

Contracting culture: from CCT to PPPs

The private provision of
public services and its
impact on employment
relations

by

Sanjiv Sachdev

Kingston University



CONTRACTING CULTURE— FROM CCT TO PPPs

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on employment relations*

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A report for UNISON by
Sanjiv Sachdev
Senior Lecturer
School of HRM
Kingston Business School
Kingston University, Kingston Hill
Kingston upon Thames
Surrey KT2 7LB
Tel: 020 8547 2000 x 5759
email: s.sachdev@kingston.ac.uk

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EXECUTIVE SUMMARY

Since the 1980s public services have undergone far-reaching change: privatisation, ‘outsourcing’ and the introduction of market mechanisms have made important changes to their nature and structure. The role of the private sector in providing public services has grown significantly. Public Private Partnerships (PPPs) are another, important, change to the form of public services, offering opportunities for greater growth in the role of the private sector and blurring still further the distinction between the two sectors. The impact of these changes upon employment conditions has been enormous. This report examines the impact of such changes upon employment relations and some other key trends and implications for public services arising from the greater use of private sector providers.

The ‘contract’ state

Since the late 70s, in both the private and public sectors, there has been a trend towards outsourcing; more recently, this trend has been more pronounced in the latter. Organisations were urged to concentrate upon their ‘core’ activities. Some have argued that a ‘contract’ state has emerged whereby an increasing proportion of public services are organised around market relations and commercial contracts between purchasers and providers. This approach raised a series of difficulties for the public sector, including issues of private sector ‘opportunism’, problems of the monitoring of contracts, the commodification of the public realm and a lack of accountability.

The introduction of compulsory competitive tendering (CCT)

Compulsory competitive tendering (CCT) was introduced in the 1980s and was gradually extended in the health service and local government on a step by step basis. Starting with manual sectors, such as catering, cleaning and laundry services, it was later extended to white collar activities. The pursuit of cost savings was said to be the main reason for contracting out services.

CCT and pay and conditions

CCT was introduced on the grounds of improving ‘efficiency’. However, it is unclear whether such gains exceeded the costs of arranging and monitoring contracts. Moreover, much of the source of these gains, appear to be at the expense of staff pay and conditions, rather than being genuine productivity gains. Case studies, including those commissioned by the government, found that exposure to tendering led to the, often dramatic, erosion of terms and conditions of employment. This was particularly true of manual staff. The process of competitive tendering offered little scope to compete other than by worsening employees terms and conditions.

CCT and job losses

Job losses arising from CCT were considerable. Estimates state that some 40 per cent of the NHS ancillary jobs were lost. Significant job losses were also recorded in NHS maintenance and ambulance services, in local government refuse collection and street cleaning and in the civil service.

The rise of insecure work in public services.

The past two decades have seen job security in the public sector decline markedly. Legal protections, like the Fair Wages Resolutions were removed. Non-standard forms of employment were encouraged; employees on fixed term contracts are now much more common in the public sector than the private. At the same time, morale appears to have deteriorated.

Equal opportunities

Equal opportunities (EO) were a major casualty of CCT. There is a clear danger that this neglect of EO will be repeated by PPPs; the tension between the government's policy of promoting EO and its promotion of PPPs is evident. Studies by the Equal Opportunities Commission and the Equal Opportunities Commission of Northern Ireland found that the rate of job loss was higher for women workers than for men. The pay reduction for women workers was also greater. CCT was found to lead to the deterioration of maternity benefits and the loss of policies like sexual harassment policy. EO was found to be largely missing from the CCT process.

Family friendly policies

While having considerable scope for improvement, family friendly practices in the public sector are significantly better than those in the private sector. According to research commissioned by the government, a fifth of public sector workplaces had 'model' family friendly practices compared to just 3 per cent in the private sector. Private sector providers could actually impair the provision of such policies.

Multinationals and the provision of public services

Some of Europe's largest firms are involved in potentially lucrative markets of CCT and PPPs. Most of the contracts awarded under CCT in local government went to large businesses. Management consultants have found PPPs to be highly lucrative; the cost of external advisers is estimated to be 3 per cent of the value of PFI schemes, not significantly different from the projected value for money savings.

Trade unions and 'marketisation'

Weakening trade unions was an explicit aim of CCT. CCT shifted the balance of power in the workplace towards management as it seriously weakened the effectiveness of trade unions, fragmenting union memberships and interests. The scope of trade union influence was often reduced to local operational matters. A shift of provision to the private services sector, where unions have traditionally been very weak, is likely to weaken unions further.

Best Value

'Best Value' replaced CCT in local government. Affecting a wider range of services than CCT, it also broadens the 'value for money' criteria with measures of effectiveness and service quality. There is no longer a requirement to put services out to legal tender. Best Value has encouraged some substantial outsourcing of services, notably in Lincolnshire, Middlesbrough and Westminster. Fears have been expressed as to the implications of such deals for democratic accountability.

The background to Public Private Partnerships (PPPs) and the Private Finance Initiative (PFI)

PFI was launched in 1992 by the Conservative government and has been continued and significantly extended by its Labour successors. By June 2001 almost 400 PFI deals had been signed with a capital value of £17 billion. It accounts for some 14 per cent of total publicly sponsored capital spending and is the dominant model of procurement for new hospitals and prisons.

PFI projects are a form of PPP, defined as ‘a risk-sharing relationship between the public and the private sectors based on a shared aspiration to bring about a desired policy outcome’. With PFI the public sector obtains a service rather than an asset. The public sector pays a fee over the life of the contract to the private provider which is contingent upon services meeting specified standards.

The Labour Party and PPPs

The Labour Party has enthusiastically promoted PPPs, simplifying and extending their role. Three reasons appear to be behind this policy shift. Firstly, Labour seeks to prove that it has dropped its historical ambivalence to the profit motive and that its commitment to social justice need not unsettle the business community. The government argues that it is outcomes rather than ownership that is important. Some see this initiative as allowing more scope for more substantial privatisation. Secondly, the government believes that the quality of public services is improved through involving the private sector. Thirdly, and an increasingly discredited and less important reason, is that it helps the government overcome a fiscal dilemma, allowing more investment to take place than by conventional means. PFI is a form of partial privatisation, being a privatisation of provision rather than funding.

PPPs and staff

Among PPPs, workforce issues are highly controversial. Most public services are highly labour intensive. PPPs are said to derive many of their benefits from changing staff working practices. There is concern however, that the savings private sector contractors make are mainly derived at the expense of staff jobs, pay and conditions, particularly for new recruits. It is argued that there is an emergence of a two-tier workforce. Evidence from the prison service suggests substantial reductions in the pay and conditions of new staff, indicating the need for caution if it is to be extended to health and education services. In the NHS, pilot schemes have been launched in which staff remain in the public sector but managed by private contractors. This has been criticised by many leading contractors.

The breadth and depth of the Commission on Public Private Partnerships (CPPP) analysis of workforce is found to be disappointing, particularly in the light of the importance it attaches to this issue. It neglects many key studies in this area.

PPPs and the public service ethos

The public service ethos is seen by some as being endangered by PFI. Motivation in public service delivery is seen as being very different from that of the private sector (not being profit or shareholder driven); public trust is

particularly seen as being imperilled by PPPs, with long term implications for the nature of public services.

Core and ancillary services

The distinction between core and ancillary/clinical and non-core services is not entirely clear. Expansion of private sector involvement into core/clinical areas is both sought and likely.

Accountability

PPPs have been criticised for their lack of accountability. Commercial confidentiality has been used to limit public access to information. A lack of transparency is often evident.

Value for money

This is a central issue for PPPs. Yet, existing evidence suggest that the value for money gains are, at best, marginal. The lack of proper consideration of public sector alternatives to many PFI schemes is noted.

Public service planning

The length of some PFI contracts (often of 30 years duration) is seen as incompatible with long term health care planning, rendering public services delivery inflexible.

I. INTRODUCTION

references

1 Walsh and Davis (1993) in a government commissioned study. *Competition and Service: The impact of the Local Government Act 1988*, HMSO

2 Gavin Kelly (2000) of the IPPR. *The New Partnership Agenda*, IPPR

3 Shaoul (1999)

4 Cully et al (1999)

5 Walsh and O'Flynn (2000)

6 *In the words of the Major government "There is no absolute frontier between the public and private sectors"* (Cabinet Office, 1995)

7 Timmins and Cox (2001)

*"Competition has given a major push towards the greater casualisation of public sector work. There is greater use of casual staff to cope with peaks and troughs of work. The conditions of existing staff have partly been casualised by reducing the hours and number of weeks worked per year."*¹

*"There now appears to be no widely accepted account of the limits of private sector involvement in public services."*²

Since the 1980s public services have undergone far-reaching change. Pressures to cut the levels of public spending and public sector employment have been insistent³. Many services have been privatised, market mechanisms have been introduced to those remaining (so-called 'marketisation') as have commercial models of management. Contracting out within public services became widespread and commonplace – 88 per cent of all public sector workplaces sub-contract some services, with little difference between the private and public sectors⁴. Within the OECD Britain was unique in having a compulsory model of competitive tendering⁵. The contracting out of services blurred the boundaries between public and private sectors⁶; Public Private Partnerships (PPPs) are set to reduce this distinction still further. More recently, the debate as to "the form and funding of public services has emerged as the central issue in British politics"⁷.

The impact of these changes upon employment conditions has been enormous. This discussion focuses on changes arising within local government and the health service as a result of the private provision of public services; in particular it overviews the impact upon employees of compulsory competitive tendering (CCT)/market testing and provides an initial evaluation of the impact of 'Best Value'. It examines the effect of these initiatives upon the pay and conditions (section 3.1), employment levels (3.2) and job security (3.3) of public service employees.

It also considers the implications of private provision of public services for equal opportunities (section 4) and family friendly policies (section 5) and trade unions (section 7) and looks at the growing role of multinationals in providing public services (section 6). It examines the impact of 'Best Value' (section 8).

Finally, the paper evaluates some of the issues arising from PPPs, particularly their impact upon staff (section 9.3) and the public service ethos (section 9.4). Consideration is given to the development of PPPs (section 9.1) and the Labour Party's changing attitude towards them (section 9.2). A significant contribution to the PPP debate came in June 2001 with the report of the Commission on Public Private Partnerships (CPPP) produced by the Institute for Public Policy Research (IPPR), a think-tank with close links to the current government. This too is considered throughout the text, but mainly in section 9.

2. THE CONTRACT STATE

references

8 HM Treasury (1991)
cited in Colling (1993)

9 Peters and Waterman
(1982)

10 quoted in Reilly and
Tamkin (1996)

11 Hamel and Prahalad
(1990)

12 Reilly and Tamkin
(1996)

13 Colling (1995)

14 Cully et al (1999: 36)

15 Laing and Buisson
(2000).

16 Cully et al (1999)

17 Kirkpatrick and
Martinez Lucio (1996:2)

18 In the words of the
then chancellor, Kenneth
Clarke, "We are moving
government to being a
provider of private
investment opportunities
and a purchaser of
services" (cited in Elgin
1995)

19 quoted in Colling
(1999)

*"Private sector businesses have increasingly chosen to concentrate on their core business. They stick to what they know best and they buy in specialist contractors to provide new ideas, more flexibility and a higher level of expertise than could exist within a purely in-house operation. Public sector bodies are increasingly doing the same ... We believe that the further improvement of public services requires the substantial expansion of competition."*⁸

There has been a widespread shift towards outsourcing in both the private and public sectors. Since the late seventies, organisations have been urged to concentrate on the core activities, divesting themselves of other activities. Peters and Waterman⁹ urged companies to 'stick to their knitting'. The consultant Tom Peters⁹ argued that "The cry from the executive suite should become 'prove it can't be outsourced'".¹⁰ Hamel and Prahalad¹¹ sought to achieve business focus through defining and protecting core practices.¹² In the view of the management consultant Charles Handy, some companies prefer to see themselves as 'organisers' of collections of contractors, as opposed to 'employment organisations'. A plethora of terms emerged to cover essentially the same activity (that of using suppliers for activities that were originally conducted in-house): outsourcing, sub-contracting, market testing, contracting out and externalisation.

Since the 1980s the public sector has followed these trends, indeed, the most significant boost to subcontracting "has undoubtedly been provided by the decisive shift, driven by government policy, towards contractual relations in the public sector".¹³ In workplaces that were at least five years old, in-house services were much more likely to be contracted out by the public sector (36 per cent) than by the private sector (25 per cent).¹⁴ The pace of the growth of contracting out is sometimes striking; in 1992, 90 per cent of domiciliary social care was provided in-house; by 2000, half (49 per cent) was.¹⁵ The main services contracted out in Britain are, respectively, building maintenance, cleaning, transportation of documents or goods, training and security.¹⁶

It has been suggested that a 'contract' state has emerged whereby an increasing proportion of public services are organised around market relations and commercial contracts between purchasers and providers.¹⁷ It was envisaged by Conservative politicians that CCT would initiate a move towards an 'enabling' model of local government. Under this model local authorities would cease to provide or manage public services directly and instead become largely residual bodies that coordinate and monitor services through a range of contracts.¹⁸ A contract model would replace an administrative one. (Characteristics of this model include a clear division between clients and contractors, with service provision regulated by a legally enforceable contract. Contracts should specify in detail the nature and level of services required and provide remedial mechanisms for poor performance). The transfer of functions to the private sector was seen as the most effective mechanism to reform management practice. The Cabinet Office envisaged far-reaching radical change: "We believe the process of buying public services from private contractors is still only in its infancy. We propose to move the process decisively forward."¹⁹ This was said to lead to greater efficiencies. This 'enabling' model has its adherents on both the right and left of the

references

20 Pike (1996)

21 Colling (1999)

22 quoted in Pike (1996)

23 Deakin (1994)

24 Williamson (1973)

25 Corry et al (1997)

26 Corry et al (1997)

political spectrum; there is “a preference on the right for an enabling authority’s role to remain predominantly on the purchaser side of the equation; for the left enabling authorities, even if they no longer deliver all services directly, should retain crucial community leadership and co-ordination functions”.²⁰

Contracting out fundamentally changed the process of providing many public services, regardless of who provided it. Irrespective of whether work was awarded internally or externally, the management restructuring required by tendering created potentially market-inclined pressures within public organisations. In-house providers were instructed to operate as if they were independent contractors, maintaining their own accounts, to generate a return on their assets, and providing or purchasing their own support services (finance, payroll, personnel, etc).²¹

The leading quasi-market theorist and CPPP commissioner Julian Le Grand has argued that in this century “central government and or local authorities will still be financing welfare services. But they will no longer be providing the services concerned or, if they do, their role will be increasingly that of a residual provider”.²²

This approach is far from being straightforward. Firstly, there is the principal-agent problem, where the agent may have different objectives and may also have better information on what is going on than the principal (sometimes referred to as asymmetric information). Deakin²³ notes that “the purchaser is often dependent on the contractor for knowledge of what has been done or even... what should be done.”

Secondly, market arrangements need to be closely monitored, otherwise the supplier will seek to take advantage of the client through ‘opportunism’.²⁴ This sort of exploitation is particularly evident where there are a small number of firms supplying these services. As Corry et al²⁵ note in their IPPR report: “The private provider may be tempted to reduce costs by cutting quality, especially if it perceives the public purchaser or regulator as unable to properly monitor quality. Again, in the interests of cost-cutting, it may worsen the terms and conditions of employees thus reducing their incentive to provide a quality service. Also, it may be subject to short-termist pressures from shareholders, anxious to maximise dividend income, and therefore reluctant to undertake long-term planning”. The report also notes that:

“where a service is complex and its quality difficult to measure, or even define, specification may be difficult. Trying to put into a contract the courtesy with which the bins should be emptied, trying to write down in a contract what a nurse should do, or even trying to specify how an accountant working for local government should behave can become very difficult. Even if an element of quality can be defined, it may be pointless including it in the contract if it cannot be properly observed and hence monitored. ... It is only if you have been involved in delivering a service that you know where and how to look for where quality can be sacrificed to increase profits. A lower grade of timber used for doors by a building contractor will entail higher maintenance bills in maybe twenty years, but will only be noticeable in the short term to some one already an expert in the area.”²⁶

references

27 Colling (1995: 20)

28 Marquand (2000)

29 Marquand (1999)

30 Ascher (1987:20)

31 Alan Milburn 1999
cited in CPPP (2001:33)

32 Labour Party
manifesto (2001:17)

Moreover, “Historically, sub-contracting systems have broken down as contractors have gradually regained control of production processes and begun to operate opportunistically in their negotiations with clients”.²⁷

Thirdly, critics have argued that the claims of citizenship are being subordinated to a consumer culture inimical to public service.²⁸ In particular that:

“In the public domain, goods should not be treated as commodities or proxy commodities. The language of the buyer and seller, producer and customer, does not belong in the public domain and nor do relationships which that language implies. Doctors and nurses do not ‘sell’ medical services; students are not ‘customers’ of their teachers; policemen and policewomen do not ‘produce’ public order. The attempt to force these relationships into a market mould undermines the service ethic, hollows out the institutions that embody them and robs the notion of common citizenship of part of its meaning.”²⁹

Issues of accountability are also raised: “The growth of contracting out is a particularly significant development as it raises serious questions of accountability and control within local communities. It is not immediately obvious, for example, how the electorate’s wishes can be translated into action by a newly elected administration that is forced to honour the contracts of its predecessors and therefore has no control over the level or type of services provided.”³⁰ This last point is particularly pertinent for some PPP deals (see below).

The advent of a new Labour government in 1997 saw changes in nature of public service reform (see below) but the role of private sector remained key. In the words of the Secretary of State for Health: “partnerships between the public and private sector are a cornerstone of the government’s modernisation programme for Britain. They are central to our drive to modernise our key public services. Such partnerships are here and they are here to stay.”³¹ The Labour Party manifesto³² argued that “Services need to be highly responsive to the demands of users. Where quality is not improving quickly enough, alternative providers should be brought in. Where private-sector providers can support public endeavour, we should use them. A ‘spirit of enterprise’ should apply as much to public service as to business.”

3. THE INTRODUCTION OF COMPULSORY COMPETITIVE TENDERING (CCT)

“[Competitive tendering] represents among the most complex, time consuming, costly, and divisive purchasing exercises ever undertaken by health or local authorities.”³³

references

33 Kate Ascher (1987)

*The Politics of
Privatisation*

34 Ascher (1987); Bach
(1989)

35 Colling (1999)

36 Kessler and Coyle-
Shapiro (1997)

37 Cully et al (1999)

A gradual, step-by-step approach was used to expand the scope of compulsory competitive tendering. CCT, where private contractors are invited to compete with in-house work forces for the right to provide specified services, was established first for highways and building maintenance functions by the Local Government Planning and Land Act (1980). The most extensive contracting regimes were imposed upon local authorities. Local Government’s constitutional position required reform to be introduced through primary legislation, and its mandatory and prescriptive nature differentiated local government from other public service environments. A second round of legislation, the Local Government Act 1988, covered practically all ancillary services (e.g. building, cleaning, grounds maintenance, refuse collection) and required authorities to expose them to competition regularly (hence the acronym CCT for compulsory competitive tendering). Professional and technical services (including finance, legal and personnel functions) were incorporated into the local government legislation in 1992.

Policy in the health service established similar principles but relied upon ministerial pressure and directives. Catering, cleaning and laundry services were opened to competition in 1983. Other services were added on an ad hoc basis throughout the 1980s.³⁴ In the NHS “the introduction of contracting has frequently been grudging, to say the least. Health authorities were permitted at first to determine their own timetables provided these were completed by September 1986. Yet one third of hospitals had still to tender any of their catering, laundry or domestic services nine years after this deadline.”³⁵

Regulations and guidance covering white-collar CCT differed in important respects from those for manual work. Cost savings were not expected to the same degree, the focus on quality was greater, and tendering and contract procedures were more sophisticated. In local government, for example, a proportion of professional services could have been protected from competition; de minimis levels exempted further small functions where tendering costs outweigh potential savings; and credits were permitted for work already contracted out. Some professional and technical staff transferring to the private sector could also realistically expect better pay and career prospects.³⁶ Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) were also more likely to be applied in tendering exercises affecting white-collar functions.

The 1998 WERS survey asked managers in private and public workplaces why they had contracted out services. Cost savings were said to be the main reason (48 per cent); 38 per cent of public sector workplaces said they had done so because of government led initiatives or regulations.³⁷ Cost savings appear to have been realised. Overall, 42 per cent of workplaces (both private and public) said they made cost savings through contracting out, but 31 per cent were paying more for the same services with the remainder paying about the same.

references

38 A cleansing service supervisor quoted in McIntosh and Broderick (1996: 421)

39 Department of Environment report (1991) cited in Kerr and Radford (1994)

40 Ambitions for Britain (2001: 6) The Labour Party manifesto

41 Deakin and Walsh (1996)

42 Domberger and Jensen (cited in Walsh and O'Flynn, 2000)

43 Allen and Henry (1996)

44 Bach (1989); Kerr and Radford (1994); Escott and Whitfield (1995)

45 Walsh and Davis (1993: 155)

3.1 CCT and pay and conditions

“To be competitive with private contractors we have to keep costs down. The private contractors have an advantage as they don't have to pay holiday or sickness pay or pensions. That is why we extended part-time work and new contracts, to keep costs down.” [All short contract and temporary staff are paid £4 per hour which includes an element of bonus payment, and none are entitled to holiday or sickness benefits].³⁸

“Competition inevitably has major implications for pay, conditions and staffing levels [of Direct Service Organisations]. If they are to compete then local authorities must be able to reduce their costs below those private contractors... [T]he private sector will generally offer lower levels of pay, and have poorer conditions such as holidays, sickness pay and benefits”.³⁹

“For public services to be renewed, we will need more staff properly rewarded.”⁴⁰

CCT was introduced on the grounds of improving ‘efficiency’. However, as Deakin and Walsh⁴¹ argue, in many cases it is difficult to judge whether performance has improved as a result of CCT due to problems in measuring public service efficiency. Moreover, even if the estimates of efficiency gains are accepted, it is still not clear whether these savings exceed the managerial and monitoring costs of the contractual arrangements associated with CCT. Furthermore, the source of ‘efficiency gains’ is unclear; Domberger and Jensen⁴² note that it is uncertain whether cost savings represent ‘wealth transfers – reductions in wages and salaries of staff – or genuine productivity gains’.

The eighties and nineties saw the rise of what has been dubbed ‘precarious employment’ among contract workers in cleaning, catering and security services.⁴³ Employment in these trades is only guaranteed for the duration of a particular contract (mostly three to four years). When contracts are lost, employees may retain their jobs through transfer to a new employer, but this change may also result in changed conditions and uncertainty, notwithstanding the Transfer of Undertaking (Protection of Employment) Regulations 1981. Given the high rates of labour turnover within these occupations, the new terms and conditions will rapidly become the norm.

There is considerable evidence that exposure to tendering has led to the erosion of terms and conditions of employment, at least for manual workers. Case studies report cuts in pay, hours and employment benefits and the withdrawal of bonus schemes.⁴⁴ Walsh's and Davis's (1993) survey, commissioned by the Department of the Environment, of local authority responses to CCT reported that 15 per cent of authorities had withdrawn bonus schemes, 7 per cent had cut basic wages, 18 per cent had altered their approach to sick pay and 12 per cent had changed holiday entitlement. The main response, apart from workforce reduction, had been to rearrange hours of work, reported by 51 per cent of authorities. As they state: “They are labour intensive, and the only way that savings are likely to be made is by one or other aspects of staffing”.⁴⁵ Low rates of pay and unsocial hours often made recruitment difficult for both local authority direct service organisations

references

46 Walsh and Davis (1993: 135)

47 Walsh and Davis (1993: 163)

48 Cully et al (1999: 45)

49 Collings (1999)

50 Patterson and Pinch (1995: 1458)

51 cited in *Income Data Services* (2000b)

52 Winchester and Bach (1995)

53 Halsey (1996)

and private contractors – despite, in the case of building cleaning, a recession taking place.⁴⁶ They note that: “Manual staff, in particular, have borne the brunt of the changes that have been made in working methods, pay and conditions”.⁴⁷

Using £3.50 an hour as a measure, the WERS survey found that very low pay had been substantially privatised by contracting out. It found that:

“just 7 per cent [of public sector workplaces] – had any low paid employees. We have shown that direct transfers of employment were three times greater in the public than the private sector. The main motivation in contracting out services was to achieve cost reductions. One conclusion that might be drawn from this is that the public sector has managed to effectively transfer low paid jobs into the private sector.”⁴⁸

Hospital porters, cooks, cleaners and kitchen helpers sustained real pay cuts between 1980 and 1985. As Collings⁴⁹ notes, earnings growth thereafter was modest and significantly below even private sector groups until the early 1990s. Earnings growth is attributable in some cases to the buying out or consolidation of additional payments in the context of job cuts and dramatically increased productivity. NES data confines analysis to those in employment and consequently underestimate the growth in earnings inequality. In services characterised by part time employment, changes in hours and reduced access to bonus and premium payments has had significant ramifications for women, who comprise the majority within such work forces. Patterson and Pinch⁵⁰ conclude that “CCT establishes a separation of a concern for the service to be provided from a concern for the people who will provide that service”.

The problems arising from CCT are not confined to the NHS or local government. In a recent dispute involving London Buses, the ACAS appointed arbitrator identified the ‘the short term perspective of the tendering system operated by London Transport’ as being at the root of the problem. The contracts offered little scope to compete ‘other than by worsening employees terms and conditions of employment’.⁵¹ As an overview of public service workplaces concluded:

“More generally, there is clear evidence of increasing fragmentation and diversity between and within different parts of the public services. Even though the government may continue to cushion the impact of increased competition on staff and service users, the logic of its overall strategy seems inescapable; there will be ‘winners’ and ‘losers’ in the new public service markets. While all providers will face continuous downward pressure on labour costs, the pay, career prospects and working conditions of staff are likely to diverge more significantly than in the past, and the most vulnerable ‘losers’ will be swept aside in a continuing process of restructuring.”⁵²

3.2 CCT and job losses

“People who are already vulnerable continue to be asked to make sacrifices in a situation for which they are not responsible.”⁵³

references

54 Walsh and Davis (1993: 159)

55 Escott and Whitfield (1995: 147)

56 Walsh and Davis (1993)

57 McIntosh and Broderick (1996); Escott and Whitfield (1995)

58 Kerr and Radford (1994)

59 Kelliher (1995: 310)

60 CIPFA (1991) cited in Morgan et al

61 GSS (1996: 8); Cabinet Office (1996: 46)

62 Cabinet Office (1996: 47)

63 Ascher (1987: 106)

63b Ascher (1987: 111)

64 Morgan et al (2000)

Job losses arising from CCT were considerable. The Labour Research Department (1991) estimate that 111,000 health service jobs have been lost between 1983 and 1991 as a result of CCT, equivalent to 40 per cent of the ancillary workforce. Walsh and Davis⁵⁴ report a 12.2 per cent reduction in staffing levels across the manual services exposed to competition by the Local Government Act 1988, with particularly sharp drops in refuse collection, building, cleaning and grounds maintenance. Escott and Whitfield⁵⁵ on the basis of later findings produce a higher estimate of 21 per cent. Over half of all local government direct service organisations (DSOs) have reduced employment to some degree⁵⁶ and case study evidence highlights reductions of up to two-thirds of jobs in some instances.⁵⁷ Kerr and Radford⁵⁸ found that competitive tendering ‘contributed to an overall loss of 107,558 jobs between December 1983 and December 1992’ in NHS catering, cleaning and laundry services and outline significant job losses in NHS maintenance and ambulance services. Kelliher reports “a significant reduction in the numbers of full-time staff employed and that adjustments were made to the numbers of part-time staff”.⁵⁹ There has been a sharp decline in the numbers employed on refuse collection and street cleaning from 37,018 in 1988 to 31,617 in 1991.⁶⁰

Between 1992 and 1995 market testing reduced the number of civil servants by 20,200 (40 per cent of all job reductions during the period) and resulted in the internal transfer of a further 14,500.⁶¹ More than half (52 per cent) of civil servants working in in-house teams reported that their job had worsened following market testing and the figure was higher still among staff transferred to the private sector.⁶² Among both in-house and transferred staff the most common causes of declining job satisfaction were increased work loads, inadequate resources, and increasing stress and insecurity.

Job losses focused upon particular staff. Ascher notes⁶³ that there is ‘overwhelming evidence that contractors select only the youngest and strongest applicants from the former in-house staff’. In one notorious incident a contracting firm rejected two mentally handicapped men who had been sweeping the streets of one local authority for twenty years (“We don’t have any room for the ‘John Dawsons’ and ‘Peter Smiths’ of this world’ was what the firm reputedly told the press).

3.3 The rise of insecure work in public services

“The tendering process has served to remove the job security which service workers enjoyed as public sector employees.”^{63b}

Traditionally, job security “has been seen as a defining characteristic of traditional public sector employment”.⁶⁴ Developments in the past two decades have markedly diminished this security. Job security diminished following a substantial weakening of the legal protection afforded to public service workers. The Fair Wages Resolutions were rescinded in 1983. The Local Government Act 1988 made it unlawful for local authorities and other public bodies to use ‘contract compliance’ or to consider ‘non-commercial matters’ when choosing and dealing with contractors, including the wages of the contractors’ employees and policies on trade union membership.

Employment patterns in the public services have been transformed. The encouragement of non-standard employment has been marked. It is argued

references

65 Morgan et al (2000)

66 McIntosh and Broderick (1995)

67 LGMB (1997) cited in Morgan et al (2000)

68 Morgan et al (2000)

69 Morgan et al (2000)

70 Casey et al (1997)

71 Escott and Whitfield (1995)

72 Walsh and Davis (1993)

73 Kelliher (1995)

74 *Municipal Journal*, 23.1.98 cited in Colling (1999)

75 Escott and Whitfield, (1995)

that “the spread of contracting and market testing in public services has made employment more precarious for large numbers of public sector workers. It has led to a significant increase in the risk of job loss and reduction in employment standards”.⁶⁵ The case study examined by McIntosh and Broderick⁶⁶ found that at “SCS [Southburgh Cleansing Services] ‘flexibility’ amounts to a very unsophisticated practice of shedding labour, increasing workloads and employing workers on a variety of seasonal and temporary contracts.”

The 1998 Workplace Employee Relations Survey monitored some of these changes. Nearly three quarters of public sector workplaces were found to have employees on fixed term contracts – a far higher proportion than the private sector, where a third do so. In local government, legislation stipulated that contracts could be of between three and ten years in duration, depending on the service. Research on contracts for manual services indicates that most ran for approximately four years and are towards the lower end of the statutory range⁶⁷. “When framing contracts, therefore, local authorities appear to have prioritised flexibility, and their own ability to review and modify contracts, over the reduction of uncertainty for the workforce”.⁶⁸ Job security has thus significantly fallen.

There has been an “unambiguous increase in the use of contingent workers in public services”.⁶⁹ According to Casey et al⁷⁰ evidence from the Labour Force Survey between 1984-94 indicates a 66.6 per cent increase in the use of temporary work in public administration (5.8 per cent of the total in 1994), and 66.4 per cent in health and social work (7.3 per cent of the total in 1994). An analysis of spring 1996 LFS data found that 13 per cent of local authority workers (293,000) were on temporary contracts, nearly double the rate in the economy as a whole (7 per cent). According to Escott and Whitfield⁷¹ public sector women were no more likely than their private sector equivalents to report satisfaction with job security. Walsh and Davis⁷² found a tendency “towards a core staff, with others recruited as and when needed.”

It thus comes as little surprise that the morale of staff appears to have deteriorated. Over half of the NHS managers (55.1 per cent) replying to Kelliher⁷³ said that morale had worsened with CCT. (A fifth – 23.1 per cent – said it had improved). Loyalty and job satisfaction were also seen as being significantly damaged (38.5 per cent and 39.7 per cent of NHS managers respectively believed they had worsened. The views of staff themselves were not examined). Kelliher argues that “The threat posed to the security of employment by competitive tendering had a significant impact on the relative bargaining positions of management and employees... employees could be faced with the choice of resisting concessions in an attempt to ‘protect’ their jobs.”

In 1998 one in eight local government workers was found to be on a temporary contract.⁷⁴ Temporary contracts were particularly common in contracted services characterised by women’s employment.⁷⁵ The explanation appears to lie in the opportunity to reduce work forces radically without recourse to cumbersome redundancy and/or procedures.

4. EQUAL OPPORTUNITIES

“the impact of contracting out is greatest on the most disadvantaged in the labour market: the low paid, women, ethnic minorities, and people with disabilities.”⁷⁶

“Equality appears as the missing dimension in competitive tendering.”⁷⁷

references

76 Kerr and Radford (1994)

77 Equal Opportunity Commission, Northern Ireland (1996)

78 Cabinet Office (1997)

79 EOCNI (1996:69)

80 Walsh and Davis (1993: 158)

81 Walsh and Davis (1993: 158)

Equal opportunities (EO) were a major casualty of CCT regimes, an important point to note with regard to government guidance on PPPs.⁷⁸ Both the Equal Opportunities Commission (EOC) and the Equal Opportunities Commission of Northern Ireland (EOCNI) examined the impact of CCT.

The EOCNI (1996) found that the majority of services selected for competitive tendering were female dominated and there was a higher rate of job loss for women (14 per cent) than for men (6 per cent). Women’s average working hours were reduced by 11 per cent, men’s by 5 per cent. Competitive tendering had a differential impact on weekly wages; the overall gender pay gap increased by 3 per cent. After competitive tendering 87 per cent of women and 67 per cent of men received lower wages with women experiencing a proportionally larger reduction than men. Where contracts were awarded to private contractors there was a deterioration in employment terms, including the total loss of some benefits such as contractual maternity benefits and more stringent qualifying conditions for others, and/or lower entitlements.

Furthermore, there was a minimal consideration of equal opportunity issues in the competitive tendering process, despite the universal existence of equal opportunity policies in the boards and trusts concerned. There was “no evidence that any steps were taken to ensure that the process was free of gender bias when services were chosen to be tendered, when tenders were assessed, or in the period after the award of contracts”. Although the DHSS Management Executive told the investigation that the question of EO was part of a thorough and rigorous examination of all potential tenderers and contractors, managers interviewed did not think there was any requirement to ensure that tendering (or in-house bidding) was free of gender bias. Although private contractors were required to have an EO policy, the few analysed in the investigation indicated a regression from the policies of the public sector. For example, issues which were included in health board policies such as victimisation and sexual harassment were lost with the transfer of employment to private companies.

Contracts included the provision that contractors shall not discriminate within the meaning of SD (NI) Order 1976 and other anti-discrimination legislation but no steps were taken to ensure that contractors observed this condition after the award of contracts, rendering it ‘largely meaningless’.⁷⁹

Walsh and Davis⁸⁰ (1993; 158), in their government commissioned study also found that “The development of competition has also put pressure on equity in employment conditions, and on the development of equalities”. One personnel officer⁸¹ remarked: “The contractor questions things like child care vouchers for women returners, because he says he can’t afford it...”

references

82 Escott and Whitfield (1995)

83 White (1997)

84 Dickens (1997)

85 Wirth (2001)

The 1995 EOC study of local government made similar findings. The impact of contracting on part-time working, a long standing feature of public sector employment, has been complex: “Pressure to reduce support service overheads has contributed to increases in part-time working for non-manual staff. Among manual staff, however, part-time employees have taken the brunt of adjustments in employment and their numbers have actually declined.”⁸². White⁸³ found that part-time employment fell by 22 per cent, double the decline among full-time staff and more than the 15 per cent reduction for the sector as a whole.

As a leading analyst argues:

“Underlying the experience of competitive tendering in the public sector is a tension between, on the one hand, the government’s belief in the supremacy of the market and the virtues of deregulation, with competition over labour costs, and, on the other hand, the pursuit of employment equality, which often requires opposition to market forces which are tainted by sex discrimination. There is an unacknowledged contradiction in public policy in seeking women’s employment equality through anti-discrimination legislation, guidance and exhortation, while simultaneously undermining this goal in other areas of economic, legal and social policy.”⁸⁴

Recent research published by the International Labour Organisation⁸⁵ suggests that private sector workplaces are internationally much more discriminatory than those of the public sector. There is a potentially powerful tension, if not contradiction, between the government’s promotion of both EO and PPPs. What is clear is the neglect of this issue from the examination of PPPs, a neglect apparent in the commission’s study among others.

5. FAMILY FRIENDLY POLICIES

references

86 CPPP (2001:256)

87 Forth et al (1997)

88 Cully et al (1999: 76)

89 Cully et al (1999: 145)

90 Cully et al (1999: 147)

91 Forth et al (1997:
153)

92 Forth et al (1997: 32)

93 CPPP (2001: 196)

94 see EOCNI (1996)
and Walsh and Davies
(1993) for specific
examples of family
friendly measures
impaired by CCT

The Commission hopes that by 2010 PPPs will mean that: “Public service provider organisations will lead the way in progressive employment practices from family friendly working to employee share ownership”.⁸⁶ As to family friendly practices that currently exist, as noted by the authoritative WERS 98 survey, and research commissioned by the Department of Education and Employment,⁸⁷ public sector provision is significantly better than that of the private sector. For example, in situations where someone needs to take time off at short notice, such as when a child is sick, the difference between the two sectors is “substantial”. Half of public sector workplaces provided special paid leave for this type of circumstance – nearly four times the rate of the private sector.⁸⁸

Of other family friendly provisions examined, “All were more prevalent in the public sector”.⁸⁹ This is most strikingly so of job sharing schemes where 34 per cent of women in the public sector had access to such schemes compared to 15 per cent in the private sector. Furthermore, “Parents working in the public sector reported better provision than those working in the private sector on both parental leave and child care”.⁹⁰

The Department for Education and Employment commissioned study⁹¹ found that a fifth (20 per cent) of public sector establishments had “model” family friendly practices, compared to just 3 per cent of private sector ones. Furthermore 29 per cent of mothers in the public sector were entitled to a broad range of benefits, compared to just 11 per cent in the private sector. For example, “extra-statutory maternity leave (leave greater than the state minimum) was much more common among public sector establishments than it was among their private sector counterparts”.⁹² Indeed it was more than three times as common (30 per cent in the public sector compared to 7 per cent in the private sector).

Similarly, when paternity leave was examined, public sector provision was twice that of the private sector (58 per cent of public sector establishments, compared to 28 per cent of private sector ones). When nursery places, childcare allowances or other forms of practical assistance were looked at, public sector provision was significantly greater than that of private sector, albeit with substantial scope for improvement. Career breaks were far more common in the public sector than the private (32 per cent compared to 15 per cent) as were term time only contracts for full-time work (30 per cent compared to 4 per cent). The Commission argues that “government should always seek to spread good employment practice”.⁹³

A recent survey by Human Resources (2001) magazine found the public sector to be far more family friendly than the private sector; 78 per cent of public sector organisations attracted women back to work after maternity, compared to just 58 per cent for the private sector.

In relation to family friendly policies, better practices are generally in the public sector than the private, something which the Commission does not appear to recognise. Indeed, the possibility that private sector providers could actually erode public sector practices is real and borne out by the experience of CCT, as outlined in section 6 of this booklet.⁹⁴

6. MULTINATIONALS AND THE PROVISION OF PUBLIC SERVICES

references

95 Gavin Kelly (2000)
*The New Partnership
Agenda*, IPPR

96 Figures cited in the
Financial Times 28.6.01.

97 Colling (1995: 20)

98 *Financial Times*
(2001)

99 *Compass Group*
(2000)

100 *Rentokil Initial*
(2000)

101 *Abbott et al* (1996)

102 *Paddon* (1993)

103 *Colling* (1995)

104 *Thompson* (2000)

105 *Corry et al*

106 *Crouch* (2000:31)

*“The growth of private sector involvement in PPPs has been complemented by the wider trend towards private sector companies becoming significant public policy players in their own right”.*⁹⁵

It is estimated that, excluding the private finance initiative, local authority contracting is worth £4.6 billion, education outsourcing (which overlaps with the former to an extent) £2.5 billion and health contracting £1.5 billion.⁹⁶ The provision of public services is a potentially lucrative market. Some of the largest private sector firms are involved in CCT and PPPs; as Colling notes: “many of the most influential contractors are now large, sophisticated, often trans-national companies offering a diverse range of services”.⁹⁷

For example, the French Sodexho Alliance and the Copenhagen-based ISS group are, with 250,000 employees each, two of the ten largest private sector employers in Europe.⁹⁸ Compass Group also employs 250,000, operates in more than 80 countries, with 60 per cent of its revenue coming from overseas, claiming to be the world’s leading food service organisation.⁹⁹ It maintains that: “More and more healthcare providers are seeing the benefits of outsourcing, a trend that is partly driven by legislation which is opening up the public sector to outsourcing. It is now not unusual for Medirect [a Compass operating company] to be discussing providing services to entire health authorities”. Rentokil Initial claims to be “one of the largest business services companies in the world” with some 96,000 employees and operates in more than 40 countries.¹⁰⁰

Most of the contracts awarded under CCT in local government¹⁰¹ went to large businesses (small businesses were seen as lacking the resources to deal with larger contracts). Indeed, “the largest companies are no longer bound to particular national markets and are increasingly able to offset market decline or poor performance in one country by increasing activity elsewhere. The European Union’s Public Procurement directives have opened up very valuable new markets for UK contractors in Germany, Italy and France”.¹⁰² Thus at the height of the UK recession in 1991, Gardner-Merchant won 500 new contracts, 240 of which were ‘overseas’.¹⁰³ The sheer scale of some PFI contracts excludes all but large firms from the bidding consortia. Competition among firms competing for PFI appears to be limited. As some IPPR research on the prison service notes; “the competitive market that the PFI was hoped to create, is composed of a small number of private sector firms”.¹⁰⁴

The implications of growing private sector involvement has been noted. The 1997 IPPR report argued that “the increasing use of PPPs means that vigilance against private companies having an excessive influence against decisions in related areas must be doubled.”¹⁰⁵ One commentator¹⁰⁶ argues that a spiral has been set in motion which will increase the role of private firms still further:

“As more and more state functions are sub-contracted to the private sector, so the state begins to lose competence to do the things which it once managed very well. Gradually it even loses touch with the

references

107 NAO (2001)

108 Boyle and Harrison (2000)

109 *A similar pattern is evident in Australia* (Dickens, 2001). In the June 2000 to June 2001 the government paid Arthur Andersen and Co, \$A33.2m; Deloitte Touche Tohmatsu, \$A24.7m; Ernst and Young, \$A19.8m; PricewaterhouseCoopers, \$18.5m; and KPMG \$A11.3m

110 Boyle and Harrison (2000)

110b Harding (2001)

knowledge necessary to understand certain activities. It is therefore forced to sub-contract further and then buy consultancy services.”

Management consultants have also found PFI highly lucrative. The National Audit Office¹⁰⁷ reported that the ‘Big Five’ management consultancy firms were paid over £133 million in 1999-2000 by central government (£231 million was spent on management consultancy overall) of which PPPs made up a considerable portion. PricewaterhouseCoopers got nearly £70m; Ernst and Young £30.6m; KPMG £19.2m. PricewaterhouseCoopers were paid some £7m (excluding VAT) and Herbert Smith some £2 million for their advice to the Ministry of Defence (excluding VAT) for the PFI scheme leading to the construction of the Ministry of Defence main building. The costs of external advisors in NHS PFI schemes was up to 8 per cent (£4.4 million) of the total cost, with a weighted average of 3.5 per cent.¹⁰⁸ The NAO report on Dartmouth and Gravesham hospital states that these costs were six times greater than the Trust’s preliminary estimates.¹⁰⁹ Boyle and Harrison¹¹⁰ calculate that payments by NHS Trusts to external advisers have averaged over 3 per cent of the value of the PFI schemes, not significantly different from the projected value for money savings.

In a similar manner to full privatisation, PPPs are now being exported throughout Europe.^{110b}

7. TRADE UNIONS AND 'MARKETISATION'

"The real purpose of contracting out ... is as much to weaken the unions' monopoly grip as to save money."¹¹¹

Weakening trade unions was an explicit aim of CCT. In the words of the former Secretary of State for the Environment:

"The root cause of rotten local services lies in the grip which local government unions have over those services in many parts of the country... Our competitive tendering provisions will smash that grip once and for all".¹¹²

CCT shifted the balance of power within the workplace: "Competitive tendering has pushed the initiative in favour of management-desired change, and unions have appeared to acquiesce to many of their proposals".¹¹³ The rolling nature of the CCT programme engaged successive single sections of unions, usually at the less well-resourced local level, in a continual struggle to retain jobs and services within the public sector. As noted above, authorities were prevented from taking account of 'non-commercial' matters, including employment policy. Attempts to ensure consistent employment rights and standards across organisations (and through the course of transfers) were undermined. This seriously weakened the effectiveness of trade unions in that any attempt to protect employees existing terms and conditions could raise the costs of in-house bids and thereby lead to the loss of contracts and jobs. Colling¹¹⁴ found that: "Public sector management's have also taken the opportunity to reconstruct their collective employment relations. Confining trade union influence to local operational matters has been a key consequence of reform and sometimes an explicit objective".

Union memberships and their interests were fragmented. By defining certain services separately and exposing them to varying operational and competitive pressures, contracting potentially resurrects divisions within what have always been extremely diverse work forces. Where members transfer to employers spread over the private sector, the potential for sectionalism is increased further.¹¹⁵

A sharp decline in union membership among manual occupations has occurred since 1989; density is now similar to non manual occupations.¹¹⁶ Where health services are provided by the public sector, union density stands at 62 per cent where health services are private sector provided it is just 15 per cent.¹¹⁷ Overall, some 19 per cent of employees in the private sector are union members, compared to 61 per cent in the public sector.¹¹⁸ A further shift of provision to the private services sector, where unions have traditionally been very weak, from their public sector strongholds is likely to weaken unions further.

Though unions have retained a role greater than envisaged initially, CCT posed substantial challenges to union organisation and weakened unions' capacity to defend their members' interests.¹¹⁹ Among contracted out services procedural agreements have tended to be narrower and more qualified than those existing in the public sector.¹²⁰ Where negotiating rights are ceded at all (as opposed to the right to represent members), bargaining units may be defined restrictively and the negotiating structures and terms of reference are left open to local discretion.

references

111 *The Economist* (17.9.83)

112 Nicholas Ridley, quoted in Colling (1999)

113 Sheaff (1988)

114 Colling (1999)

115 Colling (1999)

116 Hicks (2000: 332)

117 Hicks (2000)

118 Bland (1999)

119 Colling (1995)

120 Colling (1997)

8. BEST VALUE

“under best value we want to see more strategic outsourcing without in-house bids, more PFI and other forms of joint ventures”¹²¹

references

121 Adair Turner, *the then Director General of the CBI (Local Government Chronicle (1998))*

122 DETR (1998)

123 LGMB (1997) cited in Morgan *et al* (2000)

124 Morgan *et al* (2000)

125 IDS (2000a)

The Labour government elected in 1997 appeared to accept many of the criticisms of the CCT regime. Its consultation Green paper¹²² stated that:

“There have been significant costs for employees, often leading to high turnover and the demoralisation of those expected to provide quality services... All too often the process of competition has become an end in itself, distracting attention from the services that are actually provided to local people. In short, CCT has provided a poor deal for employees, employers and local people. CCT will therefore be abolished.”

In local government, CCT was replaced by ‘Best Value’. In June 1997 the government published 12 provisional key principles underlying Best Value. It stated that the new regime will “apply to a wider range of services than those covered by CCT” and that “there will be no compulsion for councils to put their services out to tender, but there is no reason why services should be delivered directly if other more efficient means are available”. The Best Value regime came into force in England in April 2000 (slightly different provisions apply in other parts of the UK). It requires local authorities to seek continuous improvements in economy, efficiency and effectiveness. They have to do this by reviewing services periodically to gauge whether they are still necessary, and whether current service delivery approaches are the most appropriate. Best Value reviews will make use of the ‘four Cs’: they will challenge the need for a particular service; compare its performance, taking account of the views of service users and providers; consult local taxpayers, service users and the wider business community in setting performance targets; and compete in the sense of demonstrating that the preferred means of delivering services is the most effective available. Competition will continue as ‘an important management tool’ but will not in itself demonstrate best value. Value for money criteria will be supplemented by benchmarked measures of effectiveness and service quality.

Best Value seeks to broaden the performance criteria used to evaluate local government services and ending the legal requirement to put them out to tender. The emphasis on competition, performance rating and benchmarking is retained however, and according to the Local Government Management Board, “it is very likely that tendering of contracts will continue in the long term for what are currently described as blue and white collar services and perhaps in other areas as well”.¹²³ The retention of competition “as a form of external discipline on public sector organisations seems likely to remain a feature of state policy for all public services notwithstanding the change of government.”¹²⁴

The Best Value initiative “has influenced both Lincolnshire County Council and Westminster City Council in outsourcing much of their HR activity to the private sector.”¹²⁵ In Lincolnshire’s case, the move to outsource several services (personnel, payroll, finance, IT, property management and catering) was also driven by a desire to achieve real cost savings in the long term through major investment in back office IT systems. In Lincolnshire some 1,200 staff

references

126 Foster (2001)

127 IDS (2000)

128 IDS (2000)

129 The CPPP report (2001: 51)

transferred to Hyder. The Council's support services in the areas are now delivered in conjunction with Hyder Business Services. These services had a combined annual budget of some £14.3 million. Westminster City Council has outsourced its HR administration, advice and recruitment to Capita (this involved the majority of HR staff transferring across to the new provider). Middlesbrough Council¹²⁶ has also transferred 1,000 staff for a ten year contract with Hyder Business Services; the transfer includes services like housing benefit, council tax administration and information technology.

In Lincolnshire, the efficiency savings mean that "the number of transferred staff needed to carry out Lincolnshire's work from Hyder's new business centre will diminish. However, these surplus staff will be redeployed by Hyder onto other third party contract work".¹²⁷ With such contracts "A possible difficulty for clients is that good staff once transferred to a supplier may move on quickly within their new organisation, meaning that their knowledge of the client company is lost".¹²⁸

While the savings achieved by Westminster Council were considerable, they were not without other costs: "many staff found the whole process unsettling which led to problems of poor motivation and morale ... Over this period, these staffing difficulties meant it was difficult for the senior staff to keep the service running and by the time of the transfer only 20 of the 27 personnel posts were filled by permanent staff".

According to the Council, the number of experienced professional staff servicing the Westminster contract was reduced, as a way of optimising cost savings. The shortages were particularly acute at a senior level, with, over a short space of time, some staff leaving and others moving elsewhere within Capita, without being replaced. This meant there was a loss of knowledge about how Westminster worked. This was reflected in the service that line managers were receiving and resulted in a number of complaints to the retained HR team who had to become involved.

The CPPP report¹²⁹ is critical of the deals like those agreed in Lincolnshire and Westminster. It argues that high profile and ambitious partnership arrangements struck between "authorities and large service companies who provide a wide range of services ... we think that there are considerable risks inherent in this emerging model of partnership. The prospect of 'one company towns' sits uneasily with the principle of diversity which is supposed to inform Best Value". Furthermore it argues that: "If the private sector underperforms, or the relationship between the authority and its partners deteriorates (say, following a takeover), this could have a major impact on the services offered to local citizens. There is also a risk that local political leaders will invest so much in the relationship with their strategic partner that they will find it hard to remain impartial about whether it is really benefiting local citizens. If this happens then democratic accountability would be imperilled."

9. PUBLIC PRIVATE PARTNERSHIPS AND THE PRIVATE FINANCE INITIATIVE

9.1 The background to PPPs and PFI

references

130 Sir Alastair Morton cited in Elgin (1995)

131 Alastair Darling, then shadow Chief Secretary to the Treasury (*Financial Times* 11.1.97)

132 Timmins and Pickard (2001)

133 Robinson (2000b)

134 CPPP (2001: 99).

135 CPPP (2001: 40)

136 CPPP (2001: 40)

137 Corry et al (1997)

138 “there are numerous examples of the use of partnerships for the provision of highly complex services. In the US, emergency services have been one of the services most frequently outsourced.” CPPP (2001: 128)

*“This [PFI] is the Heineken of privatisation – taking the private sector to the parts of the government machine not reached by previous privatisations and contracting out”.*¹³⁰

*“apparent savings now could be countered by the formidable commitment on revenue expenditure in years to come.”*¹³¹

In 1992 Norman Lamont, the then Conservative Chancellor of the Exchequer, launched the Private Finance Initiative (PFI). By June 2001 it was reported that almost 400 PFI deals had been signed with a capital value of £17 billion.¹³² In the period covered by the comprehensive spending review (1999-2002) PFI will account for 14 per cent of total publicly sponsored capital spending. PFI spending is heavily concentrated in certain areas of the public sector, including transport, health and increasingly local government (local government is forecast to be delivering a third of all PFI spending by 2001-2002).¹³³

While the PFI arguably represents a small proportion of total capital spending, it is “the dominant model of procurement for new hospitals or prisons.”¹³⁴ The Commission (2001) notes that 19 out of 23 major hospital projects that had reached financial closure by summer 2000 were commissioned by using the PFI route. Furthermore, the NHS plan (published in February 2001) suggested that almost all new hospitals would be built using PFI.

PFI projects fall within the definition of Public-Private Partnerships (PPPs), a wider term which includes various types of joint venture as well as PFI projects. The Commission defines PPPs as “a risk sharing relationship between the public and the private sectors based on a shared aspiration to bring about a desired policy outcome”.¹³⁵ Contracting out services, such as catering, is viewed as a form of PPP by some government departments, in particular the Department for Education and Employment,¹³⁶ the Cabinet Office (2000) by an earlier IPPR inquiry¹³⁷ and the Commission appears to regard outsourcing as partnership.¹³⁸

The principle of PFI is that a public sector body obtains a service rather than an asset. A private sector contractor (often created for the purpose) funds any asset required and is then paid for the service provided. The public sector client pays a fee over the life of the contract to the private provider which is contingent upon services meeting specified standards. The initial private finance is repaid by streams of income from the public purse.

There is widespread concern as to the impact of the PPPs. However, evaluating PPPs is difficult as many of the schemes are only just beginning to come into operation (the first new PFI hospital was opened in June 2000). Any analysis is thus tentative and provisional. Nevertheless significant initial observations are possible and are outlined below.

9.2 The Labour Party and PPPs

“ Demonstrating a full hearted commitment to the future of public services while at the same time striving to recast the relationship between public and private sectors was proclaimed as a leitmotif of the government’s ‘new politics.’”¹³⁹

references

- 139 Commission on Public Private Partnerships (2001: 17) *Building Better Partnerships*
- 140 Labour Party (1997a)
- 141 cited in Thompson, (2000)
- 142 Kelly (2000)
- 143 Labour Party (1997b)
- 144 Boyle and Harrison (2000)
- 145 Timmins and Cox (2001)
- 146 Labour Party (2001)
- 147 Kelly (2000)
- 148 CPPP (2001: 33)
- 149 cited in Kampfner (2001)
- 150 Thompson (2001: 6)

The Labour Party has enthusiastically promoted PPPs; in its 1997 manifesto it declared that “Labour pioneered the idea of public/private partnerships” and it would “reinvigorate” the idea.¹⁴⁰ This is a sharp shift in policy; as late as 1994 the current deputy prime minister stated that “There are things such as prisons, the rail service, health service and police, which cannot be run by private concerns whose primary goal is profit.”¹⁴¹

Three reasons are suggested as lying behind new Labour’s embrace of PPPs. Firstly, it was “to prove, once and for all, that the centre-left has dropped its historical ambivalence to the profit motive and to demonstrate that the new government’s commitment to social justice need not unsettle the business community”.¹⁴² Labour’s first term business manifesto¹⁴³ laid out a 12 point plan for public-private partnerships and called for them to play an “increasing role in procuring public services and investment”. One of the first pieces of legislation passed by the Labour government was the National Health Service (Private Finance) Act which was announced within 14 days of coming to power and received Royal Assent in July 1997.¹⁴⁴ In its first term the Labour government simplified and standardised the PFI process (Labour’s 1997 manifesto had far more detailed proposals on PPPs/PFI than their 2001 successors). It has been argued that Labour has “introduced the private sector into areas where the Conservatives feared to tread”,¹⁴⁵ citing the 20 local education authorities who now have the private sector delivering all or part of their education service and NHS ‘concordat’ with the private sector.

For its second term Labour argued that: “Where private-sector providers can support public endeavour, we should use them. A ‘spirit of enterprise’ should apply as much to public service as to business”.¹⁴⁶ Kelly¹⁴⁷ notes that “ ... there is a general emphasis on demoting the significance of questions of public or private. To use the government’s phraseology, it is ‘outcomes, not ownership that matters’ ”. The CPPP report is a vivid example of this approach, maintaining that “the whole significance of public ownership is overblown” and that “the question of who should own the underlying assets used in public services is increasingly a second order issue.”¹⁴⁸ It argues that the government is using PPP as part of a strategy to deliver “a step-change in the funding and quality of public services – and in doing so succeeding in sustaining a universal basis for public service provision.” It is not clear that this view differs greatly from that of Conservative thinkers, such as Lord Blackwell, former head of the Downing Street policy unit who argues that “We don’t need these people [public service workers] to be employed by the public sector. We can have public services delivered much better, much more efficiently by private organisations”.¹⁴⁹ Indeed, commentators generally supportive of new Labour have warned that “If we diminish the space [of the public realm] we deny ourselves the chance to refashion society in tune with egalitarian values, and we open up the space for a future Tory government to push privatisation to its logical conclusion”.¹⁵⁰

references

151 Andrew Smith MP (2000)

152 “Compared with the experience of the private sector, services in local hospitals, schools and councils were often too slow and inadequate” Hewitt (2001)

153 Treasury Taskforce (1999)

154 Corry et al (1997)

155 Robinson (2000)

155b For example, the deputy prime minister John Prescott, has stated the “The (Labour) movement has got to face up to it – it can either find money from private finance or it can take the money in tax increases”, *Independent on Sunday* (5.8.01)

156 Corry et al (1997:2)

157 Anthony Giddens (2001)

157b *The Economist* (2001)

158 CPPP (2001:54)

158b Hodge (2001)

159 Savas (2000:3)

Secondly, the government believes that the quality of public services is improved through involving the private sector (Labour’s 2001 manifesto speaks of “drawing on [the private sector’s] vitality”). The chief secretary to the Treasury, Andrew Smith MP, has argued that the aim of PPPs “is to close the all too clear gap that exists between the quality of public sector buildings, work and facilities, and the services dependent on them, and those of the private sector”,¹⁵¹ sentiments echoed by the Secretary of State at the Department of Trade and Industry.¹⁵² The government believes that PFI projects would provide better value for money than traditional procurement – the private sector bringing gains in efficiency and cost reduction. In the words of the Treasury Taskforce: “The PFI ... is all about creating a structure in which improved value for money is achieved through private sector innovation and management skills delivering significant performance improvement and efficiency savings.”¹⁵³

A third argument is that PPPs help the government overcome a perceived fiscal dilemma, enabling more investment to take place than the government is able to provide by conventional capital spending. As Corry et al note: “Although often regarded as a way of substituting private for public money, in fact the principal effect is on the time profile of expenditure by the public sector.”¹⁵⁴ Increasingly this third argument seems both less important and unconvincing¹⁵⁵ but is still used by ministers.^{155b}

Like CCT before it, but on a larger scale and with a broader scope, PFI represents a fundamental shift in the focus of the public sector, away from being a direct provider to becoming a procurer and regulator of services. The first IPPR inquiry into PPPs noted that the PFI Initiative “is encouraging the private ownership of facilities crucial to the delivery of public services”.¹⁵⁶ This report distinguished PFI from “full privatisation” as “PFI involves the use of private organisations to construct facilities which are then maintained or even operated by these organisations under contract to some form of state purchaser”, with the implication that it represents a partial privatisation. The leading ‘Third Way’ theorist, Anthony Giddens,¹⁵⁷ argues that new Labour has a ‘pragmatic approach’ to privatisation and that “Privatisation can often serve public purposes better than state ownership”. The Economist argues that “Mr Blair plans to push privatisation further than Margaret Thatcher did”.^{157b}

The Commission maintains that PPPs do not constitute privatisation, as services remain publicly funded: “The core public services should remain publicly funded and should be commissioned and monitored by appropriate public authorities. This is the most important reason why the forms of partnership described in this report do not amount to privatisation.”¹⁵⁸ This is unconvincing; ownership is central to conceptions of privatisation. The distinction provided by earlier IPPR report between ‘full’ and partial privatisation is both more nuanced and accurate. Indeed, ministers now state their opposition to ‘wholesale privatisation’ conceding implicitly that partial privatisation takes place.^{158b}

PPPs are a form of partial privatisation, there being a privatisation of provision rather than funding. Intriguingly Labour’s 1997 manifesto stated that it was “opposed to the privatisation of clinical services”, a commitment absent from the 2001 version but conceding the term privatisation. One of the studies used by the Commission, that by Savas,¹⁵⁹ is less coy about using the

references

160 *Ambitions for Britain* (2001: 6) *The Labour Party manifesto*

161 Chris Nicholson a CPPP commissioner (2000)

162 Corry et al

163 CPPP (2001: 201)

164 CPPP (2001: 149)

165 CPPP (2001: 197)

166 Harriet Harman (1996) cited in Monbiot (2000)

167 CPPP (2001: 52)

168 Cabinet Office, (2000)

168b Cabinet Office, (2000)

term privatisation but notes that “it is increasingly common to refer to ‘public-private partnerships,’ a less contentious term than ‘privatisation.’”

9.3 PPPs and staff

*“We have said that Private Finance Initiative (PFI) should not be delivered at the expense of the pay and conditions of the staff employed in these schemes. We will seek ways in which, within the framework of PFI management, support staff could remain part of the NHS team.”*¹⁶⁰

*“Benefits have arisen in sectors such as prisons from breaking down staff demarcation lines to improve efficiency. Such benefits have occurred throughout public services where provision has been transferred from the public to the private sector.”*¹⁶¹

As the Commission notes “[t]here are few other issues in the debate over PPPs that are so controversial” as those concerning the workforce. Most public services are highly labour intensive. The 1997 IPPR report into PPPs noted that: “Most private sector operators emphasised to us that the biggest change they made came from... [an] improvement in the utilisation of labour”,¹⁶² a view with which the Commission concurs.¹⁶³ Partnership arrangements are said to have the potential “to challenge established patterns of staff demarcation and working practices”.¹⁶⁴ The Commission argues that through PPPs “efficiency and productivity can be improved through better management and utilisation of labour, including better training, though this might involve tackling restrictive practices or reducing abnormally high levels of sickness and absence.”¹⁶⁵

There is concern, borne of lengthy experience with CCT and market testing, that any savings private sector contractors make will be at the expense of public sector staff jobs, pay and conditions. This concern was echoed by the former Labour shadow health secretary, Harriet Harman: “The future of services will be driven by short-term priorities...NHS employees will be strangers in their own hospital – public servants in a privatised hospital.”¹⁶⁶ The Commission found that “the term ‘partnership’ has been applied in too many instances where the only discernible impact of public-private working has been a reduction in the terms and conditions of employees.”¹⁶⁷

Some progress in protecting staff terms and conditions has been achieved. The government states that it “is committed to ensuring that the public sector is a good employer and a model contractor and client. The people employed in the public sector, directly or indirectly, are its biggest asset and critical in developing modern, high quality, efficient, responsive, customer-focused and environmentally friendly public services”¹⁶⁸. In addition to the protection provided by transfer of undertaking laws, occupational pension provision was added by the Cabinet Office in January 2000; this requires that when staff transfer they should continue to have access to “a good quality occupational scheme” (one that is “broadly comparable” to the public service pension which is being left) and “options for the handling of the accrued benefits”.^{168b} In its 2001 Manifesto the Labour Party pledged that:

“[the] Private Finance Initiative (PFI) should not be delivered at the expense of the pay and conditions of the staff employed in these

references

169 UNISON (2000)

170 *The House of Commons Public Accounts select committee (1998) para 43*

171 (para 232, minutes of evidence)

172 CPPP (2001: 198)

schemes. We will seek ways in which, within the framework of PFI management, support staff could remain part of the NHS team.”

Furthermore, a review of Best Value was announced in October 2001 which will examine arguments around a two-tier workforce in local government. Secondment of NHS staff is being explored in the health service.

However, concern remains that new recruits, as opposed to transferred staff, will receive poorer terms and conditions. Concerns are apparent about the emergence of a two tier workforce. Research undertaken by UNISON¹⁶⁹ found evidence of the emergence of a two-tier workforce (and led it to call for the establishment of a modern version of the Fair Wages Resolution, abolished in 1983). Typical among the examples it cites is that of cleaning staff and the contractor Commatec in the London borough of Hounslow. Staff transferred under TUPE were paid £5.40 an hour, whereas new staff were paid just £4.00 an hour. Good pension provision for new starters was, the survey found, notable for its absence.

More evidence of deterioration in pay and conditions can be found in the prison service. The House of Commons Public Accounts select committee (1998) found the cheaper running costs of the private sector “was almost wholly to do with different wage rates and different staff levels, and also pension arrangements, sick leave arrangements and different lengths of the working week”.¹⁷⁰ It notes that the average prison officer salary cost almost £20,000 for a 39 hour week but Securicor were paying £14,000 for a 44 hour week at Bridgend prison and Group 4 were paying £13,000 for a 40 hour week at Fazakerley. Richard Tilt, the former Director-General of the Prison Service in England and Wales remarked to the select committee that prior to the introduction of competition to the prison “it was very difficult to negotiate down pay rates and conditions of service... it becomes a slightly more viable option once you get a degree of competition”.¹⁷¹

The Commission notes that:

“Costs per prisoner in four privately managed prisons were 11 per cent lower on average than in comparable publicly managed prisons and staff costs accounted for all of the difference. The most important element of labour cost savings was reduced staff hours per prisoner, accounting for a third of the total. However, some of this appeared to reflect higher levels of crowding in privately managed prisons, rather than the increased use of labour saving technology, improved management systems or the efficient allocation of staff to key tasks.”

It found that “approximately two thirds [of the total labour cost savings] appear to represent a reduction in the aggregate pay, benefits and conditions of the workforce”.¹⁷²

The Commission also praises the prison service PFI projects for being full PFI models, where all of the operation and management of the service is part of the contract. Unlike PFI projects in health and education, there is no separation between ancillary and core services. It argues that this “should enable the contractor to integrate thoroughly the design and build of the prison with its operation and make productivity gains through the way it manages the single most important input in any public service – the

references

173 CPPP (2001: 91)

174 CPPP (2001: 93)

175 Thompson (2000: 152)

176 CPPP (2001: 81)

177 *Financial Times* (16.6.01)

178 *The chief executive of Mowlem, 'Protests could kill PFI'* *The Guardian* (1.8.01)

179 Kelly, J (2001)

180 Martin Taylor (2001)

181 CPPP (2001: 201)

182 CPPP (2001: 91)

workforce".¹⁷³ However, as noted above, and as the Commission notes, much of this reorganisation was at the expense of the workforce. The Commission argues that "part of the reason for marginal gains in health and education may be the restricted nature of the DBFO [design, build, finance, operate] model being used, where the bulk of the costs of the service, the staffing costs, are outside the control of the contractors".¹⁷⁴ On the evidence that the Commission itself cites, it is arguable that the prison service experience of employment relations is not an exemplary one to be extended to health and education. Rather, it offers a cautionary tale. This is confirmed when other IPPR research on the prison service is examined. It notes that "Detailed qualitative work needs to be undertaken to examine whether savings delivered by the private sector are secured at the expense of quality and equity".¹⁷⁵ It also states that "the latest Home Office research also finds that when the cost per baseline place is measured against the cost per use in-place, little or no saving is produced"; indeed when one prison was removed from calculations "privately managed prisons were actually two to three per cent more expensive".

Furthermore, when the Commission examines the experience in Australia, where there are full PFI schemes – incorporating both core and ancillary services – it notes that "there is no clear evidence that full PFI hospitals are producing significant value for money defined in terms of both quality and cost" suggesting further grounds for caution. Other NHS evidence also finds no private sector gain: "the available evidence from the hospital sector suggests that the PFI has not had a strong impact on hospital design".¹⁷⁶

Three pilot schemes in which staff remain NHS employees are planned to assuage union concerns.¹⁷⁷ However, opposition to staff remaining in the public sector has been voiced. For example, one leading PFI contractor has expressed dismay at this prospect;¹⁷⁸ Sir Steve Robson (2001), the former senior Treasury civil servant (and head of the Treasury's public enterprises, privatisation and regulation group) and currently a director of Partnerships UK (the successor to the Treasury Taskforce) argues that: ["The danger is] [t]he private sector contractor might be told the terms and conditions under which he could employ staff. He might be invited to manage a service on the basis that some of the staff remained public sector employees." In teaching, the schools minister, Stephen Timms, suggests that certain school departments could be directly run by private companies; other teachers could be directly employed by these firms.¹⁷⁹ Furthermore, the chairman of the Commission, Martin Taylor,¹⁸⁰ maintains that "*institutionally* large parts of the public services appear to be run in the interests of the staff" [original italics] which could be remedied by private sector involvement.

The breadth and depth of the Commission's analysis of workforce issues is disappointing. Indeed, the Commission's analysis on workforce matters is at odds with its protestations of its importance. It argues that "it is precisely in the area of the organisation of work that the private sector might make a significant contribution to the management of public services."¹⁸¹ and that "the single most important input in any public service [is] the workforce"¹⁸². Yet the report devotes just nine and a half of its 246 pages to examining workforce issues, compared to some 34 pages on the – albeit important – issue of accountability.

A considerable body of work exists on the impact of CCT and market testing

references

183 Escott and Whitfield (1995)

184 Walsh and Davies (1993)

185 CPPP (2001: 52).

186 Corry et al (1997) *Public Private Partnerships*

187 Tony Blair cited in *The Guardian* (28.6.01)

188 House of Commons (1999: Para 141)

189 Broadbent et al (2000)

190 Corry et al (1997)

upon employment relations which is only fleetingly referred to by the Commission. Important official research, like that by the EOC¹⁸³ is given cursory treatment, other major studies such as Walsh and Davies¹⁸⁴ – commissioned by the Department of the Environment – are ignored altogether. The recent authoritative WERS 98 survey, which provides a wealth of evidence on private and public sector employment practices, is also not considered. The Commission argues that “Ultimately the future of public services will depend on the recruitment, retention and motivation of skilled employees – together with the public’s continued willingness to pay taxes to fund them”.¹⁸⁵ However, as a piece of evidence-based research, the report’s examination of employment relations – which it states is key – is seriously wanting.

The Commission declares that if “PPPs are having a deleterious impact on the pay and conditions of some post-transfer recruits – then we would be of the view that there is a policy problem that needs to be addressed.” If more “robust” evidence reinforces this view then it believes that government should “consider ways of strengthening the regulatory framework – whether through a voluntary code or if need be through legislation.” The Office of Government Commerce has commissioned an inquiry with the aim of providing more “robust” evidence on this issue.

9.4 Impact on the public service ethos

“Public service ethos and trust, once lost may be impossible to recover. The reputation of public servants making decisions in a disinterested way, once gone, is gone forever. In fact, accountability is also difficult to re-impose in a stronger form, once the private sector is in the driving seat of too many things. Governments will simply not want to take them on, and will find that they are stuck in contracts that make it difficult even if they did.”¹⁸⁶

“We are the people who believe in the public services because we believe in the public service ethos. We have to match that with a reform agenda.”¹⁸⁷

The ethos of public services is seen by many as being endangered by PFI. The House of Commons health select committee found that: “There was a general perception that PFI and contracting-out created a situation giving primacy to profit rather than service”,¹⁸⁸ concerns echoed by Broadbent et al.¹⁸⁹ Perhaps the most comprehensive examination of PFI and the public service ethos is in the 1997 IPPR report. It stated that: “Employees may no longer do their job out of a desire to serve the ‘common weal’, but more because of the threat of shareholder and management pressure. In the short run this may well knock out inefficient practices and wasteful procedures. But in the long run, in some areas, it may make it increasingly difficult to deliver a genuine public service.”¹⁹⁰ Furthermore it argued that:

“Trust is a fragile thing. It takes years to build up; it can take seconds to destroy. If, for some reason, we begin to think there is even a possibility that a hospital’s prime concern is not with our welfare, but with, say, the impact of our treatment on its profit position, then our relationship could change dramatically and irrevocably. Instead of being trusting and

references

- 191 Corry et al (1997)
- 192 CPPP (2001: 132)
- 193 *The Guardian*, 'Milburn warns 'blinkered left' over NHS reforms', (30.5.01)
- 194 *House of Commons* (1999: Para 152)
- 195 Corry et al (1997)
- 196 CPPP (2001:150)
- 197 CPPP (2001: 137)
- 198 cited in the *Daily Mail* (16.6.01)
- 199 CPPP, (2001: 235)

grateful, we might become suspicious, hypercritical and demanding. Although this might have its benefits in certain situations, in others something precious will have been lost”.

The report noted that the nature of trust in public services is very different from that of large private sector firms: “the trust for the big and stable private companies is with the organisation, whereas in many public services the trust must be with the individual – the teacher or the doctor.”¹⁹¹ The Commission is distinctly less concerned about the fate of the public service ethos, arguing that although “it is the case that if it is not properly regulated the profit motive can sometimes conflict with the interests of users, it is wrong to suggest that any one sector – public, private or voluntary – has a monopoly on the public service ethos”.¹⁹²

9.5 Core and ancillary services

The health secretary, Alan Milburn, has pledged that NHS clinical staff would never be transferred to the private sector.¹⁹³ However, the distinction between clinical and non-clinical services is not entirely clear:

“The often spurious division of staff into clinical or non-clinical groups can create an institutional apartheid which might be detrimental to staff morale and to patients. We believe the government should limit PFI to a number of pilot schemes until a proper evaluation of the impact on staff and patient care is produced.”¹⁹⁴

Corry et al¹⁹⁵ note that “ the theoretical advantages of PFI only accrue to their maximum extent if the private sector is involved in operating the whole system in an integrated way. But this means that the private sector should really be operating the front line service, not just the ‘back room’ ones, thus bringing the profit motive into play even here. In many areas, including health and education, this may be undesirable from the public interest perspective”. The Commission states that “the inclusion of a wider range of services should be an option for purchasing bodies”.¹⁹⁶ It argues that the “existing rationale for distinguishing between services that can and cannot be provided within a partnership does not hold up to analysis”.¹⁹⁷ But the caveat about the public interest issues this may raise for health and education, raised in the 1997 report, is conspicuously absent from its analysis.

Expansion of private sector involvement from ancillary areas is sought; according to David Hardy, head of health PFI at KPMG “The next areas for private suppliers may be pharmacy and radiology”.¹⁹⁸

9.6 Accountability

A key criticism of PPPs is their lack of accountability. It is a criticism with which the Commission concurs: “ ...the growth of partnerships accentuates and exposes existing accountability problems”.¹⁹⁹ It maintains that “Clear forms of accountability and redress are a precondition for the legitimacy of partnerships. Moreover, appropriate accountability mechanisms need to reflect the varying interests that individuals have as citizens, service users and taxpayers. It is also vital that high and common standards of accountability

references

200 CPPP (2001: 32)

201 Ruane (2000)

202 Mair (2000)

203 Ruane (2000)

204 Boyle and Harrison (2000: 26)

205 Andrew Smith MP, Chief Secretary to the Treasury (2000)

206 CPPP (2001: 95)

207 Gaffney D et al, (1999); Kelly (2000); UNISON (2001); CPPP 2001; Pollock A, et al (2001)

208 CPPP (2001: 19)

209 CPPP (2001: 19)

210 CPPP (2001: 91)

211 Timmins (2000)

212 cited in House of Commons (1999)

apply across the public sector – levels of access to information and redress should not vary according to whether or not public services are delivered via the public or private sectors.”²⁰⁰

PPP schemes have used commercial confidentiality to limit public access to information. Trade unions have “faced [difficulties] in obtaining even basic information”.²⁰¹ Mair²⁰² found that ‘Many of the cost comparisons between the PFI and the public sector alternative simply cannot be made: the PFI information is ‘Commercial in confidence’. Ruane²⁰³ cites the case of a trade unionist who “had been unable to obtain from a trust manager confirmation that new catering facilities within a particular PFI scheme were to be cook-chill, even though the contract had already been signed and the plans drawn up”. Boyle and Harrison²⁰⁴ argue that “the procurement process for public health care must be much more transparent ... there should be a shift in government emphasis so that the figures made available for public scrutiny and debate are produced in a way that serves to illuminate the issues, not obfuscate them”.

9.7 Value for money

“The PFI is only used where it is demonstrably the best option for delivering the required service.”²⁰⁵

“Time and again the Commission on Public Private Partnerships has been provided with accounts of PFI projects that have gone ahead first and foremost because there was in fact no conventional alternative.”²⁰⁶

This is a central issue for PPPs and has been examined at length elsewhere.²⁰⁷ The Commission notes that “many [PPPs] offer at best marginal value for money gains without delivering the promised innovations in the design and organisation of services”.²⁰⁸ Furthermore, “In some instances the quality of services provided through PPP has been lamentable and the tax payer has received a poor deal”.²⁰⁹ Most scathingly of all, it states that “none of [the PFI hospitals on which data exists] show significant value for money savings when set against the Public Sector Comparator. In the case of most NHS hospital PFI schemes the small projected savings could easily disappear if some assumptions relating to risk, or the discount rate, were altered”.²¹⁰ The CPPP report excludes from its analysis some of most controversial PPPs; those involving IT services. As one leading commentator notes, PPPs have “truly dreadful track record in IT”.²¹¹

The NHS Confederation, representing trusts and health authorities, has also expressed misgivings: “The schemes are not... necessarily better value for money... or, they achieve that by reducing the terms of working conditions of the staff involved. There is an element of profit in PFI, which is necessarily taken by the private sector to motivate them to go into it in the first place, which results in an element of bad value for the NHS... At ground-level [PFI] is a very damaging development in terms of staff morale and inter-disciplinary working.”²¹²

A trade unionist summarised a widespread criticism of PFI: “If you want to build hospitals and schools and roads and not add to the public sector borrowing requirement, then the PFI ‘buy now, pay later’ approach is like

references

- 213 cited by Ruane (2000)
- 214 Ruane (2000)
- 215 One manager claimed that senior Trust staff had 'gone by the wayside' when their commitment to PFI had been perceived as less than wholehearted; Ruane (2000)
- 216 Robinson (2000b)
- 217 CPPP (2001: 95)
- 218 Boyle and Harrison (2000)
- 219 Norfolk and Norwich hospital
- 220 Kelly and Whittlestone (2000)
- 221 Boyle and Harrison (2000)
- 222 Corry et al (1997)

man from heaven. Ministers can boast that they're building 20 or 30 new hospitals ... and not having to increase taxes."²¹³

This leads to another important criticism of PPPs. Ruane²¹⁴ found that "Most project managers believed public money for their schemes would have been preferable", but had no alternative but to pursue the PFI. As one manager states:

*"The trouble with PFI is you had no choice. You either had a capital development with PFI or you had nothing at all. I think everybody in the Trust and probably everybody in the wider NHS – obviously apart from the Private Finance Unit – would have felt if we had a chance of a public sector option, we'd rather have had it."*²¹⁵

Robinson²¹⁶ concurs: "it is quite clear that most if not all public sector managers believe that the PFI really is the only game in town and that the conventional financing route is closed to them by Treasury fiat". The CPPP report concurs.²¹⁷ An analysis of the PFI in the NHS concluded that: "We find the benefits of PFI are unproven. It has been hard to establish proper comparisons with what a public sector alternative would deliver... claims that the PFI would introduce substantial innovation in the design and running of health care buildings seem largely illusory".²¹⁸

9.8 Public service planning

The length of PFI contracts, often of 30 years duration and in one case of 60 years,²¹⁹ is seen as incompatible with long term health care planning. Kelly and Whittlestone²²⁰ note that: "A 30-year PFI contract may reinforce inflexibility by adding commercial penalties to the political costs of withdrawing from facilities which become obsolete." The NHS could end up buying the services offered throughout the length of the contracts, whether it needs them or not. If the demand for hospital services were to decline dramatically, then the NHS Trust is tied into an agreement for maintenance and facilities management services over and above any cost of producing the building itself.²²¹ Corry et al²²² argue that this danger is more serious still:

"perhaps most worrying, the [PFI] process involves the generation of powerful pressure groups with vested interests in the status quo. Private companies investing under PFI will want to ensure that their investment is viable. To do so, they will press for a guarantee of a stream of income from the state purchasers (this is already happening in some of the health PFI schemes). They will have a vested interest in making sure that the income stream that they have been 'guaranteed' will remain. If they succeed in pursuing that interest, the purchasers concerned will be locked into a pattern of provision and a set of providers that may not be appropriate in the long run. In areas like education and health, where needs, demands and capacities can be transformed over short periods, the problem is a real one."

10. CONCLUSION

“We want to encourage business to play a fuller role in providing public services. That is why we stress Public Private Partnerships.”²²³

references

223 David Clark, *the then Duchy of Lancaster and Cabinet Minister for Public Service, Cabinet Office* (1997)

224 Forth et al (1997)

Since the 1980s the role and scope of private sector providers in delivering public services has grown steadily. Accompanying CCT and later Best Value, PFI and PPPs, an increasing proportion of public services are organised around market relations and commercial contracts between purchasers and providers. As outlined in this survey, the impact of these changes upon employment conditions has been enormous.

CCT was ostensibly introduced on the grounds of improving ‘efficiency’. Many of these gains however, are at the expense of staff jobs, pay and conditions, rather being than genuine productivity gains. Case studies, including those commissioned by the government, found that exposure to tendering led to the, often dramatic, erosion of terms and conditions of employment (particularly for manual staff). Estimates state that some 40 per cent of the NHS ancillary jobs were lost. The process of competitive tendering offered little scope to compete other than by worsening employees terms and conditions. Job security in the public sector declined markedly.

PFI was launched in 1992 by the Conservative government and extended, and enthusiastically promoted, by its Labour successors. By June 2001 almost 400 PFI deals were signed with a capital value of £17 billion. PFI is now the dominant model of procurement for new hospitals and prisons. This report argues that PFI is a form of partial privatisation, being a privatisation of provision rather than funding and that ownership has crucial implications for the employment relations of public services.

Equal Opportunities were a major casualty of CCT; something in danger of being replicated by PFI and PPPs. While capable of considerable improvement, family friendly practices in the public sector are generally much better than those in the private sector. According to government commissioned research²²⁴ a fifth of public sector workplaces had ‘model’ family friendly practices compared to 3 per cent in the private sector. There is a danger that exposure to greater competition and private sector involvement could actually impair the provision of such policies. PPPs do not appear to have learnt significantly from the experience of CCT.

The expanding role of private providers has weakened trade unions. CCT shifted the balance of power in the workplace towards management as it seriously weakened the effectiveness of trade unions, fragmenting union memberships and interests. The scope of trade union influence was often reduced to local operational matters. A shift of provision to the private services sector, where unions have traditionally been very weak, is likely to weaken unions still further.

Among PPPs, workforce issues are highly controversial. The emergence of a two-tier workforce is a major concern. The breadth and depth of the Commission’s analysis of workforce issues is disappointing, particularly in the light of the importance it attaches to this issue. Most public services are very labour intensive and PPPs are said to derive many of their ‘benefits’ from

Contracting culture

changing staff working practices. There is concern however, that the savings private sector contractors, as with CCT, are mainly derived at the expense of staff jobs, pay and conditions, particularly for new recruits. Evidence suggests substantial reductions in the pay and conditions of new staff, indicating the need for caution if it is to be extended further into health and education services. As with equal opportunities and family friendly policies, the lack of serious consideration of the impact of PPPs on employment relations is striking.

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