

FIGHTING PRIVATISATION IMPROVING JOBS & SERVICES

TRADE UNION ACTION AGAINST CONTRACTORS

Campaigns against privatisation have provided us with some important lessons:

- It cannot be fought by traditional trade union action alone.
- It is not enough to simply defend existing services or adopt defensive tactics.
- The users of services and the broader labour movement have to be involved in the campaign.
- Trying to simply outbid the contractors means getting into a job loss wage cutting downward spiral.
- Action must be taken against the existing use of contractors as well as new privatisation plans.
- Constant education and propaganda is needed to explain the impact of privatisation on jobs and services to both workers and users, as well as spelling out the principles and advantages of public services.

A 7-point strategy has been developed based on these lessons and campaign experience.

1. Developing alternative ideas and demands to improve services
2. Education and propaganda
3. Building stronger workplace organisations and making links with workers in other places
4. Developing joint action and user committees
5. Tactical use of industrial action and negotiating machinery
6. Direct action by workers and users
7. Counter offensive against contractors in public services



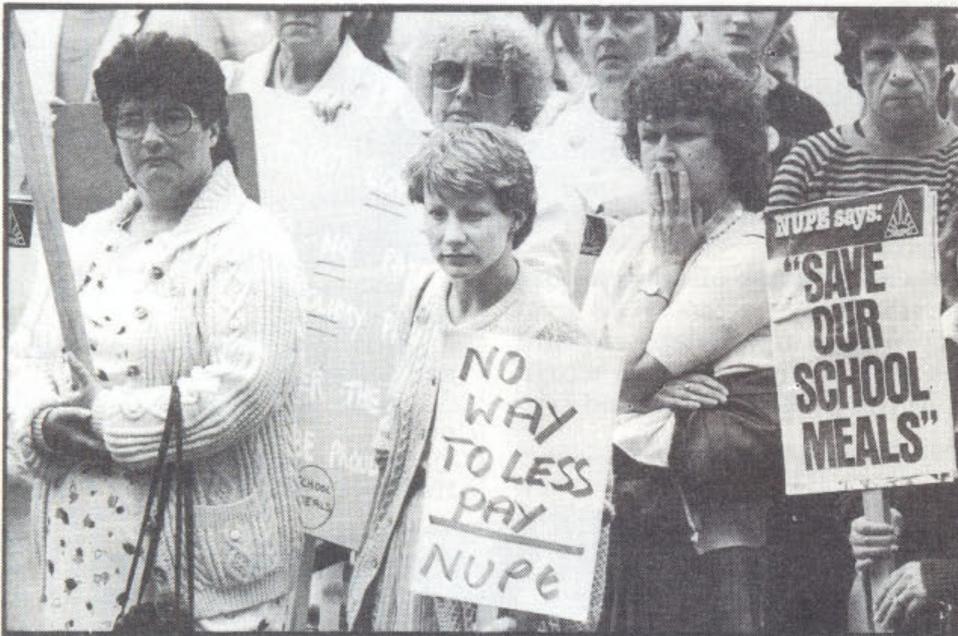
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IMMEDIATE DEMANDS

It is crucial that we start making demands on councils now. Some councils have begun to set up structures and develop strategies to deal with the continued threat of statutory tendering. Others are waiting, ostrich-like, praying that it won't happen. However, if action isn't taken now, we can be sure that management will, if it has not already done so, take the initiative. We can also be sure that their response will be to reorganise, rationalise, streamline and cut jobs and services to compete with contractors on the contractor's terms. Experience shows that not only that this approach offers no guarantee that services will stay with direct labour, but the cost in terms of jobs, wages and conditions will be high.

Below is a set of demands to put to councils and political parties NOW as the first part of a strategy to campaign against the existing use of contractors and further privatisation threats.



- The council, in coordination with other local authorities and the trade unions, **campaign against** any legislation, both in principle and in detail.

- The council should launch a campaign to **publicise and explain the principles of public services based on needs, not profit**, showing how privatisation has failed both in the past and the present to provide good services.

- The council should **publicly commit itself to the principles and practice of using directly employed labour** and to the council's role as employer, both to provide jobs and to set high standards of employment practice.

- The council should **launch an immediate counter offensive on companies which already have council contracts**. This should involve strengthening Standing Orders, imposing stringent conditions on contractors covering quality of service, staffing ratios, standards of performance, wages and conditions, health and safety, training and equal opportunities, with much stiffer penalties for defaults. Contract conditions should be implemented until the point at which they become illegal.

- The council should carry out a **Privatisation Audit** to:
a) list all the contractors and consultants already being used in all departments of the council, and to

work out total annual payments to these firms.

b) examine ways in which the use of as many of these firms as possible can be terminated and the work carried out by direct labour. (For example by combining it with similar work in other departments or by co-operation with neighbouring authorities for the provision of specialist services.)

c) work out the likely effects of privatisation of services under threat of jobs, pay and conditions, and knock-on effects on the local economy, on the basis of privatisation of council services elsewhere.

- The council should set up a **special committee** of councillors, management and trade union representatives to **coordinate** the council's policy on privatisation and to establish common procedures which all departments will follow. An anti-privatisation unit should be set up to carry out the agreed policy.

- The council should, in consultation with the trade unions, **explore ways of expanding municipal services**, such as trade waste collection, skip hire, laundries etc, in order to create direct labour jobs.

- The council should explore with neighbouring authorities the possibility of **setting up consortia for running services**, to achieve economies of scale, for the better protection of jobs and services from privatisation.

- The council should commit itself to **consulting with the workers in its services and the users of services on how effective those services are and how they could be expanded and improved**.

- The council should urgently **reassess the staffing and resources needed to inspect, monitor and report on defaults and cost overruns** of existing and any future work by contractors.

- Try and get an agreement with the council to **hold regular day or half-day trade union educational workshops on privatisation** for shop stewards and members to jointly work out the implications of privatisation on jobs, pay, conditions and services and to develop an effective trade union strategy.

- The council should guarantee **freedom of information** on privatisation so that all documents relating to contractors, tenders, minutes of meetings etc, will be made available to trade unions.

- The council should carry out **regular detailed investigation into the financial, employment and performance records of firms** seeking contracts for council services.

- The council should make a commitment to make a **comprehensive cost comparison of the full public financial and social costs of tenders**, including their preparation, supervision and all the knock-on effects. This requires an immediate start to develop the necessary financial and auditing methods including a full public sector cost accounting and social cost accounting system.

- The council should instruct all officers to **report any approaches, either formal or informal, from private companies seeking contracts** in areas of work currently undertaken by direct labour, and further instruct them to refuse to entertain any such approaches.

- Try to get council/union **action against directors and managers of council services trying to set up their own companies** to bid for contracts in their own departments. This is likely to increase. Try to get a policy agreed before it happens to re-deploy those involved and/or take other appropriate action. Get all unions to agree a set of sanctions should any of their members attempt to bid for their own and other workers' jobs.

But remember, it is vital to start monitoring management's response to the threat of privatisation NOW. Just as many jobs can be lost, changes made in working practices, and cuts in services are usually made in the run-up to tendering as there is as a direct result of tendering itself.

The Tender Trap

Tendering is a trap. The process really exists to provide work for private firms – there would otherwise be no need for it within public service. It is a method of obtaining a price for a specific amount of work carried out to a standard within an agreed timetable. This leads to a degree of competition between firms to employ the fewest feasible number of workers paying the lowest possible wages and benefits. Since most public services are, by definition, labour intensive, labour costs usually form a large part of the tender compared to equipment and supplies. So the 'competition' to submit the lowest tender will focus on staffing levels and wage costs. This applies equally if direct labour submits a tender.

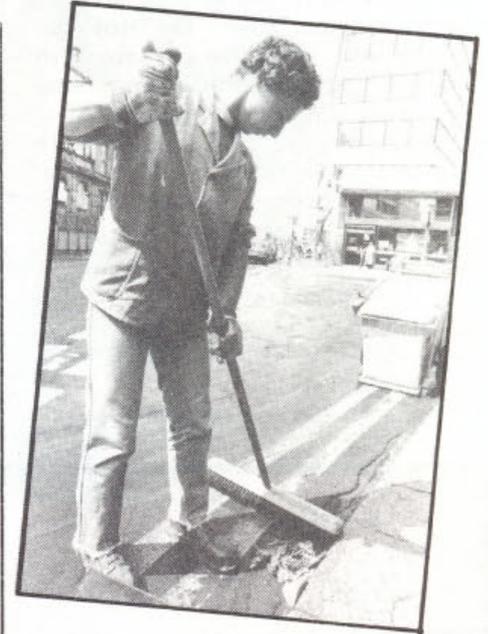
The tendering process may be the procedure for contractors and management but to make into union practice what is essentially a business practice will have dire consequences both for public services, jobs, pay and conditions, and the trade union movement.

It is not a question of being involved in tendering or not. Clearly it is vitally important for both trade union and users organisations to be involved particularly in the specification stage. This can be done in two ways:

- 1. Formal negotiations.** Entering into detailed negotiations with management and councillors and DHA members on various aspects of the specification **in addition** to campaigning around demands for improved standards and quality of service. You will have to judge whether the advantages to be gained from entering formal discussions e.g. greater influence and information, outweigh the disadvantages, e.g. being drawn and diverted into secondary details. Of course formal negotiations may not be possible in many authorities. You will then have to rely on the second option.

- 2. Campaigning for a charter** or set of demands covering the type, level, quantity and standards to be provided under democratic local control with good pay and working conditions. This will involve using union and political action to try to get public debate and acceptance of standards of service to form the basis of all specifications.

WE cannot afford to wash our hands of this stage of tendering process. The specification stage is crucial not only for the future of public services, staffing levels etc, but also lays the basis for all tenders including those prepared by your own depart-



ment. The more detailed the specification, the more it is based on good quality standards of service and employment, the more it spells out the duties and responsibilities for the caring part of services, the greater difficulty contractors will have in meeting standards and pricing the work.

There cannot always be hard-and-fast rules. There will be some situations where management is fully committed to retaining direct labour and draws up a detailed specification and comprehensive contract conditions. As workers, your knowledge of the job, the work involved, and your ideas to improve services could make it more difficult for contractors to prepare comparative tenders and may increase the possibility of in-house tender succeeding. It would remain a management tender and not a joint or trade union tender.

The terms (e.g. level of service, staffing levels, wages and conditions) of trade union co-operation

or assistance in preparing an in-house tender must be hammered out beforehand. Make it clear at the outset that you will withdraw assistance at any stage if these terms are not met.

Dealing with poor or unsympathetic management

There will be some situations where you have little confidence in management's ability to prepare comprehensive tender documents including a full specification. Management may decide not to submit an in-house tender or may prepare one half-heartedly. Do **not** get drawn into trying to prepare your own in-house or trade union tender. This would be highly complex, time consuming and fraught with political difficulties. In this situation the most effective strategy would be to prepare a set of demands covering:

- * specification for the quality and level of service
- * contract conditions
- * staffing levels
- * wages and conditions

and to campaign to delay the issuing of tender documents to contractors for as long as possible so that

you can try to persuade councillors to instruct management to prepare an in-house tender.

Be involved in

- Drawing up specifications setting standards, quality of service and staffing levels
- Drawing up stringent contract conditions to be imposed on private firms
- Cost comparison stage of analysing tenders to make sure all the costs are taken into account

Don't be involved in

- Responding to invitations to tender
- Co-operating with contractors preparing their tenders
- Preparing an in-house tender

The 8 Stages

Stage 1

Councillors, officers and consultants often suggest privatisation schemes and a report to the committee usually recommends further investigation or starting the tendering process. If statutory tendering comes in then officers will have to decide which parts of their department fall within the legislation, how work can be packaged to minimise the amount open to tendering but creating the greatest difficulties for contractors.

Stage 2

A detailed specification will be drawn up describing the service, standards, staffing, quality of service together with contract conditions which specify how the contract will operate, how the work will be carried out, and the obligations on the firm and the council.

Action

- Call a joint meeting of all unions to discuss coordination action.
- Prepare a leaflet spelling out the dangers of privatisation to distribute at lobby of the council/committee meeting.

Action

- Draw up a trade union/user set of standards, quality of service and performance criteria to use as the basis of your campaign
- Get a copy of the specification and contract conditions and compare these with the current level of service and that demanded by unions and users. Expose the differences.
- See sections on specifications and contract conditions for ideas for further action.

Stage 3

The council invites tenders. Interested contractors get a copy of the specification, contract conditions, the tender document and tendering instructions.

Stage 4

Contractors draw up their tender based on their own staffing levels, wages and conditions, overheads, profits etc. They may decide to submit a loss leader bid and will work out much they can undercut, how they can claw this money back later. Contractors will also inspect council facilities, depots and equipment.

Stage 5 (running parallel to Stage 4)

Council officers will prepare an in-house tender. They may try to seek trade union agreement to staffing cuts, changes in working practices, cuts in the standard of service in order to 'compete' with contractors.



of Tendering

Action

- Get a list of all contractors invited to tender and compile as much information on their fines, failures, employment practices.

Action

- Make sure that no one co-operates or supplies any information to contractors on site visits.

Action

- See section In and Out of the Tender Trap for details.

Stage 6

Tenders are opened and council officers prepare a report for committee comparing the tenders. Some firms may be asked for further information or to fill in omissions.

Stage 7

Council committee discusses officers report and recommend acceptance, rejection or further investigation of tenders. Decision will then go to full council for approval.

Stage 8

If work is contracted out, council will issue redundancy notices and preparations made for contractor to take over.

Action

- Get a copy of the officers' report as soon as possible and examine it in detail.
- Prepare your own report for wide circulation detailing criticisms of the officers' report and putting the case for direct labour.
- See section on Comparing Costs.

Action

- Organise a mass lobby of council meetings.
- Try to get support and commitment to reject the report from Labour Party branches, CLP, Labour Group.

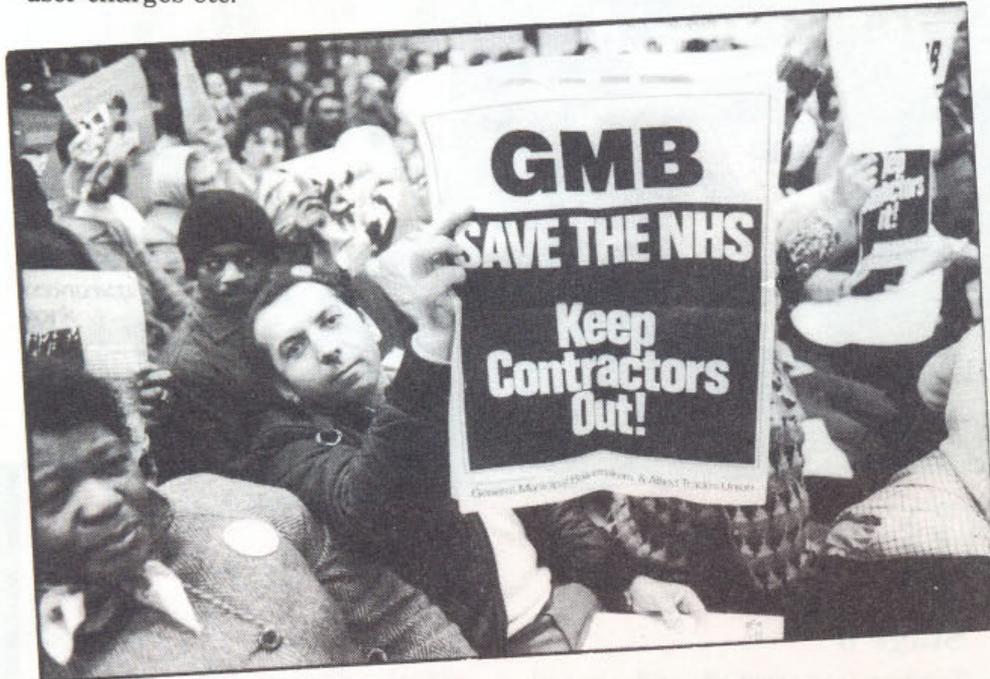
Specifications

There are four main parts to the specification:

1. The legal responsibilities and statutory duties imposed on the council.
2. The council's own policies for the particular service over and above those legally imposed.
3. A description of the different elements of the contract detailing what has to be done including the range, level and quality of service, user charges etc.

4. The operational procedures – how the service will be provided. It will cover the following:

- specifically what work the contractor has to undertake, e.g. clean walls, floors, toilet cubicles, wash basins, urinals etc.
- the frequency of the work e.g. what has to be done daily, weekly and the timing of special cleaning or services.
- when the work will be carried



DON'T GET INVOLVED IN IN-HOUSE TENDERS BECAUSE:

1. In most cases it will not increase your chances of retaining direct labour.
2. You will end up making proposals, or at least agreeing to management's proposals, to make drastic cuts, job losses, and changes in working practices.
3. You can more effectively safeguard jobs, wages and working conditions by making sure that comprehensive sanctions and stringent contract conditions are drawn up whilst at the same time taking other action (see PSA 15).
4. You will feel compromised about taking other forms of action whilst you are co-operating with management preparing a tender.
5. It will create a credibility gap – how can you forge much needed alliances with the users of services (which will include other trade unionists) if at the same time you are

- party to cutting the service.
6. It will increase divisions between part-time/full-time, male/female, manual/white collar workers over cuts, job losses, changes to working procedures when unity and joint action are more important than ever.
7. Some councillors and managers/supervisors will exploit trade union involvement in tendering to settle old scores, try to 'buy-off' union leaders, etc, so creating splits within the unions to hamper further action.
8. It will set a precedent which will put a lot of pressure on workers in other departments who do not want to be involved in tendering.
9. It is likely to compromise action in other departments on trade union issues not connected with privatisation.

out e.g. not to interfere with other work, timed to users needs.

- the contractor's responsibilities in the case of accidents and emergencies.
- responsibilities for structural and routine repairs and maintenance of building and equipment.
- the limits on user charges and the use of this income.
- who will supply materials and equipment.
- the existing labour force employed by the council to carry out the work including the number of workers at each location, duties etc.

This is the stage when important decisions are made about the quality of the service. Whilst an inventory of cleaning work can be drawn up e.g. measuring floor areas, frequency of cleaning, and then work study times used to calculate staffing requirements, it is much more difficult to define work involved in a service and in caring for people. It is therefore vitally important to identify all the service and caring duties involved in your work and to ensure that the specification is based on these duties. All the work currently undertaken by workers as a result of tacit agreements with management i.e. work not fully covered in existing job descriptions, together with unpaid work contributed by workers outside of normal working hours.

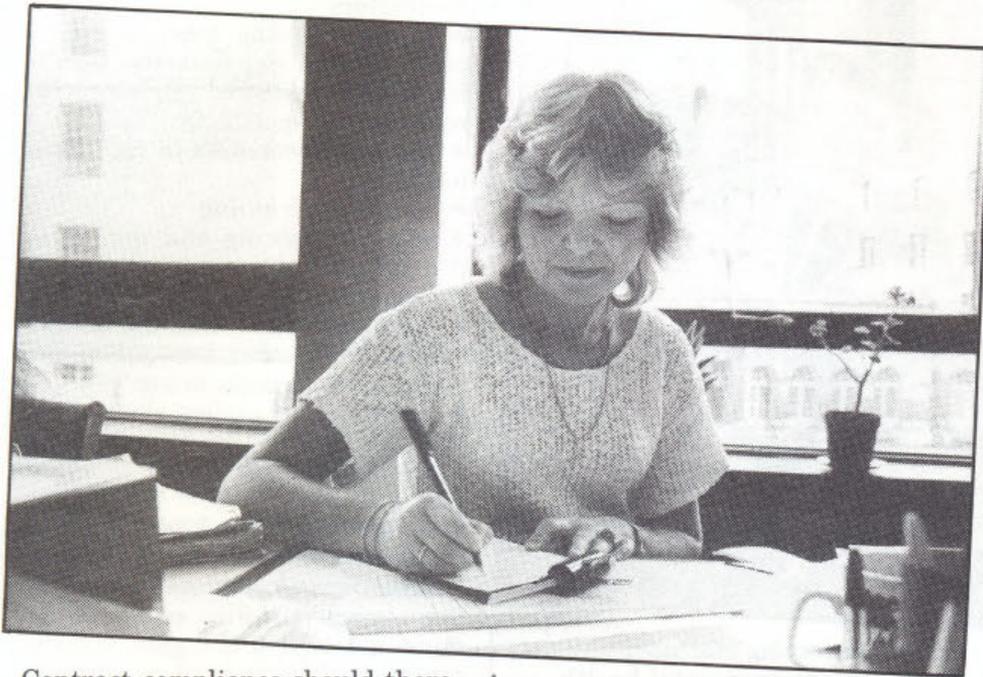
Remember, under the contracting system minimum standards are regarded as maximum standards by contractors. If any item of work is not specified the contractor is under no obligation whatsoever to do it without additional payment. If duties and standards are not clearly spelt out they will be the focus of disputes between the council and contractors. Even more importantly, if direct labour gains the contract, they may end up implementing major cuts in services.

Drawing up a charter or set of demands covering the level and standard of service together with minimum staffing levels it is not as difficult as it may at first seem.

- * what resources do you need to do your job effectively
- * what resources are needed to provide full cover
- * how are current staffing levels inadequate
- * what benefits will new and better equipment bring

Contract Conditions

Imposing stringent conditions on contractors is another key part of the strategy. But the best written policy is virtually useless if there are not the resources to impose the conditions, supervise the contractor's work, and to fully report defaults and fines to council committees.



Contract compliance should therefore cover two important functions:

1. imposing stiff **employment conditions** and maintaining the council's approved list of contractors.
2. supervising, inspecting and reporting on the **quality of service** provided by contractors and the implementation of the specification, and assisting individual departments in these functions.

The Government has stated that it intends to make certain employment conditions illegal and to limit conditions to those which are 'directly related to the required performance by the contractor ... in respect of the quality, timing and cost of the specified goods or services'. So it is even more important that contract compliance covers the quality of service as well as employment conditions.

General conditions

General conditions should cover performance bonds; parent company guarantees, public liability insurance, wage rates, trade union facilities, compliance with anti-racist and anti-sexist policies, health and safety regulations and employ-

ment of disabled people. See the GLC's contract compliance policies for further details.

Performance conditions

Conditions should cover the powers of council officers to inspect and monitor work; issue default

notices; remedying of defective work at contractor's cost within specified limits; fines and damages to be levied for defective work and failure to implement the specification; scale of fines to justify termination of the contract; charges and conditions for the use of council depots, equipment and facilities; use of council's own supplies; and so on.

Financial information

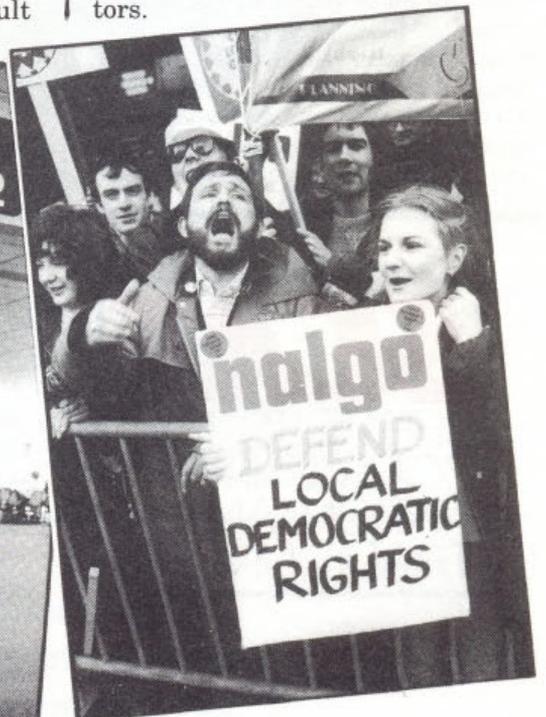
- Company annual reports for the last three years
- latest audited accounts
- names of directors and their financial holdings in the company
- name of the parent company, its main activities and subsidiaries
- information on any current takeover or merger proposals.

Contract experience

- References to at least three similar contracts in the public sector
- a full list of all current contracts involving similar work in the public sector
- details of fines and termination of contracts in other public sector work.

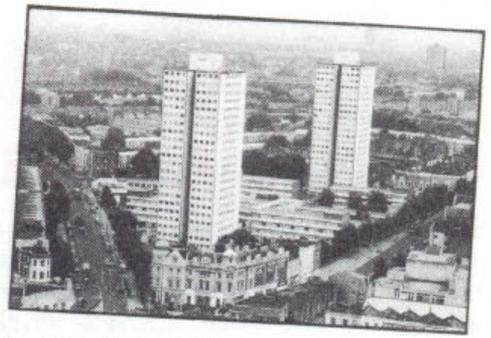
Also it is important to:

- Find out which companies have been invited to tender – get as much information as possible about the firm and its track record from Public Service Action, Labour Research, union research departments
- demand trade union representation at any interviews of contractors.



Cost comparisons

Specifications and contract conditions should be as comprehensive as possible so that cost comparisons can be made on an equitable basis. Council officers will analyse the tenders to determine whether the contractor can deliver the specified service in the way outlined in the tender, check the figures, and compare the costs. They may also seek further information or clarification from the contractors.



This is another crucial stage. It is vital that **all** costs of contracting out are taken into account. Cost comparisons should therefore include the following:

- costs of providing the same level and quality of service
- costs of maintaining the same standard of work and quality of materials
- differences in staffing levels and wages and benefits
- costs to the authority for all supervision and monitoring (staff and their overheads) of the contrac-

tor and enforcing statutory obligations, e.g. environmental health

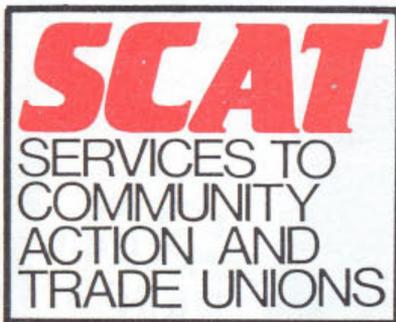
- price increases and/or new charges to be made by the contractor directly to the users of the service
- costs of redundancy payments to council workers
- costs of indexing the contract each year and the costs of renewing it when it terminates
- losses on the sale of vehicles and equipment
- accrued and future depreciation of equipment, and outstanding leases
- debt charges still owed on coun-

cil-built facilities now to be used by contractors

- changes in the total and unit costs to other departments resulting from the reduced use of central services and specific facilities
- increases/decreases in rent from facilities
- cost of job training
- cost of checking and operating the monthly payments system to the contractor
- costs associated with the knock-on effects in other sections of the social services department
- examine any claims about 'savings' so that they are based on the right budget figures and compare like with like
- examine the knock-on effects of the local economy of council redundancies, wage cuts, local firms losing council supplies contracts as multi-national firms gain council contracts. The council is often a major local employer, so adverse changes can have an important effect on local spending and jobs. SCAT has developed a method of calculating these knock-on effects.

Sources of further information

For full details of the seven point strategy and counter offensive against contractors see **CAMPAIGNING FOR CARE**, NUPE Action Pack, available price £3 from SCAT, 31 Clerkenwell Close, London EC1.



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SCAT is a national housing, planning and public service project. Its work includes advice and assistance on campaign organising and strategies, research and analysis, educational workshops, and workers' and users' alternatives for a wide range of local and national labour movement organisations. Recent work has included the comprehensive Campaigning for Care in Social Services Action Pack with NUPE detailing strategies and tactics to fight privatisation. SCAT Publications publishes **Public Service Action**, the anti-privatisation newsletter for the labour movement. It also produces a wide range of reports, pamphlets and broadsheets covering privatisation, public services and housing.