 24-hour care service, regularly working antisocial hours, weekends and bank holidays in order to provide continuity of care. According to documents supplied by UNISON, the changes have included significant cuts to annual leave, sick pay and night work enhancements, alongside the removal of any enhancement for working at the weekend. Rates of sick pay and annual leave for new staff are lower than for transferred staff.

UNISON reports that for ex-NHS employees, overtime, antisocial hours working payments and other components of pay made up a third of salary, meaning that the changes made by Future Directions CIC led to some staff losing more than 40 percent of their salary, with no transition period or compensation for the adjustment. It calculated that almost one in three staff (35) experienced a total cut in pay and allowances of 28 percent, with the highest individual loss to overall pay at more than 40 percent. Some staff lost their homes as a result of the dispute, and the experience was devastating for members and their families.

Pay increases and other terms and conditions

There was no agreement to apply any future pay increases for Future Directions CIC staff as part of the contract or eventual settlement of the dispute, so while local government workers are likely to see a 1 percent basic increase backdated to 1 April 2014, there is unlikely to be a pay increase for Future Directions CIC staff.

Devonport says that members also lost out in terms of the various other policies and procedures. She describes both the grievance and disciplinary procedures as "not as favourable" to employees and points out the extent to which other pay-related terms and conditions – such as maternity pay – are reduced in value by the overall cut in basic pay.

Pension

Transferred staff were able to continue their membership of the local government or NHS pension scheme, with Future Directions CIC paying the employer contributions, so their pensions were protected. However, Devonport reports that Future Directions CIC, when it issued new terms and conditions, offered the option for staff who were members of public-sector pension schemes to receive a slightly higher basic pay rate in return for opting out of their public-sector pension scheme. A number of staff have done so, especially in view of the difficulty in meeting their financial commitments in the face of the other cuts to terms and conditions. For new staff, there is a defined contribution pension scheme.

Employee engagement, morale and employment relations

The experience of having to take industrial action and the impact of pay cuts for individual workers and their families was devastating. As UNISON's Rochdale branch secretary, Helen Harrison, told the *Manchester Evening News* at the time: "Many people are looking at a £500-a-month pay cut for working the same number of hours. Just because their salary is less it doesn't mean their outgoings and mortgage payments have been reduced. People are getting really desperate."

However, UNISON reports that, overall, staff are so motivated by the work they do for service users, in many ways they have simply carried on doing what they do best, motivated by the same public service ethic. Asked whether much has changed in terms of the day-to-day job, UNISON says: "Not at all. These people are doing the same job, with the same clients, on their third employer, at the same place, doing the same hours, for dramatically different wages."

UNISON reports some improvements in the working relationship between staff and the company. The union now has a partnership agreement with Future Directions CIC, and as far as employment relations go, describes the working relationship as "constructive".

Performance, efficiency and savings

This case study illustrates how the reduced budget set aside for a particular public service led directly to rapidly imposed and significant cuts to terms and conditions for care staff.

From UNISON's point of view, there is simply no evidence that any efficiency savings or service improvements have been made for the benefit of service users as a result of the outsourcing. Devonport gives the example of the recent need to introduce more training in order to help staff meet quality targets in order to enable them to receive the monthly quality premium payment that was introduced in January 2014. Instead of buying in training provision, the union says that the company arranged it "in the most expensive way you could possibly do it", by employing someone for that role. The union believes that the company tends to do things "as if they were doing things in-house within the NHS".

The background tender documents from Rochdale Borough Council make it clear that 2012/13 was to be a "transition year" for the contractor that took on this particular cluster of supported-living services. With the bulk contract costs made up from labour costs, it is difficult to avoid the conclusion that there was no other way of doing this than cutting terms and conditions of staff in year one of the contract, in order to achieve the desired contract price by April 2014, although nowhere in council documents is this explicitly specified.

It is clear from documents published by Calderstones Partnership NHS Trust, however, that a strategic objective of Future Directions CIC was to align the pay rates of its staff more closely with the pay, terms and conditions operated by private-sector care providers in the domiciliary care market rather than those working for local authorities and the NHS.

The trust noted in its 2013/14 annual report that "the core purpose of Future Directions is to manage and grow the social and domiciliary care part of the Calderstones business using the flexibilities of being a social enterprise to deliver innovative, person-centred support for service users in a market focused and cost effective way". Moreover, it sets the following "key objective" for its subsidiary – in the same month in which all employees had been dismissed and re-engaged on new terms by Future Directions CIC: "Continue the programme of transferring staff onto Future Directions terms and conditions of employment."

Key findings

- The outsourcing was driven by Rochdale Borough Council's objective of lowering the cost price of learning-disability supported-living services to £13.20 by April 2014. Meanwhile, Future Directions CIC, the organisation set up by Calderstones NHS Trust to bid for the contract, aimed to generate income for the trust by operating in a "market-focused" way by transferring staff on to lower terms and conditions.
- In the first year of the contract, transferred staff saw their overall remuneration reduced by up to 40 percent, with sick pay and antisocial working allowances reduced. Pensions were protected for transferred staff, but contributions will clearly be significantly lower because of cuts to pay.
- The basic pay rate for new starters, which is £7 per hour now compared with £11.18 for former NHS staff in 2012, is well below the rate of the living wage.
- UNISON officers point to evidence that the contract could be run in a more cost-effective way in other respects, with greater business expertise.

Case study 2
Patient transport: North Staffordshire NHS and Parkwood Healthcare

Case study 2
Patient transport: North Staffordshire NHS and Parkwood Healthcare

Background
The non-emergency patient transport service (PTS) is one of those NHS services that does not grab the public's attention when being run smoothly, but can cause very serious problems if things go wrong.

The service must ensure that patients reach their appointments on time and can get home when discharged. Employees have a range of responsibilities beyond driving that include lifting and moving patients and using specialist equipment. The majority of NHS non-emergency patient transport is provided by ambulance trusts, but many clinical commissioning groups and trusts have contracted out the service to a private provider. There are not many firms that can provide this type of service (aside from the ambulance trusts themselves) because doing so requires both financial resilience and expertise in delivery of this specific service. It can also require considerable capital investment because of the importance of vehicles and equipment. A key challenge is maintaining the right amount of vehicles, staff and equipment so that the peaks in demand can be covered in a way that does not lead to high costs during the troughs. The service is inspected and regulated by the Care Quality Commission.[71]

Profile: Parkwood Holdings
Parkwood Holdings is a support services provider of services across the public and private sectors. While previously listed as a public company, in May 2014 it was re-registered as a private limited company and restructured into two private holding companies. Its businesses include Parkwood Leisure, which manages leisure facilities predominantly within the public sector, and Glendale, which provides services such as grounds and countryside management, recycling and environmental consultancy.

Its healthcare arm, Parkwood Healthcare, is the "leading private sector support organisation to the Healthwatch companies established across England and Wales in April 2013".[72] Parkwood is a service partner for Healthwatch in Rotherham, Rochdale, Telford & Wrekin, Swindon, the Royal Borough of Kingston on Thames and the Royal Borough of Windsor & Maidenhead. Local healthwatch organisations replaced the Local Involvement Networks that had been in place since 2008. Their role is to understand the needs, experiences and concerns of people who use health and social care services and to speak out on their behalf.

The contracting-out process
In 2006 the tendering process was undertaken by a separate procurement hub on behalf of a group of NHS trusts, the biggest of which was University Hospital North Staffordshire, for a variety of patient transport services. Five out of six of the contracts were won by private-sector firms.

The contract managed by Parkwood commenced on 1 August 2006 for a three-year period, with an option to extend. At this time, the 2005 workforce code of practice was still in force (see page 24). Provisions on compliance with the so-called two-tier code were written into the contract itself, with the failure of Parkwood to remedy any breach of the code deemed to be a breach of contract.

The Parkwood contract
On 1 August 2006, around 45 employees of the previous provider – Staffordshire Ambulance Service – transferred to Parkwood under TUPE. In its 2006 annual report, Parkwood describes the contract as "troubled" from the beginning.[73] The local press was filled with reports of taxi drivers being used to fill shifts, defeating the point of having a specialised patient transport service which required staff to physically assist patients. UNISON officer Ray Salmon recalls: "I took over responsibility for the members at Parkwood in the early part of 2007, and the contract was being run on a shoestring." Only a few weeks after the contract had begun, Mark Boothroyd, the managing director of Parkwood Healthcare, issued a statement of apology to the public via the local newspaper.[74] He said: "Since starting the contract, we are well aware that we have been failing to meet both the trust and its patients' expectations. We apologise unreservedly for the quite obvious inconvenience and difficulties this will have caused the patients and their families." He said that it had become clear that "insufficient numbers" of employees had transferred along with the contract and that Parkwood needed to "quickly recruit a significant number of new drivers".

Parkwood soon recruited around 30 new members of staff. Over the next few months, it became clear to Salmon that the two-tier code was not being complied with. During 2007, Salmon met with the company and was assured that any problems would be sorted out, but no progress was made in addressing the union's concerns, he reports: "Throughout 2007 we tried to have discussions with Parkwood and they just ignored us." Over the course of the year, the employment relationship deteriorated. Salmon reports that a number of employees were dismissed with no clear reason, a trade union representative was simply not paid for a period of a few months, and Salmon was banned from visiting company premises. While a recognition agreement had transferred with the employees from the ambulance trust, in 2008 the company eventually "terminated" its national recognition agreement with UNISON.[75]

Near the end of 2007, UNISON held a ballot for industrial action and received a mandate from members to undertake this. In December, drivers began a period of working to rule. In response, the NHS trusts eventually triggered the alternative dispute

71 Reports on all the services covered in this case study can be found on the Care Quality Commission website.
72 For further information, see: http://www.healthwatchrotherham.org.uk/service-partner
73 The story is well documented in: Involvement & Participation Association *Ensuring High Quality Public Services: Recognising the Role of the Workforce in the Future of Outsourcing* (October 2011)
74 "We're Sorry for Ambulance Delays" in *The Sentinel* (Stoke), 29 August 2006
75 This is reported in the Parkwood Holdings' 2008 annual report, p24 (http://www.parkwood-holdings.co.uk/Portals/0/Files/Parkwood%20Holdings%20plc%20Report%20and%20Accounts%202008.pdf)

resolution procedure that was written into the contract itself but could only be activated if it was agreed that local procedures had been exhausted.

Discussions and negotiations dragged on throughout 2008, with the company making some improvements to pay rates for new starters at the end of that year. However, it was not until January 2009 that an independent person was appointed to oversee and hold a hearing on the first stage of the ADR process. By this point, the workforce numbered around 120, three times the number that had initially moved across with the contract.

Under this procedure, the independent person appointed by ACAS determined that the overall package received by new starters was "markedly inferior" in respect of not just pay but also the length of the working week, holidays, overtime payments, unsocial hours and sick pay. For example, employees working under Agenda for Change were receiving basic pay between £6.89 and £8.59 per hour, depending on their point on the pay scale. Those appointed on Parkwood terms and conditions were paid at a lower rate. The number of days' annual leave was inferior and none of the working-time payments, such as standby and on-call payments or antisocial hours payments, were paid to new starters. The working week was longer for new starters and sick pay was reduced.

Eventually the process was completed and settled. As a report by the Involvement & Participation Association states: "Parkwood refused to pay the back pay stipulated in the ADR Procedure and so funds were eventually provided by the Strategic Health Authority."[76] Meanwhile, the NHS had begun the process of finding a provider to operate the service once the contract came to an end at the end of July 2009.

Timescale: North Staffordshire NHS patient transport services

1 August 2006	Non-emergency patient transport service workers transfer to Parkwood as contract commences
2007	UNISON tries to negotiate with Parkwood on two-tier code but no progress is made
10 December 2007	UNISON members at Parkwood commence industrial action short of a strike
January 2008	University Hospital North Staffordshire NHS Trust refers matter to ACAS
1 October 2008	Parkwood says it has implemented a new package that is compliant with the code but continues to pay lower rates, annual leave and sick pay to new staff
1 August 2009	Service transferred back in-house to West Midlands Ambulance Service
1 January 2012	NSL wins patient transport services contract for South Staffordshire NHS Trust
1 August 2013	NSL care services contract begins
1 August 2016	NSL contract due for retendering or extension

The move back in-house
When the contract was awarded to the West Midlands Ambulance Service in 2009, staff moved back once again onto the Agenda for Change framework. They were also put on the pay scale where they would have been if they had received the progression increments they should have been paid over the past few years. Salmon says that staff were relieved to move back in-house. "West Midlands had the contract for four years and there were no problems," he reports. "We had excellent industrial relations, they bought more – and better – vehicles, they even took on more staff. So the quality of the service increased."

Profile: NSL
NSL is the largest private non-emergency patient transport provider in the UK and has around 4,600 employees in total. It specialises in "delivering complex outsourced services in regulated public environments".

The company was formed as the result of a demerger of National Car Parks (NCP) in 2007. It acquired patient transport provider Patient First in 2010. It is a privately owned company (owned by venture capital firm AAC Capital Partners), providing a range of other outsourced services in the public and private sectors, such as business process management, parking enforcement, patient care, passenger transport, street/estate management and technical design consultancy. Its 2013 report and financial statements show that by the end of 2013 it was operating 65 long-term contracts in local government (predominantly parking services management), 38 in central government and 21 in the health service.[77]

Retendering the contract
With the West Midlands Ambulance Service contract due to come to an end on 31 July 2013, North Staffordshire Clinical Commissioning Group[78] announced in May 2013 that NSL had won the three-year contract (with an option to extend for three years), worth around £3 million. The commissioners pointed out that the tender documentation had specified that 70 percent of the scoring of bids had been on the basis of service quality, with 30 percent based on cost. "I think they have learned a lot from the Parkwood exercise," Salmon says.

Around 100 members of staff transferred across to NSL on 1 August 2013 (while around 15 stayed to deliver patient transport services for one of the smaller trusts). This group now included many who had worked for the service prior to its initial outsourcing, and some who had joined as Parkwood recruits but then been put on Agenda for Change terms and conditions by the ambulance trust. Ray Salmon reports that

76 Involvement & Participation Association *Ensuring High Quality Public Services: Recognising the Role of the Workforce in the Future of Outsourcing* (October 2011)
77 NSL report and financial statements, December 2013, on the NSL website (http://www.nsl.co.uk/wp-content/uploads/2013/06/NSL-Limited-Accounts-2013.pdf)
78 NSL report and financial statements, December 2013, on the NSL website (http://www.nsl.co.uk/wp-content/uploads/2013/06/NSL-Limited-Accounts-2013.pdf)

there were some difficult staffing issues at the beginning of the contract. When NSL won the contract the local press reported that NSL was recruiting 10 extra drivers, albeit on zero-hours contracts – in order to meet the demands of the contract, which involved providing transport for up to 600 patients a day to and from hospital. Yet only one month later, NSL announced that it would be making around 30 to 35 members of staff redundant. Salmon states that some of these staff have since returned to the company on zero-hours contracts.

Despite this, Salmon says that the union has a good relationship with NSL. "We talk on a regular basis," he says. He reports that the pay rates of transferred staff are unchanged, including contractual, incremental pay progression increases and membership of the NHS pension scheme.

When it comes to new staff, however, he states that new starters are appointed on terms and conditions that are inferior to Agenda for Change, citing pension, sick pay and lower spot rates of pay as issues of concern. While it was not possible to confirm exact rates of pay at NSL, the company's most recent annual report states: "Pay and conditions are closely aligned to market rates."

Progression for patient transport service workers

Traditionally, the role of patient transport service worker or ambulance care assistant was a stepping stone to the role of paramedic, with staff able to progress from PTS driver or emergency care assistant through to ambulance technician and paramedic. While training to be a paramedic now involves degree-level study, making it is less straightforward to work up to a paramedic role for PTS workers, this can still happen where the organisation running the PTS is willing to fund this training.

However, Salmon states that where PTS services are run in-house, the ambulance trust is more likely to fund the advanced training now needed for a PTS employee wanting to progress to a paramedic role to be able to undertake this. Where a separate contractor is providing the PTS service, it is arguable that the business case for it funding or supporting this training is weakened as it will not have direct benefits for the service being operated in the short term. As Salmon argues, "Why would they [the contractor] pay for people to do all this additional training and give them time off, when there's no value to the business? Because they don't do that work. For the ambulance services, the advantage is that they're getting people lined up to fill the vacancies on front-line services." For the drivers, this means, in Salmon's words, "there's nowhere for them to go".

This point is not about the training provision of the current contractor, NTL, which has a gold standard Investors in People award and undertakes a significant amount of regulated training as part of the contracts it undertakes. But the evidence suggests that contracting out the lowest-paid staff at the bottom of what is potentially a significant career path within the NHS closes off avenues of progression for them. Separating the PTS from the "blue light" emergency ambulance service removes the business case for the PTS to invest in the training needed when this is run by a separate organisation.

Performance, accountability, efficiency and profitability

With the Parkwood contract, it was not until after the service had transferred back to the ambulance service in 2009 that performance data on the contract was revealed as a result of work done by the local involvement network, the patients involvement group (and the predecessor organisation to local branches of Healthwatch, a service which Parkwood Healthcare now provides in many parts of the country).

According to press reports,[79] this showed that during some months of the contract, one in five patients were waiting more than two hours for transport to or from hospital appointments such as for kidney dialysis, and even by the last few months of the contract some 40 percent were arriving more than an hour late for appointments or treatment. Neither the company, workforce, union, public or contracting authorities seem to have made any positive comment about the contracting out or what it achieved.

The contract was commercially disadvantageous for the company itself. Parkwood Holdings' 2006 company report says of the Staffordshire contract: "This contract suffered from excessive start up costs and ran at a considerable loss through the remaining months of the year." It describes the beginning of the contract as "troubled".[80] The losses continued throughout the three years of the contract. The company's 2007 annual report states of the company's healthcare division: "The division made an adjusted operating loss of £0.6 million (2006: £0.46 million) on revenue of £6.0 million (2006: £5.8 million). In addition a provision of £0.66 million has been made for losses over the remaining period of the Staffordshire contract until its termination date in July 2009." The company put the business up for sale in 2007, but was not able to find a buyer and the business was taken off the market near the end of the year.

Regarding the NSL contract, it is impossible to make any assessment of the standards, delivery, profitability and management of the service, as information on the performance contract is not published by the contracting authorities without using freedom of information requests. There is no evidence of any paper trail of contract scrutiny or reporting on any of the relevant NHS trust or CCG websites.

It is Salmon's view that service improvements have been made by NSL. Efficiencies have been made by picking up more than one patient in the same vehicle, for instance. Yet cost savings have also been made via lower rates of pay and other terms and conditions for new starters. Moreover, he points out that, in his experience, an in-house service will often provide services above and beyond a contract specification that a contractor will simply meet. He says: "West Midlands Ambulance Service argued that they were contracted for something like 600 patient journeys a day and some days they actually did double that number. NSL are contracted for *x* number of patient journeys a day, and they

79 "Fury at Shambolic Ambulance Delays" in *The Sentinel* (Stoke), 12 October 2009 (http://www.stokesentinel.co.uk/Fury-shambolic-ambulance-delays/story-12498294-detail/story.html)
80 Parkwood Holdings' annual report for 2006 (http://www.parkwood-holdings.co.uk/Portals/0/Files/Parkwood%20Holdings%20plc%20Report%20and%20Accounts%202006.pdf)

will provide that or anything on top will be charged extra. The vision is that the company is there to provide a service against performance indicators and want people who're going to engage with the business and work with the business. That's the terminology that they use, whereas in the NHS it's work for the service, work for the patients."

Key findings

- Underlying problems with providing a service for the price agreed led to significant disruption to the patient transport service, with knock-on effects for patients.
- Staff continued to be motivated by the same public service ethos as before, but the breakdown in the employment relationship made it more difficult for them to do their jobs.
- The Parkwood Healthcare contract was in operation while the two-tier code was in force. Yet in this case there was a failure to comply with the code and a lengthy and difficult process for employees in securing the pay and benefits that they were entitled to. Once the ADR procedure had concluded the code was eventually implemented.
- UNISON officers point to issues around progression for non-emergency ambulance service workers as a result of contracting out, which lessens the business case for long-term training investment on the part of the non-emergency service contractor when it is "blue light" services that will benefit.

Case study 3
Local authority support services: West Sussex County Council and Capita

Case study 3
Local authority support services: West Sussex County Council and Capita

Background
West Sussex County Council, which currently employs around 4,600 staff[81] (full-time equivalent staff excluding schools and fire service employees), has a stated objective of transforming itself into a commissioning authority, only using directly employed staff where it is most cost-effective to do so. The funding cuts experienced by the council so far are significant but below the national average, with overall funding set to fall by 7.9 percent over 2014/15 and by 11.6 percent in 2015/16, the latter comparing with a national average of 13.2 percent. Over 2011 to 2014 it had a three-year plan to reduce council expenditure by £79 million.

There is strong member support for outsourcing. A note of a workshop with members of the council held on 3 November 2010, at which the council's proposed priorities and principles were discussed, reports that outsourcing was popular among members and several expressed a preference for doing this "wherever possible".

The objectives of the outsourcing
The objectives of the outsourcing are clearly set out in council papers. Following a cabinet member decision on 11 March 2011, the council commenced a procurement process to find a partner to provide a range of support services for the council.[84] Council papers state: "The objective of this procurement was to secure savings of 20 percent against the cost of a range of support services."

The targeted savings were £4 million from support services and £1.8 million from IT outsourcing (each year). The cost of the procurement itself was £577,000, although the council states that delivering the contract two months early created a £600,000 saving, therefore covering the procurement costs.

Profile: Capita
Capita is a FTSE 100 firm that employs more than 64,000 people, around 70 percent of whom have joined the company via either a transfer or an acquisition.[82] Unlike many business services firms, the overwhelming majority of Capita's revenues (96 percent) are from the UK.

While Capita has contracts with most major government departments – delivering public services from army recruitment to managing vehicle tax and insurance evasion – its origins, and a majority of its business, are in local government. Local government expenditure on Capita contracts was £506 million in 2012/13, much higher than the second-highest source of revenue, which was the Department for Work & Pensions (£146 million) (see chart).

According to Capita's most recent corporate social responsibility report, the company works with around 22,000 schools and 84 percent of colleges in the UK, providing either support services, ICT or both. Capita is the leading private-sector provider of local government services and it has contracts with 95 councils for support services or ICT.

As a recent NAO report[83] states, Capita focuses on white-collar back-office administration and customer management, "with its generally higher profit margins than the more manual services". Recently it has signed a number of contracts which it describes as "transformational partnering", effectively long-term contracts that involve changing "delivery models" at the same time as reducing costs and improving processes. One of the most significant of these has been the formation in 2013 of Entrust, a joint venture with Staffordshire County Council for the delivery of support services to schools and academies.

Local government services are part of Capita's professional services division, which generated revenues of £384 million (11.5 percent of Capita's total revenues) in the 2012 financial year, a decrease of 1.3 percent compared with 2011.[85] In terms of the profitability of contracts, analysis by the NAO showed that Capita's public-sector contracts generally generate a margin of 6-18 percent, falling to 1-10 percent when overheads are included.

Chart 2: Public-sector spend on Capita contracts, 2012/13

Local government	£506m
DWP	£146m
HO	£99m
Other central government bodies	£96m
NHS	£71m
MOD	£40m
DFT	£28m
MOJ	£23m
CO	£19m
DFE	£17m
DBIS	£11m
DCMS	£5m
DEFRA	£5m
DECC	£3m
DFID	£2m
HM Treasury	£2m
HMRC	£1m
DH	£1m

Source: National Audit Office analysis of Cabinet office and Capita data, from: National Audit Office *The Role of Major Contractors in the Delivery of Public Services* (2013)

81 West Sussex County Council "Total Performance Monitor to End February 2014" on WSCC website
82 Capita *Corporate Responsibility Report 2013* (2014) (available on Capita website)
National Audit Office The Role of Major Contractors in the Delivery of Public Services (2013)
83 National Audit Office *The Role of Major Contractors in the Delivery of Public Services* (2013)
84 Report by the director of service operations on support services contract management, to the regulation, audit and accounts committee, 3 December 2012
84 Datamonitor report by Chartered Institute of Personnel & Development

The financial imperative, rather than the desire to change or improve services, is captured in a paper for the council's policy and resources select committee in April 2012,[86] which states: "The option to outsource the back office services (rather than other solutions) was chosen due to three key reasons; it required the least amount of investment, it would provide savings in the quickest time frame, and it would provide the maximum level of savings to the County Council."

The contract

On 8 June 2012, Capita announced that it had been selected as preferred bidder by West Sussex County Council to deliver a range of back-office support services across the council's function areas.[87] The contract commenced in October 2012 for a 10-year period. When announced it was worth approximately £154 million, with the potential to "bolt on" future services to the contract up to a maximum total of £750 million.[88] At the point the contract commenced, the council had already outsourced its ICT operations to Capita,[89] and the office services contract was accompanied by an extension of the ICT contract by two years to the same date as the office services contract is due to end (2022).

While many of the roles transferring are those that might be considered as classic "back-office" jobs such as HR administration, they include many public-facing roles. Specifically, the contract covers office services, recruitment and resourcing (including temporary staff), job evaluation, HR management information and advice, health and safety, payroll, pensions administration, procurement operations, service finance, online service delivery (OSD) and contact centre services.

Terms and conditions

UNISON officers report that various groups of staff have been transferred from the council to Capita. The biggest staff group (around 600 staff) transferred directly from West Sussex County Council to Capita at the start of the contract. These were staff covered by NJC terms and conditions providing support services across the council.

Subsequently, the contract also involved the transfer of a group of around 100 staff working in the council's call centre. These employees had originally been employed by Liberata, but were then transferred to the Listening Company and then Serco prior to the transfer to Capita. More recently, a smaller, further group of staff have been transferred to Capita on NJC terms (see below).

This means that, according to UNISON, the following arrangements cover different groups of staff:

- NJC terms for the majority of staff who transferred to Capita;
- local pay bargaining arrangements for contact centre staff; and
- Capita terms and conditions for staff recruited by the company or transferred as the result of a restructure or promotion.

Terms and conditions for transferred staff

Contractual terms and conditions of those transferred across from WSCC and the various types of contract that those in the call centre are on were protected, and remain protected, by the TUPE regulations.

For the main staff group transferred directly from WSCC, an undertaking was made by Capita to honour any pay increase received by staff covered by the NJC pay spine for a 10-year period, although UNISON officers report that in the light of the *Alemo-Herron vs Parkwood* judgment and the January 2014 amendments to the TUPE regulations, the company has indicated that it may review this commitment.

Call centre staff are covered by local pay bargaining arrangements, with employees on a mixture of WSCC, Liberata, Serco and Listening Company terms and conditions.

Restructuring and job change

Many staff have experienced a significant amount of organisational change since the outsourcing. UNISON officers report that, around nine months into the contract, a series of restructures were undertaken in different function areas of the council's support services, some of which involved relocations. These included health and safety, HR and payroll, and IT support, as well as the transfer of music service staff to a new mutual. While there were few redundancies at the start of the contract, there were some as a result of these restructures, which were reported to be "chaotic" and not following locally agreed procedures on how organisational change would be managed. A UNISON briefing from the time states that staff "had no confidence in the processes Capita was using, and were under significant additional stress because of them". This improved when a set of best-practice procedures were agreed for the company and union to work with.

The Capita contract with WSCC follows a similar path to other "business transformation" contracts, with departments or business areas restructured, usually leading to some redundancies, relocations, changes to working patterns, promotion opportunities and a number of employees moving across to the company's terms and conditions as their job roles are reconfigured.

UNISON branch secretary Daniel Sartin reports that as well as organisational change, one of the biggest issues raised by members since the start of the contract has been an increase in the administrative work undertaken by the council's front-line staff, particularly for line managers and social workers, with more emphasis on self-service when it comes to administration and a greater role for line managers in administering recruitment processes, for example.

Comparing terms and conditions of WSCC and new Capita staff

As with other local councils, there is transparency around the terms and conditions for directly employed staff. The council is required by the Localism Act to publish its pay policy on its

86 Paper to the policy and resources select committee, "Procurement of an Outsourced Back Office Partner", April 2012, on WSCC website
87 Press release on Capita's website, 8 June 2012
88 Report by the director of service operations on additional services under support services outsource contract, April 2014, on WSCC website
89 Press release on Capita's website, 6 October 2010

website,[90] where the national pay scales for local government and a document setting out the various allowances can also be found. The council uses job evaluation to slot jobs into the structure so there is a recognisable pay rate for each job role and its relative worth to others.

There is no published information available on pay rates for staff directly employed on the WSCC contract by Capita, but these appear to be determined on an individual basis in line with market rates, with pay increases determined according to individual performance. As Capita's 2013 annual report and accounts state: "Remuneration packages and local performance schemes are managed by individual businesses, supported by corporate guidance, to ensure they are competitive within their markets and that they reflect terms and conditions and union arrangements within each business unit."[91] This makes it very difficult to identify and compare pay rates. It has not been possible to establish whether there are differences for transferred and new recruits doing the same job role, although there is one example of a pay rate for an office resource manager that was advertised to internal applicants on a pay band of £20,000-£24,000 per year on a Capita contract compared with the original pay range of £29,528-£32,072 on grade 10 of the NJC pay spine.

A study of all relevant council papers reveals no mention or comment of current or future staffing issues in relation to the Capita contract. In one paper, which considers the transfer of new services to the contract, however, a point is made regarding the potential cost of having to take on new staff to respond to increased demand. "Capita should be better equipped to keep costs down should additional staffing be required," the paper states, suggesting that the council sees Capita as in a better position to spend less on employment costs than the local authority.

Sick pay, annual leave and pension

A comparison of sick pay and annual leave terms shows fairly minimal differences between those for transferred WSCC staff and Capita. Annual leave entitlements at Capita range from 23 to 27 days' paid leave (in addition to bank holidays) depending on service, compared with the NJC arrangements that apply to transferred staff shown in the table, which are determined by grade as well as service.

Sick pay schemes are reported to be similar, although slightly disadvantageous for Capita staff with fewer than five years' service. For both groups, an employee with five years' service would be entitled to six months' full pay and six months' half pay. There are big differences in the pensions offered, however. Capita staff are eligible to join a money purchase scheme, but transferred staff retain their membership of the Local Government Pension Scheme.

Expanding the contract

In July 2014, additional council services including the financial adults safeguarding team (which provides support services to vulnerable adults who cannot manage their own money and property) and welfare benefit advice team (which assesses eligibility for care services and benefits) were transferred to the Capita contract. A report to the cabinet member for finance[92] stated that the transfer would deliver a potential saving of £122,339 a year from 2015/16.

UNISON pointed to the risks involved in outsourcing this type of service. It reported a negative impact on staff morale and said that staff were "visibly and repeatedly upset" during briefings held to discuss outsourcing. UNISON argued that insufficient attention had been paid to the option of achieving savings in-house.

In future, it is intended that significant further services will be transferred, with the council examining "opportunities to develop and maximise the potential to grow the contract".

Performance, efficiency and transparency of the contract

A detailed set of governance arrangements and bodies – including a partnership board, operations board and various other governance bodies that are accountable to the cabinet – were set out in a paper to the council's regulation, audit and accounts committee on 3 December 2012.[93] According to this and other council papers, there is a dedicated contract management team as well as staff within WSCC who have been appointed to "intelligent client" roles that are designed to ensure that the council retains expertise in the services outsourced. Capita provides monthly and quarterly reports against the service levels set out in the framework of key performance indicators.

However, none of the reports, decisions or meetings of any of these bodies are available for public scrutiny, making it impossible for a member of the public to assess how the contract is performing against objectives.

Capita's contract with WSCC seems to be typical of the kind of high-value, long-term, outcomes-focused contract which the company prioritises. It is extremely difficult to identify how efficiencies are generated on this contract, or what changes for staff have resulted from it, as there is no publicly available information on how the contract is performing or any information available to the public on how employees are managed or payroll spent. It is also not possible to distinguish how profitable or otherwise the contract is for Capita, as this information is not published at contract level.

90 See the WSCC pay policy, supporting documents and pay scales on the council's website. The pay policy does not have to include pay scales.
91 Capita *Annual Report and Accounts 2013*, p47 (http://investors.capita.co.uk/~/media/Files/C/Capita-IR/Annual%20Reports/capita-ar2013-3.pdf)
92 Report by the director of service operations on additional services under support services outsource contract, April 2014, on WSCC website
93 Report by the director of service operations on support services contract management, to the regulation, audit and accounts committee, 3 December 2012

Key findings

- It is very difficult to assess the performance and impact of the large and expanding support services contract between West Sussex County Council and Capita because of a lack of transparency over performance management, staffing and the paybill. While there is one example of a salary being paid to a new recruit to Capita that is lower than the salary that was paid for the role when previously in-house, sick pay and annual leave terms seem to be similar between transferred and Capita staff.
- As with all the contracts in this report, staff employed directly by the contractor do not benefit from the defined-benefit pension scheme of which transferred staff are members.
- UNISON officers are concerned that the proliferation of different sets of terms and conditions across the contract – in addition to the lack of transparency – makes it impossible to monitor or identify gender pay gaps, or assess pay arrangements on any logical basis.

Case study 4
School meals: Newport City Council and Chartwells

Case study 4
School meals: Newport City Council and Chartwells

Background
The workforce in this case study are catering assistants, assistant cooks and cooks or supervisors in kitchens ranging from very small kitchens in rural primary schools to large-scale catering operations in secondary schools. "It has always been a difficult, high-pressure, under-resourced environment," says UNISON regional officer Peter Short. Most school kitchen jobs are low-paid, with the majority of employees – those in catering assistant roles – employed on the lowest pay scale point of the local government pay scale when the service is provided in-house.

Company profile: Chartwells/Compass
Chartwells is part of the Compass Group, a global contract service provider that employs more than half a million people in around 50 countries, including 60,000 in the UK. The Compass Group has numerous other brands and subsidiaries, including Medirest, the healthcare services arm of the group which provides services to more than 50 acute care trusts and many smaller treatment centres and other facilities.

Chartwells is the market leader in catering services for the UK education sector, providing catering services to more than 1,500 primary schools and 360 secondary schools, as well as 80 colleges and 20 universities. It continues to rapidly acquire long-term school and university contracts, such as a 10-year contract with Bournemouth University starting in September 2014 worth an estimated £23.5 million.

Objectives of the outsourcing
Newport City Council (NCC), the sixth largest local authority in Wales, took the decision to outsource its school meals service in the context of seeking to make savings of around £21 million over 2010-13. Like other councils across the UK, NCC also faced huge challenges in delivering a sustainable school meals service. Two key challenges were the increase of take-up, with a much lower than average uptake of paid meals (27 percent compared with the Welsh average of 46 percent in 2008[94]) and implementing the Welsh Assembly's "Appetite for Life" action plan, which outlines what is required to improve the nutritional standards of the food and drink provided by schools in Wales.

UNISON officers state that, rather than quality considerations, however, the agreed criteria for assessing tender bids were heavily weighted towards cost, with more than two-thirds of points allocated on the basis of price considerations. This was said to have led to the in-house bid falling out of the process early on and the elimination of other commercial bids, according to UNISON. The council was asked for information on the procurement process as part of this study, but did not provide any documentation.

In 2012, NCC's executive member for education and young people referred to the importance of the cost-cutting objective in an answer to a member's question: "I am at the present moment looking into the contract that was negotiated under the previous administration, and if there is a get out clause, (if agreed by the schools) I will release the authority from the contract. I raised the matter of 70 percent cost, 30 percent quality at full council and will be prompting a full examination of quality and value for money to be carried out as soon as possible."

The contract and staff transfer
The contract commenced on Monday 18 April 2011 and is for a period of six years, with an option to extend for a further period of up to three years.[95] It is for the provision of the school meals service to all primary, secondary and special school pupils with the exception of two secondary schools who made their own arrangements to outsource catering services. At the time it was signed, the contract was worth £21 million over six years, and included a commitment to make investments in the service worth £250,000. This investment was spent in the first two years, mainly on improved provision for the transported meals service that serves 12 schools that have no kitchen, a legacy of the CCT regime in the 1980s when many school kitchens were closed.

Around 220 staff transferred across, and staff now number around 235 (reflecting the increased number of meals being served). On transfer, there were some immediate redundancies at management level and a "high turnover" of staff in the first year.

Basic pay rates and the two-tier code
At the time the NCC school catering contract was tendered, the "two-tier code" had recently been abolished by the UK government, but it was the view of the Welsh government that it remained in force in Wales. More recently, Wales has introduced an updated version of the Code of Practice on Workforce Matters, applicable to all devolved public-sector bodies in Wales.[96] The code – introduced by the Welsh Assembly on 23 June 2014 – requires the new service provider to offer terms and conditions that are, overall, no less favourable than those of the transferred staff. This means that both at the time of tendering and for the foreseeable future, terms and conditions for new starters under the school catering contract needed to comply with this requirement.

As with the 2005 workforce code, the "no less favourable" formula does not apply to pensions, but new joiners must also be offered a "reasonable" pension provision.

The growing differential between local council and contractor pay rates
Despite the recent *Alamo-Heron vs Parkwood* judgment and legislative changes specifying a "static" interpretation of TUPE (see Introduction), some local government contracts nevertheless provide for pay increases agreed by the NJC to be applied to the contracted-out workforce over the course of the contract. This

94 Holownia, J and Harries, R *Cost of Producing School Meals in Wales* (Wales Audit Office, November 2010)

95 "Newport Secures Investment to Improve School Meals", NCC press release, 21 October 2010

96 *Circular: Code of Practice on Workforce Matters 2015*, on Welsh government website

contract did not include such an agreement, however. As a result, basic pay for employees on the school catering contract has fallen behind those for equivalent job roles within the council workforce, and are due to fall further behind as the council implements the living wage for its own workforce.

When Newport's school catering workforce were transferred to Chartwells, the majority (those in catering assistant roles) were on the lowest pay point on the local government pay scale (point four), which at the time was £6.36 an hour (see chart). This means there is a comparable job that has remained in-house with the council, which has been rated as equivalent via job evaluation, which can be compared over the first three years of the contract.

Due to the local government pay freeze, the lowest rate of the local government pay spine had not been increased since 2009 and was not increased again until 2013, when it was increased by 1 percent then removed, with employees on it moving up to the next pay scale point (point five), increasing their hourly pay to £6.45. In contrast, Chartwells staff remained on £6.36 an hour. If the proposed 2014 NJC increase is paid and backdated to 1 April 2014, that will increase the differential further between what the catering workforce would have received if they had continued with the council as an employer, with the lowest local council rate increasing to £6.51.

From 1 October 2014, pay rates for catering assistants at Compass will have to increase to a minimum of £6.50 in order to comply with the national minimum wage. That means that they will almost catch up with the lowest pay rate paid by the council. However, the picture is complicated further by the fact that in its April 2014 budget, Newport Council decided to adopt the living wage for its own staff, boosting the pay of those at the bottom of the pay scale by a further 18 percent to £7.65. The council did not commit to implementing the living wage for contractors' staff, even those working on contracts signed since the agreement. One council document[97] states:

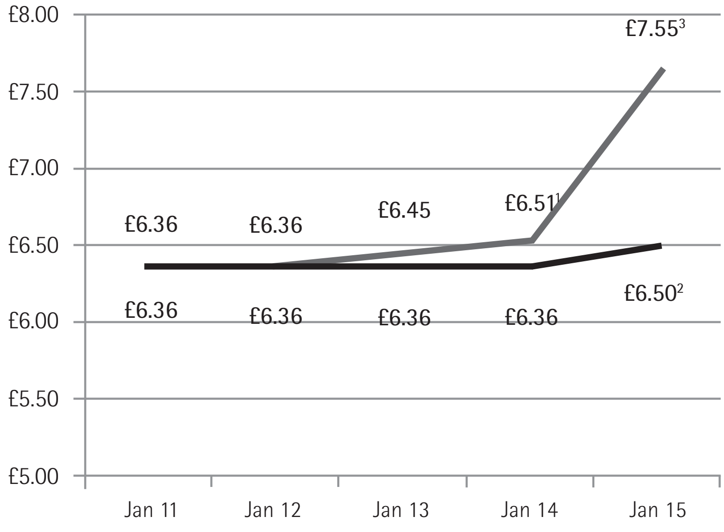
The Corporate Director explained that the Council had committed to introducing the living wage for all Council staff, and any staff transferred out of the authority under TUPE conditions. However the cost would be prohibitive to extend that commitment to commissioned services, and this would destabilise the market where we share contracts with others, putting us in danger of creating a two tier workforce. The authority could not compel external providers to pay the Living Wage without significant cost, but we could influence through procurement arrangements, giving preference to employers providing better working conditions, placing greater emphasis on quality over price, and defining quality in terms of turnover of staff and reasonable remuneration.

This means a significant further widening of the basic pay gap between council employees and those in the contractor workforce.

Other terms and conditions

Transferred employees and new recruits receive the same sick pay and annual leave. However, shortly after the contract commenced, Chartwells changed the way in which annual leave was calculated, lessening employees' annual leave entitlement. Chartwells says that when it examined employees' contracts it found that they specified annual leave should be calculated on a pro-rata basis (only taking into account the term-time days that employees worked) but that the council had never implemented this clause, instead calculating leave on the basis of the entire year. UNISON argued that as this had been the case over a long period of time, this custom and practice had

Chart 3: Basic pay differential between lowest-paid workers at Newport City Council and Chartwells, 2011-2015



1. This figure assumes that the proposed pay increase for local government workers is 1 percent, backdated to 1 April 2014. This is the current employers' offer, though it has not been accepted by the unions.
2. This figure makes an assumption that that any basic pay increase awarded to Chartwells staff will not be greater than 3 percent, the percentage by which the national minimum wage is due to increase.
3. This figure assumes that all lower-paid staff will have moved up to the living wage by April 2015, although this is understood to be a phased process over 2014-16.

97 http://www.newport.gov.uk/stellent/groups/public/documents/minutes/cont724417.pdf

effectively altered the workforce's contracts.

Chartwells employees also receive various voluntary benefits such as staff discounts at a variety of shops, including money off at the till of major supermarkets for which Compass provides services.

Pension

As Compass has admitted-body status in the Local Government Pension Scheme, it pays pension contributions for transferred employees who have remained members of the local government pension scheme. New recruits, however, are offered the choice of either NEST,[98] the scheme introduced alongside pension auto-enrolment in 2012, or CRISP, the Compass Retirement and Insurance Savings Pension, a defined-contribution scheme to which the employee and the employer both contribute 3 percent. Compared with the defined-benefit local government pension scheme, this means that new recruits receive significantly poorer pension provision.

Pay transparency

While this contract does not exhibit the myriad differing terms and conditions found in many English contracts, thanks to the Welsh two-tier code, there have nevertheless been issues around staff understanding how their pay is calculated. This is because shortly after the contract began, Chartwells introduced a "spreadover" pay system, which means that pay is averaged evenly over the year, rather than just being paid during the term-time weeks that employees are at work. The advantage of this system is that employees receive a more predictable pay packet and receive pay during holiday weeks when they did not do so before. However, UNISON says that it has dealt with many complaints from members about this system and that it has caused a "phenomenal amount" of confusion. "People just give up" trying to understand what they have been paid and why, UNISON reports.

Workload and the working environment

There is a difference of opinion between UNISON and Chartwells over the staffing ratio – the way in which employee working hours are allocated to cover work. School catering uses a formula based on the number of meals that need preparing and the size and condition of the kitchen, such as the type of equipment that is available, for instance.

The view of the employer is that this formula is basically unchanged, but that at the beginning of the contract some kitchens were found to have been allocated too many hours and others too few, so alterations were made in order to balance this out. But UNISON states that Chartwells' approach has been to drive down the number of hours allocated to produce meals, adding to the pressure on staff in what has always been a highly pressured and stressful job.

Training

It is difficult to assess the impact on the levels and quality of training available to Chartwells' Newport staff compared with what had been provided by the council. Nationally, Compass has a learning framework with a major emphasis on apprenticeships, with decisions over budget made at contract level within the sector-based operating companies.[99] On the Newport school meals contract, a laptop or desktop computer has been provided for each school kitchen and can be used by staff to complete statutory training such as the updated food hygiene training that staff must complete each year. Staff are paid for five inset days in addition to term-time days, when some time can be spent on training, although other work, such as cleaning the kitchens, also has to be done during this time. The company says that using computers has been a challenging learning curve for many employees, but cites examples of individual employees who have gained online skills for the first time. UNISON also sees this as an opportunity for staff, although it points to the difficulties staff have found with making time to do training in a high-pressure kitchen environment.

Efficiency and cost of the service

Asked directly whether cost savings have been made predominantly by driving down labour costs or through efficiencies unrelated to labour costs, all those interviewed for this case study believe that it has been a mixture of the two. There is undoubtedly some evidence that efficiencies and improvements have been made, which UNISON acknowledges. For example, when the service was run by NCC, there was no recycling of kitchen waste. It now costs the company less to recycle all the waste created by 40 schools (using Biffa) than it does for the council to send to landfill all the waste of the 20 schools where it still manages refuse. There are also efficiencies created by the firm's economy of scale in its ability to purchase volumes of stock at lower prices.

Under the contract, Chartwells is able to claim an increase in its costs based solely on the CPI increase in the price of food, beverages and other material costs. When the service was initially outsourced, a direct cost saving was made to the council by the fact that it had been able to cut its subsidy to the school meals service. The outsourcing cut the council's subsidy to school meals in one stroke from £355,000 to £27,850. A subsequent increase in the charge for school meals in April 2013 from Chartwells removed the council's subsidy entirely, with a direct price increase covering the increase in food costs.[100] It is quite possible that price increases would have occurred had the council been providing the service directly, but it is notable that families have seen an increased cost in school meals in 2013 and 2014 which the council has chosen not to subsidise.

However, it is clear that reducing labour costs has been a major contributing factor to driving down the costs of providing the service, via lower pension costs for new staff, frozen pay rates and changes to working patterns, especially in view of high turnover at the start of the contract.

While there is no direct evidence on productivity, it is likely that actions such as changes to the way work is organised using the

98 NEST (National Employment Savings Trust) is an automatic enrolment pension scheme for UK employers of any size.

99 See: Incomes Data Services *Compass Group: Training Strategies 2012* (February 2012)

100 Report to the Cabinet member for education and young people, on secondary and adult school meal prices, 15 April 2014, on the Newport City Council website (http://www.newport.gov.uk/stellent/groups/public/documents/report/cont723102.pdf)

staff/meals ratio have increased the productivity of the service. The take-up of school meals in primary schools has increased from 22 percent at the start of the contract to 38 percent now, with only a marginal increase in the staff working on the contract, from 220 to 235.

As a local authority business manager quoted in one study of school meals services says, "The key to low cost in providing a school meals service is not to reduce the food cost but to increase sales and thus spread staff and other overheads further."[101] But raising productivity in a school kitchen environment means putting greater pressure on a workforce that is doing a physically challenging and stressful job. With their pay (and pension for new starters) falling behind their public-sector counterparts, they do not appear to be being compensated for this increased pressure at work.

Key findings

- The main objective of the outsourcing was to deliver school meals for a reduced budget, with the tender based 70 percent on cost and 30 percent on quality.
- Terms and conditions have been protected not just by TUPE but by the continued existence of the workforce code of practice in Wales, meaning that sick pay, for example, is broadly comparable. However, pension provision is far less favourable to new staff of the contractor.
- Changes were made that had the effect of reducing annual leave provision following the transfer to Chartwells, while work intensity has increased.
- The council decided not to extend its recent commitment to paying the living wage to contractor staff. This means that a gap is opening up between pay rates for the lowest-paid staff on the contract (catering assistants who will be on exactly the minimum wage from October 2014) and those of the council, for whom the phased introduction of the living wage will lift pay 15 percent above this.
- It has not proved possible to find any public information on the performance or monitoring of the contract, with the council confirming that no reports on the service were available. The evidence appears mixed, with economies of scale leading to savings but labour costs also lowered.

101 Morgan, K "The Coming Crisis of School Food: From Sustainability to Austerity?" in *Welsh Economic Review* vol 22 (Spring 2011), p33

Case study 5
Police staff: Lincolnshire Police and G4S

Case study 5
Police staff: Lincolnshire Police and G4S

Background
In its 2010 spending review, the government announced that central government police funding would be reduced by 20 percent in real terms over the four years to 2014/15. Lincolnshire's budget was already severely stretched, with the government stepping in to cap the police authority's proposed precept in 2008, when it tried to increase it by 79 percent.[102] Lincolnshire Police has the lowest spend per head on policing in England and Wales. Moreover, unlike many other forces, Lincolnshire had already undertaken significant restructuring over the past two decades (such as moving from a number of control rooms to one) so there were no obvious "easy wins" that would produce savings.

Profile: G4S
G4S is active in more than 120 countries and is the largest employer quoted on the London Stock Exchange. It has more than 45,000 employees in the UK, among 620,000 worldwide. It specialises in outsourced business processes "where security and safety risks are considered a strategic threat". Its services range from cash transportation and transport security to managing Work Programme contracts, running children's homes, event security, facilities management, transport security and meter reading.

A report from the National Audit Office published in November 2013 found that G4S's UK revenue in 2012 was £1.9 billion, of which £0.7 billion was from work for the public sector, the majority (£571 million) from central government.

Within its Policing Support Services group, G4S has managed police custody suites in the UK since 2003 and currently manages them in Lancashire, North Wales and Staffordshire as well as Lincolnshire (covering a total of 30 suites).

The procurement process and agreement of the contract
The business transformation project was launched by Lincolnshire Police on 25 March 2011, including a formal procurement process for a partner to deliver and transform police support services. According to a paper published by the police authority on 21 December 2011,[103] the project had three main objectives:

- to provide a sustainable model that balances affordability and service appropriately over 10 years while contributing to financial savings;
- to attract external investment to enable the force's critical ICT infrastructure to be upgraded in order to maintain key operational systems and to provide the platform for wider operational efficiencies; and
- to improve, or at least to maintain, overall service levels for the force and for the range of services being considered within the scope of the review.

102 "Police Authority Budgets Capped" on the BBC, 26 June 2008
103 Lincolnshire Police Authority "Business Transformation Project: Final Business Case", 21 December 2011

Peter Savage, UNISON regional officer with responsibility for police staff in Lincolnshire, notes that the need to make financial savings was the "overriding driver" behind the project, partly in order to keep up the numbers of uniformed officers in the force.

However, the need for IT modernisation was also acute. Debbie Parker, secretary of the UNISON branch that covers both in-house and G4S staff at Lincolnshire Police, notes that she had not seen any significant investment in IT or other infrastructure systems in the 23 years she has been with the Lincolnshire force and that this was desperately needed.

The project required bidders to demonstrate that they could meet specified objectives in the areas of delivery, quality and transformation and to provide a level of savings over the proposed 10-year period that exceeded the "affordability threshold" of £26.9 million.

The contract notice published in the *Official Journal of the EU* on 28 March 2011[104] makes clear that the tender was being undertaken not just for Lincolnshire but for 10 other authorities ("without any obligation on them to participate").[105] It emphasises the potential future scale of the contract, stating that while its anticipated value would be in the region of £200 million, this could potentially increase to £2 billion depending on the number of other police authorities that chose to take it up.

On 21 December 2011, Lincolnshire Police announced that G4S had been selected as its preferred bidder to enter into a strategic partnership for the provision of police support services, and the contract was signed on 22 February 2012. The contract was for a 10-year period from April 2012 with the possibility of a five-year extension, meaning that the contract could potentially last until 2027. The total value of the contract was in excess of £200 million, around a fifth of the Lincolnshire force's total spend.

The contract covers the following business support areas:

- ICT;
- HR services (excluding occupational health) and HR learning and development;
- assets and facilities management (including fleet management);
- finance and procurement; and
- support services.

But more controversially, it also covers the following operational services specific to the police:

- the custody and ID unit (except for custody sergeants);
- the control room (excluding the inspector role);

104 Contract notice published by Lincolnshire Police Authority, 28 March 2011, available on the Tenders Direct website (http://ted.europa.eu/udl?uri=TED:NOTICE:101066-2011:TEXT:EN:HTML)
105 The 10 other police authorities were Bedfordshire, Cambridgeshire, Dorset, Gwent, Hertfordshire, Leicestershire, Northamptonshire, Nottinghamshire, Warwickshire and Wiltshire.

- town enquiry officers (manning the front desks of 18 police stations across Lincolnshire);
- the crime management bureau;
- the central ticket office and collisions unit (with the road safety partnership remaining with Lincolnshire Police);
- the criminal justice unit;
- firearms licensing (excluding the manager and initial licensing officers); and
- the resource management unit.

Around 250 police support posts remained with the police force, including all police community support officers (PCSOs), some crime support roles such as investigators, road safety partnership staff and democratic support to Lincolnshire's police and crime commissioner (PCC).

While Lincolnshire Police was the original contracting authority, responsibility for the contract was transferred from the authority to the new PCC for Lincolnshire when he was elected on 15 November 2012, alongside the 41 other PCCs in England and Wales, with changes to all governance and leadership arrangements. The contract is now managed by the commercial partnership team,[106] which works for both the PCC and the police force.

The contract included a framework agreement with 10 other forces, enabling them to take up G4S services on certain terms should they decide to do so in the future. This would have important consequences for the profitability of the contract, as at the heart of the plan was a shared services centre to be used by other forces. As the G4S press release announcing the contract stated: "A new shared services centre to be based in Lincolnshire will allow other police authorities to procure services from just the one source. Lincolnshire will effectively be able to 'sell' on these services, such as HR, payroll and finance – currently provided separately for each police force – not only providing more efficient services for the other authorities through economies of scale, but enjoying a share in the profit, thereby generating more funds for its own police."

When Lincolnshire Police signed the contract it seemed likely that a significant number of other forces would do the same. But to date, no other forces have signed up. While a number have looked very closely at the arrangement, the police authorities that came closest to signing up – Bedfordshire, Cambridgeshire and Hertfordshire – issued a statement on 29 January 2013 announcing that they would not be undertaking any further work to explore the framework. Cambridgeshire's police and crime commissioner, Sir Graham Bright, said: "I have worked with the commissioners and chief constables for Hertfordshire and Bedfordshire to evaluate the framework delivered by G4S in Lincolnshire. Following a rigorous review we have come to the shared decision not to proceed further."[107]

The transfer

UNISON describes the terms on which the transfer of staff was agreed as satisfactory, despite the whole process being very stressful for staff. In terms of the formal "measures" on which G4S consulted staff and representatives prior to the transfer, the only changes were to the working time of custodians, who it was proposed would increase their working hours from 37 to 42 hours a week, plus the introduction of a four-days-on, four-days-off shift pattern for that employee group. While this caused concern to employees and their trade union at the time, both UNISON officers consider that these changes were satisfactorily negotiated and implemented.

In the event, 575 staff were successfully transferred over to G4S Policing Support Services on 1 April 2012. There were no redundancies at the time of the transfer, according to UNISON. There have been redundancies since, however, resulting from restructuring in different "phases" of the contract, the first exercise taking place in autumn 2012, but new roles have also been created and recruited for. For example, the restructure of the HR team led to more than one in four staff (28 percent)[108] leaving G4S although the restructure also involved the creation of new G4S roles.

Comparing the terms and conditions of transferred staff and new starters

UNISON reports that, to date, G4S has fully honoured the contractual terms and conditions of transferred staff since they moved over to the contractor. In fact, Savage reports that as well as maintaining the contractual terms and conditions as covered by TUPE, G4S has been "reasonable" in honouring a number of policies and practices that were not necessarily contractual, although since then some of these have been changed or withdrawn.

In other respects, changes have been made that impact on take-home pay without altering pay rates. For example, while shift allowances are contractual and protected by TUPE, the shifts worked are clearly not, so changes to shift patterns can impact considerably on take-home pay. UNISON officers give a number of examples of this happening.

There are also significant differences between the terms and conditions of transferred staff and those on G4S contracts. Analysis of information from G4S job advertisements, information from UNISON and the Police Staff Council handbook indicates that:

- Police staff are entitled to a range of working-time allowances to compensate for antisocial hours, such as weekend working payments. G4S staff do not receive any enhancements for working weekends or bank holidays or shift allowances, although some receive overtime.
- There is a contractual working week of 37 hours for most transferred employees, compared with a standard working week of 40 hours for G4S staff.
- For transferred staff, there is an occupational sick pay scheme that increases entitlement in line with service,

106 As referred to in a policy document on the presentation of a business case on the Lincolnshire Police website

107 Cambridgeshire Police "Statement: Outsourcing Organisational Support Services for Bedfordshire, Cambridgeshire and Hertfordshire Police Forces", 29 January 2013

108 This figure is contained in the G4S report *The G4S Lincolnshire Police Strategic Partnership: One Year On* (June 2013), on the G4S website.

up to a maximum of six months' full pay and six months' half pay after five years' service (the details of G4S arrangements are not known).
- Transferred staff receive 23 days' annual leave, increasing to 28 with five years' service, while G4S staff receive 25; for both groups bank holidays are taken in addition.
- Transferred staff are able to remain members of the Local Government Pension Scheme (to which G4S has admitted-body status). UNISON reports that new staff can join a money purchase scheme.

Comparing basic pay rates

A comparison of some job examples gathered from 2014 job advertisements on the G4S website, and their comparative rates as for Lincolnshire police staff, suggests lower rates for some job roles. G4S vacancies are advertised at a single spot rate, although it is possible that there are mechanisms for progression through pay grades or ranges that are not published.

One of the lower-paid roles on the contract, for example, is that of caretaker. Lincolnshire Police terms, the pay range for this role is £17,001 to £20,000 for a 37-hour week. In July 2014, however, this role was advertised by G4S at a rate of £15,315, equating to £7.36 an hour for a 20-hour week, below the rate of the national living wage (£7.65 an hour from November 2013) and 17-29 percent lower than on the pay framework covering in-house staff.

While a G4S job advertisement for crime management bureau administrators performing shifts states a spot salary of £20,000, the Police Staff Council sets out a salary range of £25,001 to £30,000 for the same job (as applied to the role locally). According to anecdotal information, the role of town enquiry officer attracts a salary of £17,000 on G4S terms, compared with the Police Staff Council pay range of £20,000 to £25,000.

Higher pay for some roles

Many employees on the Lincolnshire contract have moved across from Lincolnshire Police to G4S contracts as a result of restructures and promotions. UNISON officers report that a number of employees have received substantial pay increases as a result, especially in roles – such as IT or HR – where salaries in the private sector can compare favourably with those in the public sector. More senior roles can attract benefits such as company cars, as well as a bonus scheme. Nevertheless, transferring to a G4S contract means losing valuable benefits such as the public-sector pension and various working-time allowances.

Transferring to G4S terms

It is not known what proportion of staff are now on G4S, as opposed to transferred, terms and conditions. Parker thinks that while the majority are still on transferred terms, the balance is shifting quite rapidly, particularly in areas such as the control room where turnover is (and has always been) higher due to the stressful nature of the job. Nationally, G4S reported that around one in four of its entire UK workforce (11,463 of a total of 44,840 workers) are on transferred terms and conditions, according to a recent report published by the National Audit Office, but this will include contracts where no transfer had taken place as well as workers transferred within the private sector.[109]

Annual pay rises

UNISON officers report that G4S staff benefited from an annual 1 percent across-the-board pay increase in 2012 and that this was also the case in 2013, although this year payment was delayed until April 2014. Due to the Alemo-Herron decision, transferred staff are not entitled to continue to receive pay increases negotiated by the negotiating body that had previously set their terms and conditions. In any event, pay increases for police staff nationally have been low both before and since the transfer, with a 1 percent increase effective from 1 September 2013 and a non-consolidated, flat-rate payment of £250 to staff earning £21,000 or less in the two previous years.

Pay progression

Transferred staff benefit from incremental pay progression, equivalent to one pay point a year (usually on a five-point pay range) worth around 2.2 percent of basic pay, a process that may be accelerated to reflect excellent performance or delayed to reflect poor performance.[110] Savage points out that these progression steps are designed to reflect the fact that police staff are progressing up to full competence in the role. "The rate for the job is the top of the grade – the increments are to reflect the fact that you are learning to do the job." It has not been possible to establish what, if any, arrangements there are for pay progression at G4S.

Procurement and employment relations

UNISON says that the trade union was invited to participate in meetings early on in the procurement process, but that as the process progressed it was excluded. "We've never seen the contract despite having asked for it formally. The reason given was commercial confidentiality," the union says. The union was consulted on each phase of the contract prior to any phase of transformation or restructuring; however, throughout the transfer process and to date, UNISON officers report that the relationship with G4S has been positive and conducted on an honest basis. UNISON cites examples of other outsourcing processes where promises had been made that no compulsory redundancies would result at any point, only for such a pledge to be broken later on. "We did ask for that assurance," Parker recalls, "and I remember G4S saying 'We can't give you that." Savage adds: "They have been honest. They have not done anything that they said they wouldn't do."

It was said that G4S "are not pretending to be all-knowing" and that consultations have often been productive. UNISON acknowledged that the company is willing to listen to valid arguments based on the knowledge and experience of their members.

Management, development and promotion

Savage reports that G4S has introduced a flatter and less

109 National Audit Office *The Role of Major Contractors in the Delivery of Public Services* (November 2013)

110 These arrangements are negotiated locally but are based on the Police Staff Council pay and conditions of service handbook (available on the Local Government Association website).

hierarchical management structure than was in place before, with increased responsibilities placed on a front line of team leaders, some of whom were transferred over from the police force.

Both UNISON and G4S agree that there have been opportunities for internal staff to be promoted as a result of restructures. As G4S states in a report published one year into the contract, "We have been able to build career paths for those transferred staff who previously did not have this opportunity in the force." The report includes examples of staff who have benefited from development opportunities, such as an ICT administrator who says: "I was given the opportunity to get involved with project work to update command and control, something that I had never done in great detail before. I had very long days, but I learned some new skills."

Promotions and pay increases have occurred particularly in occupational roles such as IT, Savage notes, for which remuneration tends to be better in the private than in the public sector. But for those staff in lower-paid roles, UNISON officers have seen no evidence of opportunities for progression. Their view is that those working in the control room, in particular, have a lower level of control and autonomy in their jobs. UNISON claims, in fact, that the need to meet or exceed the demanding monthly targets that G4S sets has increased the level of stress for control room staff.

Employee engagement and morale

The interviews with UNISON officers and other sources of information present a mixed picture on staff engagement, and it is difficult to establish any objective evidence. UNISON officers report that members feel morale has suffered hugely as a result of the transfer, while G4S reports that morale is high.[111] However, all concerned agree that, as in the other cases studies, the primary motivational driver for staff is the desire to provide an excellent service to the public.

A report by Her Majesty's Inspectorate of Constabulary[112] adds limited insight but confirms the strength of the "police family" focus of the force, with "everyone pulling together" when there had been previous staff restructures. It states: "G4S staff spoken to by HMIC during this inspection described a continuing loyalty to Lincolnshire Police and good working relationships with officers and the staff retained by the force." It goes on to say: "Since April 2012 when the force started the G4S contract, there have been isolated difficulties with relationships between G4S and the force workforce. However, these have been ironed out through the staff associations and, one year on, the relationships are much improved."

Working together

The concept of the "police family" is of central importance at Lincolnshire Police, not just in fostering employee engagement but in the day-to-day effectiveness with which both officers and staff are able to do their jobs. Close working between the two is essential. For example, covering town enquiry desks, or police station counters, is a role where a PCSO might step in to cover the absence of a town enquiry officer or vice versa, and is particularly challenging in a large area such as Lincolnshire where the nearest police station might be a long distance away. Since the outsourcing, UNISON officers report some issues with this type of cover, but says that they are gradually being resolved with new arrangements being put in place to clarify exactly how cover is organised.

Savage notes that in terms of the "police family", it has not helped that Lincolnshire Police stated recently that any in-house staff vacancies would be open for permanent and temporary in-house staff, volunteers or agency staff to apply, but not staff employed by G4S. He thinks that more can be done in order not to "drive a wedge" in this respect between outsourced staff and their in-house colleagues, by the police force as well as by G4S.

Performance, efficiency and savings

Over the life of the Lincolnshire contract, G4S is committed to making £36 million in savings. In the first year of the contract's operations, these were estimated to be worth around 18 percent of the contract's value, equating to £5 million a year. While the analysis above suggests that considerable savings will have been made through restructuring and the appointment of new staff on lower terms and conditions, the evidence points to some use of more effective working practices and improvements to infrastructure such as IT.[113] When National Audit Office staff visited Lincolnshire, they reported: "Private sector expertise improved the professionalism of many roles, particularly custody. Managers and staff in all custody arrangements we visited said that the facilities exceeded their expectations."[114] A report published on the anniversary of the start of the contract by G4S details that some of the improvements made, including the clearing of a firearms licensing application backlog and improved customer satisfaction rates.

However, one of the biggest promises of the contract was for a shared services centre that would generate income. This could not be provided due to the fact that other forces signed up to the framework agreement did not decide to sign up to the contract. Moreover, the new custody suite facility and police station that was promised as part of the contract was not taken forward.

A limited solution?

Some independent commentators have asked whether Lincolnshire's commitment to a lengthy contract for support services with the private sector actually limits its capacity to work in partnership with other forces in order to bring about more fundamental modernisation in the way that the service works, and to ensure that it is the force that benefits from savings that might be brought about from ICT innovation, for example, rather than the contractor.

111 For instance, see: "G4S Staff at Lincolnshire Police 'Unhappy' Says Union" in *Lincolnshire Echo*, 3 April 2013

112 Her Majesty's Inspectorate of Constabulary *Lincolnshire Police's Response to the Funding Challenge* (July 2013)

113 Further positive testimony on the improvements made can be found in an article by Cate Moore, "G4S and Lincolnshire Police: A Modern Romance?" on catemoore.wordpress.com.

114 Her Majesty's Inspectorate of Constabulary and National Audit Office *Private Sector Partnering in the Police Service* (July 2013)

For example, a report by Her Majesty's Inspectorate of Constabulary and the National Audit Office, *Private Sector Partnering in the Police Service*,[115] highlights the disadvantage of every force pursuing its own contracting strategy. "We [also] question whether each force pursuing its own strategy is the most efficient way of partnering and whether better value for money could be achieved and risk better managed with greater coordination and support," it states.

Most partners in the debate can see the benefits of greater regional collaboration between forces. The question is whether contracts such as that in Lincolnshire actually inhibit, rather than enable, more fundamental and logical steps to improve the ways in which police forces can work together to deliver effective policing across the UK and use their resources most efficiently.

Key findings

- There has a constructive working relationship between UNISON and G4S in management of the transfer and organisational change.
- UNISON officers report that there has been secrecy around the contents and details of the contract, which have not been shared with the union.
- For lower-paid jobs, there is some evidence that pay is lower and premium pay terms are less favourable for staff on G4S contracts than for transferred staff, with lower salaries advertised and no or fewer working-time-related payments.
- There is evidence that promotions and pay increases have occurred for some management and technical staff.
- For some employees there have been development opportunities, but the drive to make savings has meant significant reorganisations and redundancies and much-increased pressure on staff.

115 Ibid

Appendices

Methodology

This report was commissioned by trade union UNISON, with the objective of taking a closer look at how contracting out public services affects the pay and conditions of public services workers.

The research method specified in the brief was as follows:

- to examine a small number of case studies of contracts outsourced from the public to the private sector, in order to take a closer look at what happens to the jobs, pay and terms and conditions of the workforce, using both the information provided by UNISON officers and other available sources of information; and
- to provide an overview of current research on this issue, summarising the findings and available statistics.

The research brief was specifically to look at areas where UNISON has members, including:

- the health service;
- local government;
- education; and
- policing and the probation service.

Literature review
The literature review draws on the following sources of information:

- published reports by government, business organisations, trade unions, research institutes and think tanks;
- academic and other research articles using Google Scholar; and
- employment practice resources and databases.

In addition, the research was informed by conversations with a number of stakeholders in the debate, from think tanks, employers' bodies, contracting firms and independent experts.

Case studies
The case studies themselves were selected from a list of suggestions made by UNISON officers. They were selected with the aim of covering a breadth of sectors and types of provider. Their selection was also, inevitably, influenced by the extent to which basic information was likely to be available in a sector where getting hold of basic employment information tends to be difficult.

Interviews were held with UNISON officers responsible for the specific contracts and workplace representatives. Information gathered in this way was then checked against publicly available sources of information from the employers and contracting authorities.

The lack of transparency around the procurement and outsourcing process makes finding information difficult. Rather than using freedom of information requests, this report was partly a time-limited experiment in finding out how much information can be gathered on particular contracts in a relatively short period of time. All information has been published in good faith and checked against other sources of information.

Additional references

ACAS *Handling TUPE Transfers: The ACAS Guide* (June 2014) (http://www.acas.org.uk/media/pdf/i/h/handling-tupe-transfers-the-acas-guide.pdf)

Audit Commission *For Better, for Worse – Value for Money in Strategic Service-Delivery Partnerships* (2008)

Berlinski, S "Wages and Contracting Out: Does the Law of One Price Hold?" in *British Journal of Industrial Relations*, vol 46, no 1 (March 2008)

Besse, L, Forde, C, Moore, S and Stuart, N *The National Minimum Wage, Earnings and Hours in the Domiciliary Care Sector* (University of Leeds, 2013) (https://www.nmds-sc-online.org.uk/get.aspx?id=829408)

Brandt, T and Schulten, T *Liberalisation and Privatisation of Public Services and the Impact on Labour Relations* (PIQUE, December 2007) (www.pique.at)

Fernandez, S, Smith, C and Wenger, J "Employment, Privatization, and Managerial Choice: Does Contracting Out Reduce Public Sector Employment?" in *Journal of Policy Analysis and Management*, vol 26, no 1 (Winter 2007), pp57-77

Gash, T and Roos, T *Choice and Competition in Public Services: Learning from History* (Institute for Government, 2012)

Gosling, T *Three Steps Forward, Two Steps Back: Reforming PPP Policy* (IPPR, 2004)

Grimshaw, D (ed) *Minimum Wages, Pay Equity and Comparative Industrial Relations* (2013)

Harvard Workers' Center *Outsourcing, Its Discontents, and Some Solutions* (Harvard Committee on Employment & Contracting Policies, 2001)

Hermann, C and Flecker, J *Privatisation of Public Services and the Impact on Quality, Employment and Productivity: Summary Report* (PIQUE, 2009) (www.pique.at)

Joseph Rowntree Foundation *Local Authority Experience of Compulsory Competitive Tendering* (August 1995)

Keefe, J "Public Employee Compensation and the Efficacy of Privatization Alternatives in US State and Local Governments" in *British Journal of Industrial Relations* vol 50, no 4 (December 2012)

Locality/Vanguard Consulting *Saving Money by Doing the Right Thing: Why 'Local by Default' Must Replace 'Diseconomies of Scale'* (March 2014)

Office for National Statistics *Public and Private Sector Earnings* (March 2014)

Sachdev, S *Paying the Cost: Public Private Partnerships and the Public Service Workforce* (2004)

van Wanrooy, B et al *The 2011 Workplace Employment Relations Survey: First Findings* (2013)

White, M and Knight, G *The 1990s Recession: Consequences of Mobility from and in the Public Sector* (Policy Studies Institute, forthcoming)

Wilcox, L and Lacity, M "What Suppliers Would Tell You if They Could" in *Professional Outsourcing*, no 8 (Spring 2012)

Williams, Z *The Shadow State* (Social Enterprise UK, 2012)

The Smith Institute
The Smith Institute is an independent think tank which provides a high-level forum for thought leadership and debate on public policy and politics. It seeks to engage politicians, senior decision makers, practitioners, academia, opinion formers and commentators on promoting policies for a fairer society.

If you would like to know more about the Smith Institute please write to:

The Smith Institute
Somerset House
South Wing
Strand
London
WC2R 1LA

Telephone +44 (0)20 7845 5845
Fax +44 (0)20 7845 5846
Email info@smith-institute.org.uk
Website www.smith-institute.org.uk

The Smith Institute is a not-for-profit company (registered as SI Research Limited, 07098225)