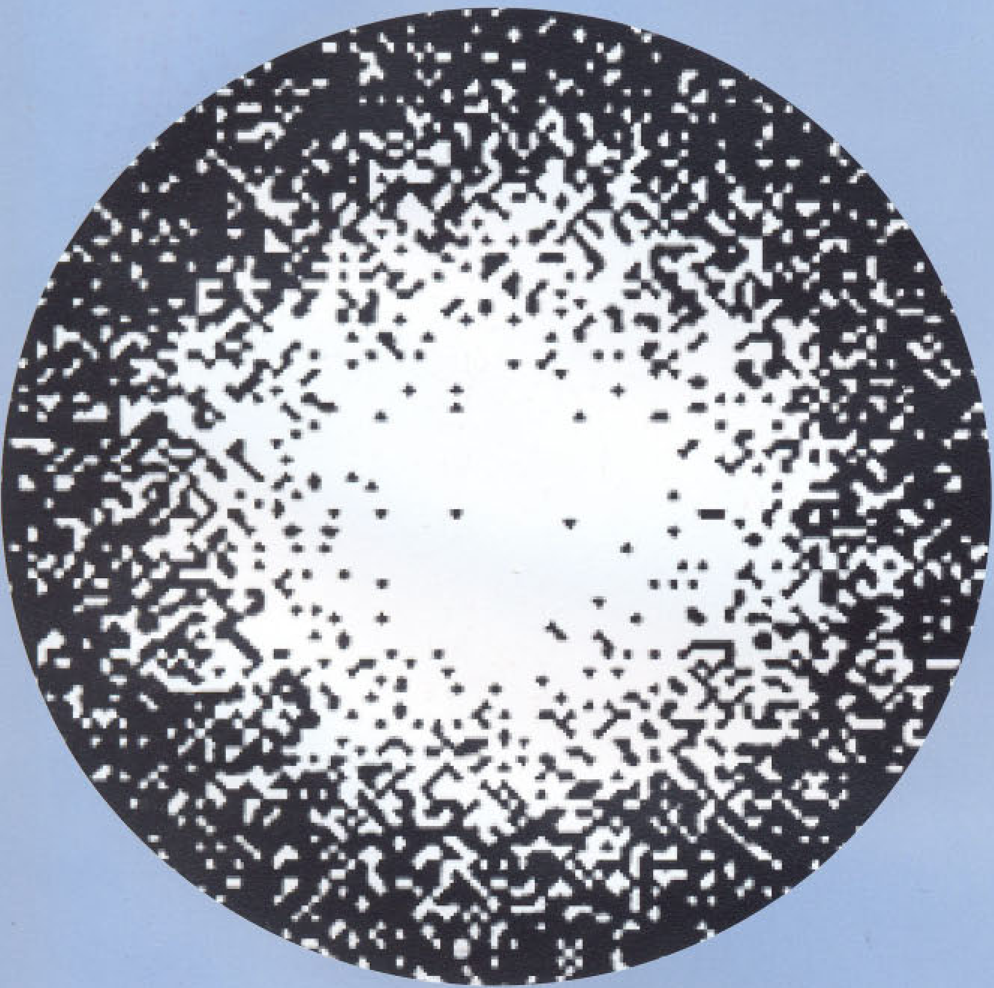
Externalisation by Privatisation



CENTRE *for* PUBLIC SERVICES

Research • Strategy • Planning • Training

1 Sidney Street Sheffield S1 4RG Tel: 0114 2726683 Fax 2727066

EMail: (GeoNet) CTR.PUBLIC.SERV (Internet) ctr.public.serv@mcr1.poptel.org.uk

UNISON

February 1997
Researched and written by:

The Centre for Public Services is an independent, non-profit organisation. It is committed to the provision of good quality public services by democratically accountable public bodies implementing best practice employment and equal opportunities policies.

The Centre was established in 1973 and operates nationally from a base in Sheffield.

Contents

	Summary of key issues	3
	Introduction	5
Chapter 1	**Privatisation by externalisation**	7
	Different forms of externalisation	
	Recent growth in externalisation	
	White collar services sales	
	DSO trade sales	
	Highway DSO sales	
	Leisure services trusts	
	Transfer of council housing	
	Management buy-outs	
	Arguments used to justify externalisation	
	A theory of externalisation	
	The geography of externalisation	
Chapter 2	**The case for in-house services**	21
Chapter 3	**Authorities which rejected externalisation**	23
	Reasons for decision	
Chapter 4	**TUPE and employment policies**	25
	Application of TUPE	
	Post transfer changes to staffing levels, terms and conditions	
	Changes in trade union organisation and representation	
Chapter 5	**Impact of externalisation on the local authority**	31
	Cost of the externalisation process	
	High costs of monitoring	
	The savings claims	
	Service delivery	
	Equal opportunities	
	Health and safety	
	Effects on other council services	
	Loss of democratic control	
Chapter 6	**Impact on the local economy**	35
	Impact on the labour market	
	Changes in jobs, terms and conditions	
Chapter 7	**The externalisation market**	37
	Why firms are interested in externalisation	
	Contractors acquiring DSOs	
	Consultant's strategies in white collar services	
	Patterns of bidding	
	Key companies	
Chapter 8	**Conclusion and future trends**	43
References		44

Summary of key issues

A new form of privatisation

A new form of privatisation–externalisation– has been developed in local government over the last five years. This research shows that externalisation is, in most instances, a management-inspired initiative, developed with virtually no political debate about its longer term consequences. Externalisation is often couched in carefully worded language to hide its true impact—'joint working', 'partnership' and 'collaborative working'. In essence, externalisation is a clear form of privatisation which is often not fully explained to councillors, staff or service users.

Three main forms of externalisation

Externalisation has been concentrated in three areas of local government: the sale of direct service organisations (DSOs), white collar services and the transfer of council housing. Some authorities have also established leisure trusts and similar organisations for residential homes.

The geography of externalisation

Virtually all local authorities which have externalised services, are below a line from the Wash to the West Midlands. Most are Conservative controlled authorities. The geographic pattern of leisure and social services trusts is dispersed nationally. However, enforced transfers under the Estates Renewal Challenge Fund are mainly in Labour controlled London boroughs and metropolitan authorities.

Managers are the main promoters of sales and transfers

The extent to which externalisation is implemented is dependent on the interplay of four factors: two external factors—CCT, an externalisation market: and two internal factors—senior managers initiating the externalisation option and the DSO or in-house service adopting a commercial ideology and business practice. All four factors were prerequisite in the sale of DSOs and white collar services. The formation of leisure trusts has been driven partly by budget cuts and, as a result the attraction of VAT and rate relief savings, from trust status, but CCT and managerial interest in externalisation were equally important.

Jobs transferred and assets sold

Nearly 18,500 local authority jobs have been transferred to the private sector and private firms have gained contracts worth £448m per annum. But this does not include the externalisations where no information is available on the number of jobs transferred and/or the annual value of the contract. Using the average contract size and value, the estimated total number of staff transferred is 27,800 with a total contract value of £711m per annum.

In addition, several thousand jobs have been transfered to the private sector through large scale voluntary transfers in housing and the establishment of trusts in leisure and community care services.

Externalisation rejected

At least ten local authorities considered and then rejected the sale of white collar services and another four authorities rejected the sale of their DSOs. In the same period as 55 authorities transferred their council housing stock, tenants in 22 councils voted against transfer whilst proposals in another 18 authorities were abandoned.

Externalisation never considered

The focus on those authorities which have externalised services could create a false impression of the level of interest. The proportion of authorities which have sold or transferred services or considered such a move still remains the minority of local authorities in Britain.

What externalisation means

Externalisation means:

- Privatisation.
- No in-house bid.
- A much larger part of the service being privatised than would be tendered under CCT.
- Putting other services, particularly central support services, under threat.
- Much less chance of local authorities regaining any work at retendering stage.
- Pre-empting the impact of Local Government Reorganisation.

Impact on jobs, pay and conditions

Externalisation will alter conditions for staff. Private sector restructuring and relocation have resulted in changes to pension entitlement, pay and conditions, holidays and sick leave, trade union representation and negotiation, equal opportunities, job satisfaction, training and career development in all cases of externalisation. It will not remove the uncertainties facing staff working in local government and is likely to create new ones. Our research shows that although TUPE will apply to externalised contracts, staff have a much better chance of maintaining jobs, terms and conditions and trade union organisation where a local authority has a strong commitment to retaining services in-house than with externalisation.

Impact on the local economy

The claims that externalisation to private contractors and consultants will bring additional work into the local economy are largely bogus. Most firms have won very little additional work. Changes in staffing levels, terms and conditions after transfer have a negative effect on employment in the local economy although this is gradual rather than immediate. Local authorities which have sold their DSO no longer employ manual workers and relinquish their influence in the local labour market.

The enabling model

Proposals to externalise services reflect an acceptance of the enabling model of local government with widespread consequences for the local authority, services, staff and the local economy.

Externalisation may extend to other services

Any host company is likely to want to compete for other council services. Externalisation will not necessarily be confined to one specific service. Once one department is privatised it is likely to set in motion further externalisation.

Costs and savings

Externalisation will not solve a council's budgetary problems, since there will be no more money available for the service in the private sector. A private firm operating in the same economic climate as the local authority will not provide any more security of employment when both are heavily reliant on council capital and revenue programmes. Under externalisation there will be less flexibility and less democratic control over the service in terms of its financial prospects.

In some authorities which have already externalised services, there is evidence of increased contract prices and costs as companies struggle to deliver services under the agreed financial terms. Any surplus will be retained by the company and will not be used to the benefit of the local authority or its council tax-payers.

Future externalisation

The scale of future externalisation depends on a number of factors. Firstly, it depends on the impact of the Best Value regime in the pilot authorities in England and in the new regimes in Scotland and Wales. Changes to the CCT Regulations and Guidance may also influence the internal pressure for externalisation from managers and the external pressure from contractors and consultants seeking contracts and market share. Highway DSOs are likely to continue to face difficult circumstances because of limits on capital spending and major road schemes being financed under the private finance initiative (PFI).

Secondly, it depends on whether tenants approve further transfers of council housing either to housing associations or to local housing companies. Thirdly, continued budget cuts could force more local authorities to consider transferring services. Fourthly, the increasing use of PFI in local government will be another vehicle for the transfer of services to the private and voluntary sectors. The design, build, finance and operate nature of PFI projects requires new privately owned or partnership companies to operate services.

Introduction

Purpose of the report

The purpose of this report is to examine the extent of the externalisation of white-collar services and the trade sale of DSOs. In addition, it sets out the implications of externalisation for staff and trade union organisation. The Centre was commissioned by UNISON to carry out the research. This followed a number of projects involving the Centre and individual UNISON branches facing externalisation of council services.

An accompanying document sets out a trade union strategy to oppose externalisation.

Reasons for the report

- ◆ Externalisation needs to be established as a major trade union issue.
- ◆ The longer term implications of externalisation need to be highlighted including the high risks, private control and monopoly of public services and CCT avoidance.
- ◆ The public costs of externalisation need to be exposed in terms of the immediate externalisation costs and long-term value for money.
- ◆ To show that there are clear alternatives to externalisation.
- ◆ To reduce the scope for management-led initiatives for externalisation.
- ◆ To investigate the interests and strategy of companies agreeing to implement TUPE and look at the issues in terms of staffing and conditions of employment post- transfer.

Terms of reference

The following terms of reference were agreed:

- ◆ To carry out a detailed examination of cases of externalisation nationally.
- ◆ To identify company strategies and patterns of bidding.
- ◆ To explore the options for local authorities and trade unions.
- ◆ To assess the implications of externalisation for services and employment.
- ◆ To develop a trade union response and lessons for branches.

Methodology

The report was prepared following detailed interviews with trade union officials and representatives, and in some cases managers and councillors, in sixteen case study authorities. These included eight cases where externalisation had already occurred and eight where externalisation had either been rejected or was currently being considered. Additional information and council reports were also supplied to the Centre by UNISON branches, following a questionnaire to all branches affected by externalisation and trade sales.

In order to put the case studies into a broader perspective, we supplemented our information with research we have carried out on externalisation in other authorities over the past three years.

Externalisation in context

It is vital that councillors, officers, staff and trade unions are able to consider the broader issues that externalisation raises and put them in a proper context, rather than rely on the opinion of private consultants who have a vested interest in privatisation of publicly owned services.

This document sets out the issues facing trade unions in local authorities where externalisation has taken place and looks at whether the arguments in favour of pursuing the externalisation route for local government services stands up to scrutiny.

Definition of terms

'Externalisation' and **'hosting'** are both new words for local government. They are forms of privatisation. 'Externalisation' differs from contracting out in that it involves the transfer of work and assets, and usually covers the entire service, let on a long term contract but without an in-house bid. The 'host' company represents the private company to which the council is seeking to sell the service. 'Hosting' is another word for externalisation.

Compulsory Competitive Tendering (CCT): Tendering imposed on local authorities under the Local Government Acts 1988 and 1992. The Government defines the services, timetable and rules under which tendering must be carried out.

Contracting out: The contract for provision of a service is awarded to a private contractor.

Externalisation: There are five elements to externalisation:

—the sale or transfer of 100% of the service.
—the sale or transfer of assets;
—the work is carried out by a private or arms length company in which the local authority may have a minority interest.
—the tendering process is carried out under European Directives and avoids CCT because there is no in-house bid.
— management and staff transfer to the successful contractor.

We do not include cases where there is no in-house bid either under Voluntary Competitive Tendering or CCT because these are essentially service contracts with no transfer of assets other than the staff.

Trade sale: Outright sale of the DSO or service to a private contractor.

Host: A company which is seeking to acquire a council department or service.

Direct service organisation (DSO): The council's own workforce which will be organised in one large organisation providing a range of services or activities could be grouped in two or more DSOs. Sometimes referred to as a **direct labour organisation (DLO)**, particularly for building and highway maintenance services.

Harmonisation: A term used by private companies to describe the process of dealing with differences in terms and conditions between those transferred under TUPE and the firm's existing terms and conditions.

Joint venture: Sale of council service to private company which would establish a new company in which the council would have a percentage share stake.

Large scale voluntary transfer (LSVT): A local authority sells all or part of its council housing stock to a housing association or local housing company.

Leisure trust: A non-profit company, which may also be a registered charity, which is established to operate sports and leisure facilities. The local authority normally retains ownership of the facilities.

Managed transfer: Another way of describing externalisation.

Outsourcing: another word used for contracting out.

Partnership: In the context of externalisation, a partnership is another way to describe a joint venture (see above).

Private finance initiative (PFI): The private sector designs, builds, finances and operates facilities for local government. The PFI consortia, consisting usually of a construction company, financial institution and building services contractor, will retain ownership of the facilities.

Chapter 1
Privatisation by externalisation

Privatisation

The externalisation or privatisation of local government services is a major threat to the very fabric of local government. It is often promoted, particularly in construction and property services together with the trade sale of DSOs, as being the 'only option', contributing to the enabling model of local government.

Externalisation is being supported by a range of authorities piecemeal without a real understanding of the overall consequences. It is considered to be a means of 'avoiding CCT' and 'safeguarding staff interests' because a move to the private sector is 'necessary' to replace a rapidly declining public sector workload with access to private sector work and to side step the legal restrictions imposed on local authority income generation.

Private consultants and contractors are keen to expand by selectively acquiring whole local authority departments. They are also seeking to increase their market share and establish a national network of contracts and depots through the purchase of entire DSOs.

Defining externalisation

- Externalisation means that a council sells its operation to a private firm and withdraws from direct service provision.
- Unlike CCT, externalisation represents a deliberate decision to end direct service provision and reduce council influence, including democratic accountability, over an area of work.
- Externalisation is a long term commitment by a local authority to rely on private contractors and consultants to deliver services instead of employing its own staff. This moves the authority into an enabling role.
- Service delivery and quality is totally reliant on the ability of the authority to design, specify and enforce contracts.
- No in-house bid is allowed in cases of externalisation, although some local authorities have commenced CCT preparation whilst also preparing externalisation proposals to keep their options open.
- Under both CCT and externalisation the service is operated through a contract. EC directives govern the process, the workforce will be transferred through TUPE and restrictions on contract compliance apply.

Externalisation must therefore be clearly differentiated from compulsory competitive tendering , voluntary competitive tendering and the private finance initiative.

CCT and VCT involve bids from the private sector and in-house services for a 5-10 year contract. In a small minority of cases, bids are only

Different forms of externalisation

Arms length company:
The local authority establishes a private company in which it may have a stake of up to 20%. Companies in which the local authority has a 20% or more stake involve highly complicated arrangements.

MBO:
The local authority sells its services to a private company formed by managers with capital raised from financial institutions. The company then takes over the council service and delivers it under contract to the council.

MEBO:
The service is sold to a private company formed by employees and managers.

Trade sale to private company:
Outright sale of a service to a private contractor. The host is the company which is seeking to acquire a council department or service.

Collaboration with the private sector:
A more informal relationship with the private sector would be established with an exchange of expertise and experience.

Joint venture with private company:
A joint venture involves the sale of a council service to a private company which establishes a new company in which the council has a 20%-50% share stake.

Trust:
Transfer to an established organisation or new trust established for specific services. They are either charitable bodies or 'not-for-profit' bodies. There are some leisure and community care examples in local government.

Cooperative:
A cooperative is modelled on collective ownership with workers owning shares in a company, usually established under the Industrial and Provident Societies Acts. The company is governed by a management board consisting of members and managers.

invited from external contractors. The majority of CCT contracts (75%) have been won in-house.

Under PFI, public sector capital schemes are advertised and contractors bid for the work which involves design, construction and operation of a scheme over a 20-35 year period. The contracting process minimises public sector involvement but does not involve a sale as such. The private sector will retain ownership of the assets.

Unnecessary urgency of externalisation

Externalisation and market testing often appears to be very urgent. But the basis for the decision by a local authority to proceed is usually grounded in partial evidence and not linked to a strategy supporting in-house services. Timetables are often extremely tight and designed to complete externalisation rapidly, with little debate with staff or trade unions on the alternative options.

Risks underestimated

Incompatible interests are often being pursued in cases of externalisation where services become more fragmented as a result of the change.

The future for many white-collar services and manual DSOs is uncertain both in terms of the financial position of local authorities and the impact of CCT. But externalisation will not remove this uncertainty and is likely to create new ones. From our research, we believe that staff have a better chance of maintaining jobs, terms and conditions and trade union organisation with CCT than with externalisation. The longer term options are also more flexible than with the sale of an entire service.

Longer term risks of externalisation

Externalisation must be treated as a high risk strategy, with potential high costs both to local authorities, service users and the staff involved. Consideration must be taken of the longer term implications.

Recent growth in externalisation

White-collar services transfers

There have been 58 cases of white-collar externalisation in local government in 45 local authorities. This represents 10% of all local authorities in England, Scotland and Wales. These have affected construction related and financial services in particular, and have proceeded ahead of the Government CCT timetable. Several other cases are still under consideration, particularly in county councils. Tables 1.1 and 1.2 indicate the white-collar externalisations which have taken place in the period 1992-97.

Estimated total jobs transfered to the private sector through externalisations of white-collar technical services of 3,270 on the basis of an average 109 jobs per local authority. The estimated total value is £231m.

Many local authorities have either externalised or subjected their IT and financial services to voluntary competitive tendering ahead of the CCT timetable. The market particularly attractive to private companies are the routine services such as payroll, benefits and debt recovery services. The major companies in financial services are Capita, CSL and IT Net—all involved in public service consultancy. These same companies are also dominant in IT services, though the major contractor is CFM with 16 contracts and 32% of the private sector market.

Table 1.1:
Local authority white-collar technical service externalisations

Local Authority	Contractor	Service	No of staff	Annual value £m	Date
Berkshire CC	Babtie Group	Highway engineering & planning	309	30.0	1993
Bexley LBC	Parkman	Property	83	2.5	1994
Brent LBC	AMEY	Property	n/a	n/a	1993
Bromley LBC	Bullen Consultants	Technical	16	0.5	1994
Buckinghamshire CC	Acer	Engineering	90	3.0	1996
Cambridgeshire CC	WS Atkins	Engineering	123	n/a	1995
Cheshire CC	M.R.Rust	Architecture	190	8.0	1994
City of London	Sterling Granada	Parking	n/a	n/a	n/a
City of London	W.S. Atkins	City engineers	55	10.0	1995
Coventry MBC	Babtie	Architectural, engineering & highways	40	10.0	1996
Croydon LBC	Buildingcare Ltd	Building & Architectural	12	n/a	1994
Croydon LBC	WSP Group	Building	30	5.0	1994
Croydon LBC	Stoneham, Langton & Passmore	Legal	30	1.0	1995
Croydon LBC	Montagu Private Equity	Estates and valuation	n/a	n/a	n/a
Ealing LBC	BRETs	Technical services & DSO	416	8.4*	1994
Essex CC	W.S.Atkins	Architects, engineers, surveyors	211	10.0	1994
Gloucestershire CC	Halcrow	Engineering	120	n/a	n/a
Hereford & Worc CC	Halcrow	Engineering	72	n/a	1996
Kingston LBC	SERCO	Architecture & Building	40	1.8	1994
Oxfordshire CC	W.S.Atkins	Architects, engineers, surveyors,	85	n/a	1992
Oxfordshire CC	W.S.Atkins	Highways & engineering	44	n/a	1992
Sandwell MBC	Mott McDonald	Engineering	23	n/a	n/a
Shropshire CC	Babtie	Engineering design	150	4.0	1995
Somerset CC	W.S. Atkins	Engineering	200	30.0	1996
S. Oxfordshire DC	Babtie Group	Engineering	7	1.2	1994
S. Oxfordshire DC	Magna HA	Housing	50	n/a	n/a
Surrey CC	W.S.Atkins	Architects and structural engineers	31	2.0	1994
Surrey CC	W.S.Atkins	Building surveyors, engineers, valuers	95	3.4	1993
Wiltshire CC	Staff company	Purchasing & distribution	324	n/a	1995
Wychavon DC	3 local firms	Architecture	n/a	n/a	1993
Total			2,846	130.8	

Source: Centre for Public Services, LGMB, PSPRU and press reports.
*The Ealing externalisation involved both white-collar and DSO services. The value of the work is estimated on the basis of the number of jobs.

Table 1.2:
Local authority financial and IT services externalisations

Local Authority	Contractor	Service	No of staff	Annual value £m	Date
Berkshire CC	CSL	Finance	120	2.0	1993
Bexley LBC	Capita	Finance	76	2.4	1996
Bexley LBC	ACT	IT	50	1.8	1994
Bexley LBC	Hartshead	Pensions admin	n/a	0.8	1993
Bexley LBC	ITNet	Payroll	17	0.4	1994
Brent LBC	EDS	Revenue collection	240	6.4	1995
Brent LBC	IT Net	Payroll	n/a	2.0	1994
Broadland DC	CFM	Facilities management	n/a	0.4	1991
Bromley LBC	Capita	Revenues	170	4.4	1993
Cambridge DC	CMS	Facilities management	n/a	1.0	1994
Cambridgeshire CC	Datapay	Payroll	n/a	1.0	1993
City of London	CSL	Revenue collection	n/a	1.0	1994
Colchester BC	ITNet	IT	9	0.8	1995
Croydon LBC	CSL	Finance	360	10.0	1995
Croydon LBC	IT Net	IT	50	3.6	1995
Daventry DC	CFM	Facilities management	n/a	0.6	1994
Derby City	CFM	Facilities management	n/a	2.5	1993
Eastbourne DC	CFM	Facilities management	n/a	1.2	1993
Kent CC Capita	IT		n/a	3.0	1993
Kingston LBC	CFM	IT	20	2.6	1995
Mendip DC	Capita	Finance	n/a	2.5	1993
Rochester BC	Mc Donnell Douglas	IT	11	0.6	1994
Rutland DC	Capita	Finance	n/a	0.3	1993
South Bucks BC	Hoskyns	IT	n/a	0.5	1992
Tendring BC	Telecom Capita	IT	n/a	n/a	1993
West Lindsey DC	CFM	IT	n/a	0.8	1993
Westminster LBC	ITNet	IT	n/a	5.6	1993
Woodspring BC	CSL	Revenues & benefits	98	1.8	1995
Total			1,221	60.0	

Source: Centre for Public Services, LGMB, PSPRU and press reports.

Table 1.2 lists the externalisations of IT and financial services which have included either 100% sale of the service to the private sector or are described as externalisations by the local authority. This categorisation does not include all cases of voluntary competitive tendering in the two services.

There have been 28 cases of externalisation in these two services in 22 local authorities. Based on an average of 102 jobs lost per contract, a total of 2,860 jobs have been transfered through externalisation involving £62.2m worth of work.

DSO trade sales

Over the last four years there has been a new and worrying trend in local government, which has not been given much publicity but represents a major form of privatisation. DSOs are being sold off to private companies to run manual and other services, even though in most cases the services were being run in-house following a proper CCT and contract award process. Trade sales of DSOs have usually taken place covering a range of manual services or in the highways DLOs.

As the following table shows, some of these trade sales are worth millions and cover all manual services. The latest council to have followed this route is Lambeth, which originally proposed selling 51% holding in its operational services to the private sector, and retaining 49% of the £35m a year service. This seems to have been abandoned in favour of a so-called 'partnership' and trade-sale to the private sector.

In January 1997, Lambeth announced that an outside bidder, Serviceteam, had won the £350m contract to take over the council's technical services, involving all manual areas, in the largest transfer of a DSO to the private sector. The ten-year deal, affecting 2,000 staff, will involve the creation of a joint venture company, Serviceteam Lambeth. The deal will include the council having a board representative and it is being claimed that savings will be divided equally between the company and the council.

Serviceteam was originally placed second to Sita but won because Sita raised its price to cover any liability arising from changes to the protection of employment legislation. The council rejected the notion of setting up a joint fund. Serviceteam agreed to treat this as a commercial risk although there are clearly concerns about the ability of Serviceteam to take on a contract of this size, given that its turnover is only £80m and employed 3,000 people prior to taking over the Lambeth contract. The start-date for the contract has already been delayed by a month.

As the following table shows there have been 46 DSO trade sales in 45 local authorities in the period 1993-97, covering a range of manual and highways services.

We estimate that 18,300 jobs have been affected by DSO trade sales involving £342m worth of work in manual and highways services.

Table 1.3: The sale of Direct Service Organisations

Local Authority	Contractor	Service	No of staff	Annual value £m	Year
Allerdale DC	Focsa	All DSO services	300	6.0	1996
Ashford DC	SCS Contractors	Refuse, ground maint, other cleaning	n/a	n/a	1994
Barrow DC	Sita GB	All DSO services	235	2.5	1994
Brighton DC	Ecovert SAUR	All DSO services	500	8.9	1995
Bristol DC	Sita GB	All manual	750	20.0	1994
Bromley LBC	Sita GB	Ground maint, building, cleaning, catering	550	3.0	1993
Dover DC	Sita GB	Refuse collection, ground maintenance	98	n/a	1995
Ealing LBC	BRETs	Technical services & DSO	1,078	21.5*	1994
East Dorset DC	Drinkwater Sabey	All DSOs	n/a	n/a	1993
Elmbridge DC	Sita GB	Ground maint/building & street cleaning	n/a	1.3	1993
Gillingham DC	Sita GB	All DSO services	n/a	n/a	1995
Gloucestershire CC	BET	Catering & cleaning	2,000	n/a	1992
Hinkley & Bosworth DC	Sita GB	All DSO services	70	2.0	1995
Kingston LBC	Sita GB	All DSO services	180	4.0	1994
Lambeth LBC	Serviceteam	All technical services	2,000	35.0	1997
Mendip DC	Sita GB	Ground maint/building cleaning	n/a	0.1	1995
Northamptonshire CC	Serco	All DSO services	274	n/a	1994
Portsmouth DC	Amey FM	All manual services	660	17.0	1995
Rushmoor DC	Quadron (Sita)	Refuse, leisure, ground maintenance	200	1.4	1994
Rutland DC	Cory Environmental	Refuse, ground maintenance, building. and other cleaning	n/a	0.7	1993
St. Albans DC	MRS Environmental	Range of services	157	n/a	1994
South Wight DC	Ecovert SAUR	All manual services	n/a	n/a	1995
Stroud DC	n/a	Street cleaning	n/a	n/a	n/a
Surrey Heath DC	Ecovert SAUR	Refuse/street cleansing	n/a	1.3	1993
Teignbridge DC	Onyx UK	Refuse/street cleaning/building maintenance	167	2.5	1995
Thanet DC	Serco	All manual services	280	2.7	1994
Warwick DC	Serviceteam	Range of services	160	2.6	1993
Waverley DC	Arkeco Env Services	Refuse, ground maintenance, vehicle maintenance	n/a	n/a	1993
Westminster LBC	City Centre Leisure	Leisure centres	166	2.6	1988
Winchester DC	Serco Ltd.	All manual services	150	4.1	1995
Windsor & Maidenhead DC	Onyx Ltd.	Refuse, other cleaning, vehicle maintenance	100	3.0	1995
Woking DC	Sita	DSO	n/a	n/a	1996
Wokingham DC	Artel Ser. (OCS)	Ground maint, leisure, other cleaning	n/a	0.6	1993
Wycombe DC	Ecovert Wycombe	Grounds & vehicle maintenance	63	1.8	1993
Total			10,138	144.6	

Source: Centre for Public Services, LGMB, PSPRU and press reports.
* The Ealing externalisation involved both white-collar and DSO services. The value of the work is estimated on the basis of the number of jobs.

The sale of Highway DSOs

The following table highlights the sale of highways DSOs which have all taken place in county council areas.

Table 1.4: Highways DSO trade sales

Local Authority	Contractor	Service	No of staff	Value £m	Annual Year
Berkshire CC	Sita (Ringway)	Highways DSO	n/a	n/a	n/a
Bucks CC	Prismo	Highways DSO	138	6.0	1994
Cambridgeshire CC	Sita (Ringway)	Highways DSO	98	n/a	1995
Devon CC	South WestHighways	Highways DSO	470	25.0	1995
East Sussex CC	Sita (Ringway)	Highways DSO	143	5.0	1995
Gloucestershire CC	Sita (Ringway)	Highways DSO	350	n/a	1993
Hampshire CC		Highways DLO	n/a	n/a	1996
Hertfordshire CC	John Doyle	Highways DSO	n/a	9.0	1994
Shropshire CC	John Doyle	Highways & vehicle maintenance	250	10.0	1995
Somerset CC	W.S. Atkins	Highways & vehicle maintenance	300	15.0	1996
Surrey CC		Highways DLO	160	n/a	1996
Total			1,909	70.0	

Source: Centre for Public Services, LGMB, PSPRU and press reports.

We estimate from existing information on job transfers and contract values that 2,625 jobs have moved out of local authorities as a result of highways externalisations worth a total value of £129m.

The French owned company, Sita, now holds 15 out of the 46 trade sales (tables 1.3 and 1.4). Apart from winning contracts, the company has also taken over Ringway with highways contracts in DSOs in the south and south-west of England. In addition, Sita acquired Quadron, the employee buyout in Woodspring (see Table 1.5). The total value of Sita's contracts is £50m for the 10 contracts we hold information on contract values for, and an estimated £85m in total.

Management buyouts (MBOs)

MBOs involve the council selling the service to a company formed by managers with capital raised from financial institutions. The company then takes over the council service and delivers it under contract to the council. Pressure to externalise council services has resulted in consideration of management or employee buyouts by a number of local authorities.

MBOs in manual services remain scarce in local government, and most of those established in the late 1980s rapidly failed or were taken over by another private contractor. Table 1.5 shows that 16 MBOs have taken place in 13 local authorities. We estimate, on the basis of information on jobs and values, that a total of 3,400 jobs have been transfered to MBOs at a total value of £75m.

Table 1.5: Management buyouts in Local Government manual services

Local Authority	Contractor	Service	No of staff	Annual Value £m	Year
Bath City	CSG (failed)	DSO	186	1.8m	1989
Berkshire CC	Land Technology (failed)	Grounds maintenance	76	3.8m	1990
Bexley LBC	FM Contract Serv	DSO management	67	n/a	1992
Dartford DC	Direct Force	Building maintenance, refuse	160	3.6m	1992
Hinkley & Bosworth DC	Sports & Leisure Management	Leisure management	60	n/a	1988
Isle of Wight	Island Group 90	DSO	n/a	n/a	n/a
Mid-Sussex DC	Prime Contractors (now Serco Prime)	DSO	179	3.0m	1989
Milton Keynes DC	Municipal Cleaning Services	DSO	n/a	n/a	n/a
Rochford DC	Circa Leisure (taken over by City Grove)	Leisure management	110	n/a	1987
Stratford on Avon DC	Fosse Group (taken over by Ecovert)	DSO	239	3.0m	1989
Swale BC	SwaleContract Services (taken over by UK Waste Management)	DSO	n/a	n/a	1992
Westminster LBC	MRS	Refuse, street cleaning	800	12.8m	1989
Westminster LBC	Westminster Meals Service	Catering	n/a	n/a	1994
Westminster LBC	City Centre Leisure	Leisure management	75	2.6m	1988
Westminster LBC	Capital Parking	On-street parking admin.	n/a	0.6m	1990
Woodspring DC	Quadron (taken over by Sita)	Range of services	370	11.0m	1993
Total			2,322	42.1m	

Source: Centre for Public Services, LGMB, PSPRU and press reports.

Summary of externalisations

The externalisation of white collar services and DSOs is summarised in table 1.6. Nearly 18,500 local authority jobs have been transferred to the private sector and private firms gained contracts worth £448m per annum. But this does not include the externalisations where no information is available on the number of jobs transferred and/or the annual value of the contract. Using the average contract size and value, the estimated total number of staff transferred is 27,791 with a total contract value of £711m per annum.

Table 1.6: Total externalisation of white services and DSOs

			Estimate based on average contract size and style	
Service	No of staff value £m	Annual	No of staff	Annual value £m
White collar technical services	2,846	130.8	3,270	231.0
White collar financial and IT services	1,221	60.0	2,856	62.2
DSOs	10,138	144.61	5,640	213.9
Highway DSOs	1,909	70.0	2,625	129.0
Sales to MBOs	2,322	42.1	3,400	75.0
Total	18,436	447.5	27,791	711.1

Source: Centre for Public Services, LGMB, PSPRU and press reports.

Leisure services trusts

A few local authorities have established leisure trusts which have taken over the provision of sports and leisure management contracts although facilities have remained in public ownership. Most authorities are attracted to the trust concept largely because of the savings from rate relief and VAT although these are often not as large as envisaged. Table 1.6 identifies twelve authorities which have established trusts (this excludes partnership arrangements on individual centres). Some councils have considered and rejected the trust model (see table 2.1) and a number of authorities such as Hounslow are currently considering proposals. Management buy-outs have also occurred in Hinckley & Bosworth BC, Rochford DC, St Albans DC and Westminster LBC.

Table 1.7: Local authorities which have established leisure trusts

Local authority	No of staff
Blaby DC	n/a
Bexley LBC	130
Chester DC	n/a
Christchurch DC	100
Greenwich LBC	120
Kettering DC	n/a
Mid Bedfordshire DC	n/a
Perth & Kinross DC	n/a
Sheffield MDC	n/a
Stockport MDC	n/a
Woking DC	n/a
Wycombe DC	n/a

Source: Centre for Public Services, 1997

Transfer of council housing

Local authority housing stock transfers, separate from tenant's right to buy, have escalated since 1988 with 73 councils selling over 300,000 dwellings. The Large Scale Voluntary Transfer (LSVT) programme has involved the entire transfer of local authority housing stock and virtually all their staff to existing or newly established housing associations.

A Department of the Environment funded study of LSVTs revealed that 40 transfers were completed by March 1995, financed by £2.6 billion private capital, but there were 22 unsuccessful LSVT ballots and 18 abandoned schemes. It also found that only two LSVT associations achieved their planned three year programme of new housing development in nine case study transfers*

The cost of transfer was £80.5m, on average 5% of the purchase price excluding all costs borne by local authorities, with a further £50m estimated cost of the unsuccessful transfers. Funding for transfers came primarily from banks and building societies.

Local housing companies

Local housing companies (LHCs) are being promoted as a new vehicle to transfer council housing from the public to the private sector. LHCs must be private companies, approved by the Housing Corporation, and will be able to access private capital which will not count against the local authority's capital programme nor the Public sector Borrowing Requirement (PSBR). LHCs are now part of the Conservative Government's twin track approach to transfer over 1m council dwellings in the next ten years. Major changes are planned for the DoE's Housing Investment Programme and the Estates Renewal Challenge Fund including requiring local authorities to produce transfer strategies, increase the limit on the size of a transfer from 5,000 to 12,000 and financial inducements to encourage councils to transfer stock.

Other externalisations

Other forms of externalisation include Local Authority Waste Disposal Companies (LAWDCs) and Community Care Trusts. Local authorities were required to establish LAWDCs to takeover responsibility for the transportation and disposal of waste. Some of these local authority owned companies have since been sold to private contractors.

Some local authority social services departments, including Cheshire, Lincolnshire, Kent, Manchester and Sheffield, transferred all or some of their residential homes to newly established trusts.

Arguments used to justify externalisation

Local authorities, managers, private contractors and consultants state a number of reasons in support of their case for externalisation.

Political dogma

Some authorities have clearly decided to externalise services because the strategy fits in with a broader plan to become an enabling authority and distance itself from being a direct service provider. In two cases we investigated, Croydon and Ealing, externalisation was pushed through by the ruling Conservative group, before a change of

*'*Evaluating Large Scale Voluntary Transfer of Local Authority Housing*', HMSO, 1995.

Table 1.8: Large Scale Voluntary Transfers of council housing

Financial period	No of LSVTs	No of dwellings	Gross price (£m)
England			
1988-89	2	11,176	98.4
1989-90	2	14,406	102.2
1990-91	11	45,511	414.4
1991-92	2	10,791	92.1
1992-93	4	26,325	233.0
1993-94	10	30,103	270.5
1994-95	12	40,144	401.5
1995-96	12	44,622	477.2
1996-97	5	23,000	196.0
1997-98	31*	77,220	n/a
sub total	91	323,298	2,285.3
Scotland			
Scottish Homes			
1994-95	9	3,735	34.0
1995-96	18	6,486	47.2
1996-97	28	12,070	86.8
sub total	55	22,291	168.0
Total	146	345,589	2,453.3

Sources: Social Housing, May 1996, Public Housing News, UNISON, Winter 1996-97,
*Planned and includes 9 authorities transferring 18,572 dwellings under the Estates Renewal Challenge Fund Round 1 and 14 authorities transferring 22,148 dwellings in Round 2 to housing associations or local housing companies.

administration. The UNISON branch secretary in Croydon explained that 'Croydon's experience is a prime example of political dogma overriding the Council's duty to provide services at value for money'.

Protecting jobs and services

Some local authority managers and councillors have genuinely considered that externalisation is the most effective way of protecting jobs and services in the current local government context. This argument has also been developed by some trade union officials and sold to members concerned with tendering and job insecurity.

The case study evidence collected in this report shows that jobs and services are not improved under externalisation and that there are high costs to users, employees and councils. Councillors could claim that externalisation provides the opportunity for them to avoid responsibility for compulsory redundancies, management policies and potentially difficult industrial relations matters. However, this is a superficial argument. Councils ultimately cannot avoid a certain level of responsibility for staff subsequently made redundant by a private firm.

Avoiding CCT

The idea that CCT must be avoided virtually at any cost, and that complete privatisation is the means of achieving this objective is illogical. Yet this argument has been put forward by many local authorities.

Avoiding CCT excludes any possibility of an in-house bid and any possibility of providing direct services. The in-house bid acts as a regulator—something which is recognised by the Government, the Audit Commission and other national bodies.

If externalisation takes place, then there is no in-house bid to act as a bench mark in terms of quality and price to ensure that the council achieves value for money.

Under both CCT and externalisation the service is operated through a contract, EC directives govern the process, the workforce will be transferred through TUPE and restrictions on contract compliance apply.

Under externalisation, however, direct services cannot be maintained. Externalisation pre-empts the outcome of a CCT exercise and assumes the most pessimistic scenario.

Contracts will be lost under CCT

Another view of CCT is the one which assumes that the local authority will not win the contract therefore it is better to externalise now on terms determined by the council than be forced to contract out individual services under the CCT process. This view is rarely based on any evidence from a sector or market analysis or any detailed assessment of the local situation and the quality of the preparation for CCT. Even if the authority is forced to contract out the service this is still materially different from selling the service to a private firm.

These defeatist views of CCT are used to support the case for externalisation. The danger is that they result in a lack of preparation for CCT which in turn encourages the view that externalisation is 'the only option'.

Budget cuts

Externalisation will not solve local authority budgetary problems, since there will be no more money available for externalised services in the private sector. A private firm operating in the same economic climate as the local authority will not provide any more security of employment when both are heavily reliant on a council capital and revenue programme. Budgetary issues will remain a problem whoever runs the service; the key difference will be that under externalisation there will be less flexibility and less democratic control over the service in terms of its financial prospects.

Few councils have made detailed assessments of the costs and savings associated with externalisation. In some authorities which have already externalised services there is evidence of increased contract prices and costs as companies struggle to fulfil contracts under the agreed financial terms.

In the current budgetary context, externalisation could also result in greater cuts in other parts of the authority since the loss of a service will mean increased overheads for other departments, with less flexibility to spread overheads throughout the authority.

If externalisation goes ahead, any surplus will be retained by the company and will not be used to the benefit of the council or its council tax-payers.

Capital spending

In highways and transportation services, externalisation has been justified on the impending reduction of capital programmes, changes in the Department of Transport / Highways Agency agreements and CCT. Using this as a reason for externalisation ignores the longer term needs and potential of the local authority and other public sector clients such as the Highways Agency.

The attraction of a capital receipt

The prospect of a capital receipt has clearly been present in most local authorities although it has never been openly regarded as a prime motive. However, budgetary constraints in most local authorities mean that some councillors may view externalisation solely from a financial perspective. The real issue is the size of the net capital receipt after all the debts, consultants fees and other costs have been taken into account, together with longer term costs when the authority becomes entirely reliant on private firms for service delivery.

Use of private management consultants

Management consultants have played an important role in promoting, justifying and implementing externalisation. Managers are usually very keen for the authority to employ consultants and advisers (such as banks and lawyers) at an early stage because they will normally reinforce their views, help to sell the idea to councillors and staff and to get the externalisation project underway. Consultants such as KPMG and Coopers and Lybrand are very active in externalisation. Evidence from the case study authorities shows that externalisation can be stopped but it requires early action. The employment of consultants and advisers often creates a snowball effect which makes externalisation more inevitable the further the process continues.

The quality of many of the consultants reports is highly questionable, corporate issues are often ignored, cost savings or capital receipts are usually inflated and important matters of public interest given superficial recognition.

Alternatives ignored

The decision to advertise the service for sale is often based on an extremely limited assessment of the private sector market, the competition and the staffing implications. The possible negative effects and alternative options which support in-house provision have usually been overlooked.

Wider implications

In cases of DSO trade sales, the weakness of one part of the DSO may lead to calls for externalisation, followed by the realisation that this would pose serious implications and problems for the remaining DSOs and overheads.

In Bristol, for example, there was a fear that the cleansing contract would be lost under CCT and that many of the other contract services would not then be viable eg. cleansing provided 65% of work for the transport service. As a result virtually all contract services were included in the trade sale, which involved a range of services, employees and users which would not have otherwise been considered as part of an externalisation package.

'Partnership'

Several of the case study authorities argued that a 'partnership' with the private sector was preferable to the loss of CCT contracts. However, once work is externalised the partnership arrangement is weakened and local authorities have little control other than through the written contract and monitoring arrangements.

Partnering is being increasingly used in private industry between companies and is meant to develop a relationship based on trust and increase flexibility. However, it also involves ' .....a sharing of some of the management risks with the council and consequently less certainty over the real bottom line cost of the services...If this breaks down the Authority has less potential recourse to the traditional tools of Contract Management and the sanctions provided by them'*.

In Bristol, a councillor sits on Sita's board. However, the client is concerned to ensure a flow of work to the contractor and criticisms of over zealous monitoring have resulted in a more informal relationship with the company.

It should be remembered that partnership through privatisation is the weakest form of partnership. Where a council has lost control of a large chunk of its assets, it will in the process loose ultimate control of its externalised services. The financial arrangements of partnering arrangements such as the Ealing case are extremely complicated and there will be many hidden costs which are harder to identify than in a fixed price bid.

In Ealing the UNISON branch secretary stated two years on from the externalisation that the 'partnership with BRETs had lasted five minutes and was a total facade'. The partnership has resulted in major financial problems; the 1995 BRETs accounts reveal that contract payments of nearly £1m was in dispute between the council and the company; the sum is now much larger.

*'Externalisation of the TSG' Report to the Alternative Provision Committee, London Borough of Ealing, 10th February 1994

Uncertainty of local government reorganisation

Several councils affected by local government reorganisation have sought to externalise services ahead of implementation, using the uncertain climate to push through proposals to hive off key areas of work. Externalisation pre-empts democratic decisions by new authorities and may make the service less relevant to them. In addition, externalisation reduces the options for staff affected by Local Government Reorganisation in terms of the possibilities of transferring to the new authorities. This may have implications for the terms and conditions of different groups of staff including those nearing retirement, those seeking new jobs within the new authorities and technical/administrative staff seeking new career prospects.

Increasing local employment

Some firms are promising to use the externalisation of white collar services as a means of establishing local or regional centres with the potential of increasing local employment. For example, Bexley externalised its revenue and housing benefit services to Capita who invested £250,000 in the conversion of Erith Town Hall into a regional Capita centre. The intention is to transfer work won in other neighbouring local authorities to the Bexley centre. The security of local jobs is gained at the expense of others in neighbouring authorities leading to a net loss of employment.

Management interests

In virtually all cases externalisation is a management-led initiative which has been introduced with little political input or debate.

Managers are likely to be the main beneficiaries of externalisation. A few managers are likely to gain financially from share option schemes, new employment contracts, profit sharing and the sale of shares if the company is taken over. In a Westminster City Council report on their enabling programme, it was pointed out that a theme raised by a number of managers was that '......potential rewards in a successfully externalised service were much greater than that offered in-house. An example was quoted from a recent tendering exercise where a leading external tenderer was intending paying the contract manager roughly double what the existing service manager was receiving'*.

Our research shows that the majority of non-management staff will suffer further job insecurity and possible changes in terms and conditions of employment.

In the majority of cases of externalisation,

*(Westminster City Council, Contracts Committee 11 February 1997).

senior managers have played a key role in promoting the sale of key council services. In one case where externalisation and CCT were twin-tracked to give the council 'greater options', it was widely felt that less effort had been devoted to developing a better and more cost effective in-house bid than would have otherwise been the case.

Management buy-outs (MBO)

Scale of buyout activity

MBOs were promoted by a few local authorities in the late 1980s, but their popularity has waned following a number of significant failures and takeovers (see Table 1.5). Since 1991 there have been, on average, less than 3 buy-outs of local authority services a year, excluding bus services. This followed a two year period when there were 10 buy-outs in 1989 and 10 in 1990. According to the Centre for Management Buy-out Research (CMBOR) a quarter of local authority buy-outs 'exited' through stock market flotation, sale to a third party, or secondary buy-out between 1988 and 1994. In addition, nearly 3% went into receivership.

Of the manual services MBOs listed in Table 1.5, CSG Bath was the clearest example of failure. CSG went into receivership in July 1990 with the loss of 129 jobs only 18 months after its formation. The company had contracts with its 'parent authority' Bath City Council and with other authorities. In a number of cases, subsequent sales of local authority buy-outs were carried out in order to rescue a deteriorating trading performance. Almost a third of buy-outs in the CMBOR survey had experienced cash flow problems, principally because of problems of slow debt recovery and bad debts.

There have also been a limited number of MBOs in white-collar services including several notable failures. Cambridge Information Technology Services collapsed in 1989 owing the county council £380,000 and 50 jobs were lost. West Wiltshire District Council cancelled all its contracts with computer services MBO West Wiltshire Information Systems. Wilkie Maslen, its legal services MBO, also failed following a fraud investigation.

The benefits of buy-outs are likely to be exaggerated, particularly by those with a political or financial interest in promoting them. Externalisation through the establishment of MBOs holds high risks. This was pointed out by Westminster City Council, which continues to be an ardent supporter of the enabling model:

'In the initial stages of the competitive tendering programme there was interest in setting up MBOs and there were three notable successes (City Centre Leisure, MRS and Capital Parking). However these successes were tempered by failure in that City Centre Leisure were not successful with their tender for the three other Leisure Centres, MRS did not win the City Council's Public Conveniences and Capital Parking won only one of the four contracts they tendered for and that a small one'*. Three other MBOs established in Westminster failed to win any of the council contracts. Since then MRS has lost the refuse and street cleaning contract to Onyx.

Risks authorities face from MBOs

The Audit Commission issued clear guidance to local authorities in 1990 on confidentiality and conflict of interest: 'MBOs: Public Interest or Private Gain?'

- An MBO is a new and untested company. The legal, financial and personnel support which managers used to have in local government will not be available. Local government management expertise may not be suitable in the private sector.
- Accountability will be lost to the authority and to the public. Control of the service is only through the terms of the contract between the MBO and council.
- The legal issues include:

Fiduciary duty—the sale price, costs incurred by the authority, future prices, start-up and write-off costs if the buy-out fails, financial assistance to the buy-out and possible risks to the authority.
Conflicts of interest—of officers involved.
Assistance to the buy-out company—use of council expenditure.
Staff time to organise the buy-out—The Audit Commission advised that the legality of doing so is open to considerable doubt. Officers involved should be removed from management of the service. The Audit Commission suggests that suspension or resignation are options for a buy-out team.

There are concerns that the guidance on MBOs is being flouted by some managers. In Croydon, for example, the finance department was transferred to a management/employee buyout joint venture with Touche Ross, but none of the management team was required to leave the council's employment whilst preparing the bid.

As well as changes to employment conditions, there is usually a marked reduction in trade union influence following a buy-out.

Management and Employee buy-outs

Management and employee buy-outs, (MEBOs) involve the service being sold to a company formed by ex-local authority employees and managers. There are very few examples of employee buy-outs in local government.

One example of externalisation through an

*Westminster City Council, Contracts Committee 11 February 1997.

MEBO has since ended. Quadron Services Limited, established in October 1993 by 360 contract service staff in Woodspring District Council faced major financial problems within three years and was acquired by Sita in 1996. Under the buy-out staff held a 45% stake and the remainder is split equally between management and a venture capital company. All staff were eligible to buy a minimum of 200 or maximum of 6,000 shares when the employee buy-out was set up. The district council had no direct part in the Board which comprises the managing director, finance director, chairman, and two elected worker directors.

Externalisation and the enabling model of local government

The privatisation of DSOs and departments further reinforces the enabling model of local government in which the council is a purchaser of services but does not necessarily provide them.

Many people believe that the enabling concept of government is 'a good thing' but do not fully understand what it means in practice. It raises important issues such as the implications for Councillors, the potential weakening of control over service delivery, the impact on women and equal opportunities, the accumulative impact of selling council assets and the consequences of relinquishing employment responsibilities.

The enabling concept is based on the following key elements:

- Acceptance that widespread competition is the most appropriate method for achieving service provision;
- An assumption that market forces are the best way to allocate resources;
- The use of business, rather than social, criteria such as value for money, profit ratios, and increasing productivity;
- A view that it does not matter who delivers the service and that employment conditions are not related to quality of service;
- The considerable costs of restructuring and contracting out under the moves to an enabling model are ignored;

The enabling model has major implications for service users and workers. 'Enabling' means:

- Services being based on the 'needs' of the private sector rather than the needs of existing or prospective users of services;
- The management use of contracting out and privatisation as a means of centralising management control and achieving productivity increases;
- The break-up of trade union organisation through the fragmentation of the workforce into different contracts and employers;
- The introduction of locally negotiated pay deals to undermine local authority NJC pay levels.

The combined impact of these moves could lead to more fragmented, fewer and poorer quality services leaving the local authority with the less profitable and less attractive services which private contractors do not want.

The enabling model includes:

- Competitive tendering and market testing across the authority and a hard contractor/ client split extended to all services.
- An internal market where services which cannot be contracted out are subject to an internal trading framework including pricing and charging for services, market rules and trading accounts.
- New financial systems and the encouragement of partnerships with the private sector, including management buy-outs and buy-ins.
- Privatisation and the removal of democratic responsibility for services from elected political representatives. Under the enabling model senior managers, rather than councillors, control local services and make use of the complicated contracting process and internal trading to push through changes.

A theory of externalisation

We have identified a theoretical framework to explain the externalisation of public services. There are two internal and two external factors.

External factors

The requirement that local authorities tender services under the compulsory competitive tendering regulations is a key factor. Tendering has been a requirement for building and highways DSOs for some time but the CCT regime imposes specific regulations and forces the tendering of services which were previously excluded. Some local authorities have sought 'alternatives' to CCT but a strategy which guarantees 100% privatisation because of the absence of an in-house bid, cannot be considered as a genuine alternative. There is clear evidence from the case study authorities that the threat of contracting out part of a service under CCT has been used to promote and justify complete privatisation.

The second external factor is the existence of an externalisation market with private contractors and consultants as willing buyers and actively seeking acquisition of DSOs and departments. Clearly, without this market the extent of externalisation would be largely curtailed to privatisation and to non-profit organisations such as trusts. The limitations imposed on local authorities from developing consortia or takeovers and mergers within local government, imposes a constraint on local authorities. DSOs and departments are prevented from achieving economies of scale and/or pooling technical expertise within the public sector.

Internal factors

The extent to which the DSO adopts a commercial ideology and business practice across the organisation is crucial. This may be due to council policy regarding the DSO as an arms length commercial enterprise. In other words the DSO is required to operate almost as if it were a private company. It may also be rooted in the authority's tendering strategy of seeking to win solely by price. There is a high degree of similarity with locally independent private sector companies. The DSO is, therefore, vulnerable to the same economic and market forces and thus subject to takeover and merger in the same way as local firms providing the same services. Only the process of acquisition is different.

Secondly, senior managers usually initiate the externalisation option because they want to improve their financial standing through better pay, benefits and share options and/or as career moves. Staff insecurity and fear of further job losses if contracts are lost, can be influential in agreeing to consider externalisation. In a few cases, for example Bristol, some trade unions were actively involved in promoting externalisation.

Other issues

Budget cuts are not a relevant issue in this framework because they have affected councils across the board, many of which have suffered the deepest cuts but have not sought to externalise their services. Access to capital for repairs and improvement has been very important in the case of housing transfers.

Local authorities have a wide range of legal powers to establish different vehicles to externalise services although the extent to which authorities can legally actively and financially support privatisation initiatives by staff, or 'making markets' is questionable*.

Combination of factors

The extent to which externalisation is implemented is dependent on the interplay of the two external and two internal factors noted above. All four factors were prerequisite in the sale of DSOs and white collar services. The formation of leisure trusts has been driven partly by budget cuts and hence the attraction of VAT and NNDR savings from trust status but CCT and managerial interest in externalisation were equally important.

*Encouraging DSOs and Business Units to Externalise, Westminster City Council, February 1997

The geography of externalisation

The regional pattern of externalisation provides a stark contrast between the north and the south. Virtually all the transfer of DSOs, white collar departments and large scale council housing stock transfers have occurred south of a line drawn from the Wash to the West Midlands. The only exceptions are the sale of the Allerdale DC and Barrow DC DSOs in Cumbria, architectural services in Cheshire CC and the LSVTs in Ryedale, Hambleton, South Ribble and an estate transfer in Manchester.

There are several reasons for this geographic pattern. Firstly, the vast majority of externalising local authorities were Conservative controlled district councils or districts with no overall control or controlled by Independents. This is particularly the case for the sale of DSOs and LSVTs. There were few district councils externalising white collar services, mainly because they have relatively small units, which was concentrated in seven London Boroughs and thirteen County Councils. It is also apparent that the enabling concept of local government is more widely accepted by both councillors and officers in these authorities. Six authorities which externalised their DSO also transferred their housing stock to housing associations (three others failed after tenants voted against transfer) and three local authorities privatising white collar services also transferred their housing stock.

Secondly, the level of competition for CCT contracts has been higher in the south than in the north. Construction sector consultants may have also focused on acquiring local authority architectural and engineering services in the south because of the potential longer term infrastructure investment in the Midlands and South East.

The pattern of externalisation of leisure trusts and social services trusts, is both on a smaller scale than the other forms of externalisation, and is also dispersed geographically.

The regional pattern of council housing transfers is set to change. LSVTs up to 1994 were 'concentrated in growth, resort suburban and rural areas'*. Whilst the transfer of the entire stock of the district council's housing stock will continue, the Estate Renewal Challenge Fund specifically enforces partial stock transfers. The 1997/98 programme includes nine, mainly Labour controlled Metropolitan District and London Boroughs, which will transfer part of their housing under this programme. The proposed changes to encourage stock transfers noted above could result in transfers being more widely adopted across the country, assuming of course that tenants approve.

*Evaluating Large Scale Voluntary Transfers of Local Authority Housing, DoE, 1995)

Chapter 2
The advantages of in-house provision

Introduction

This chapter sets out the case for in-house provision and examines the disadvantages of externalisation. It is also vitally important to develop proposals to improve in-house services.

The advantages of in-house provision include the following:

- **Direct democratic control and accountability of service delivery**
  Direct services can be responsive to users in a way that is difficult once services are privatised. In addition, elected members can use the council structures to ensure accountability in a way that is not possible with private companies.
- **Maintain quality of service**
  The contracting system is not the most effective way of controlling the quality of services. Local authorities have achieved better levels of performance under CCT than the private sector, with fewer failures and terminations of contract.
- **Good management**
  Management in local government has become increasingly efficient over recent years and has developed new ways of working. In-house managers can work to maintain an integrated service for all council departments and are able to implement corporate policies at service level, whilst maintaining a strategic overview of services across the authority.
- **Equal opportunities and quality of employment**
  Local authorities provide better working conditions and employment practices than the private sector. Local government has been a leading advocate of equal opportunities policies and practices, something which the private sector has not generally promoted.
- **Maintain close client-contractor-user relationships.**
  The damage caused in the split created by contracting out services is minimised where services are retained in-house and there is close working between the direct service organisation and client officers. The continued development of a closer client and contractor relationship should be a council priority.
- **Obtaining lower prices than would otherwise be the case**
  An in-house service serves to regulate market prices by comparing local authority costs with those of other public bodies and the private sector.
- **The retention of professional and technical expertise within the authority.**
  It is vital that the local authority retains the ability of obtaining this expertise with a public service perspective rather than relying on advice solely from private sector interests.
- **Organisation of in-house services driven by service needs, not profit objectives.**
  In-house services are organised and operated within the local authority's corporate policies of meeting social needs and fulfilling its statutory duties. The first obligation of private companies is the maximisation of profit and satisfying shareholder interests.
- **Strategic management**
  Local authorities can develop a strategy to take account of the abolition of CCT and its replacement with Best Value more easily with in-house services.

National research shows that a strategic approach, which seeks to maintain best practice with regard to the quality of service and employment, is more significant than the political complexion of the local authority in terms of maintaining jobs and services*.

It is vital that local authorities develop a clear strategy for their role in the future design of public services. Without a clear strategy, the drift to externalisation would leave many local authorities with a very limited role in service provision in a few years time.

The disadvantages of externalisation

A substantial case can be made against a policy of externalisation because:

- Local authorities will lose the experience and knowledge of professional and technical staff.

*Equal Opportunities Commission, 1995

This is only available to the local authority after transfer for as long as staff stay with the company and the company retain the contract. There may also be training and staff development implications.

- It closes all other options including the possibility of the in-house service winning contracts under CCT and Best Value.
- The money received in the sale is unlikely to have any significant impact on the council's overall financial situation. The price obtained is likely to undervalue the real asset.
- The company operating the privatised service is likely to want to diversify the range of activities and services. It will be looking for new markets and achieving economies of scale and is likely to start competing for work in other council departments. Externalisation will not be confined to one specific service. Once one service is privatised it is likely to set in motion further externalisation.
- Unless specified in the contract, the local authority will have no control over staffing levels, pay and conditions of service and working conditions, beyond ensuring a TUPE transfer, for those providing the service.
- The company could eventually transfer work to other offices elsewhere. It may have other offices in the region and changes in workloads may force it to rationalise its operations.
- Local authorities will lose access to potential trading surpluses generated by the service. Once privatised, surpluses (or losses) are the property of the private company.
- The authority will lose a regulatory pricing role: without an in-house service it must rely solely on market prices determined by private consultants.
- The authority cannot directly implement corporate policies including equal opportunities. The local authority must rely on getting all its policies clearly written into the contract and allocate sufficient resources to monitor and evaluate their effective implementation.
- Unit costs may rise in remaining council departments because of reduced economies of scale or because of a private contractor's charges for 'client' functions.
- The loyalty of staff inevitably moves to the host company. Once staff are employed by a private company their allegiance and vested interest inevitably becomes bound up with the private company.
- The authority may be liable for contract penalties if the workload declines below certain levels agreed at the start of the contract.

Chapter 3
Authorities which have rejected externalisation

Introduction

At least ten local authorities have rejected externalisation of white-collar services and four DSO trade sales have been halted. The important point to note is that most of these authorities stopped externalisation after starting the process by advertising the contract, shortlisting and/or interviewing contractors. There are others who have also rejected externalisation before reaching this stage.

Authorities which have rejected externalisation of white collar services cover seven County Councils and three Metropolitan District Councils.

The services include four highways, two property services and two construction related services including architectural.

Three metropolitan authorities, Sheffield, Kirklees and Sefton considered externalisation and decided not to proceed.

Table 2.1:
Councils which have considered and then rejected the privatisation of services include:

Local authority	Service
Bedfordshire CC	Architectural, surveying, estates, engineering
	Information technology
	Payroll, treasurers
Cambridgeshire CC	Property
Dorset CC	Highway engineering
Kirklees MDC	Architecture and engineering
Norfolk CC	Highways engineering
North Yorkshire CC	Highways & transportation
Sefton MDC	Construction related
Sheffield MDC	Design & building services
Suffolk CC	Highway engineering
Wiltshire CC	Property
Rejection of trade sale of DSO	
Chichester DC	DSO and white collar (400 staff)
Clwyd CC	DSO: Bid from Sita (GB) Ltd rejected.
Dorset CC	Highways DSO
Lewisham LBC	DSO
Rejection of Leisure Trust	
Lewisham LBC	
St Helens MBC	
Newcastle City Council	
Rejection of housing transfers	22 unsuccessful LSVT ballots and 18 abandoned schemes

Source: Centre for Public Services, 1997.

Reasons for rejection

More effective in-house service

Plans to externalise Dorset's highways DSO were scrapped and Kirklees Metropolitan District renewed its commitment to direct services after considering externalisation of technical services.

Staff uncertainty and ballot result

At North Yorkshire County Council the proposed externalisation of the highways and transportation department, affecting 380 staff, was stopped before the invitation to tender stage. The county advertised for expressions of interest in June 1995, following a staff ballot in December 1994, in favour of proceeding with externalisation. Five firms—Babtie Group, Mouchel & Partners, Rust Consulting, Sir William Halcrow & Partners, and W.S.Atkins made presentations to staff and councillors in October 1995, followed by a UNISON presentation.

A second staff ballot was held after the presentations by the consultants and staff support had declined substantially from 157 to 82. 159 staff voted against in the second ballot. Staff support in design and construction, the service advertised for externalisation and where there was most private sector interest, declined from 93 to 74 in favour out of a total of 132 staff. UNISON also submitted a report summarising the key issues, prepared by the Centre for Public Services, which was included in the officers report to the Highways and Transportation Committee.

Local government reorganisation

Three county councils stopped the externalisation process as a result of the continuing uncertainty and the delay to CCT in connection with the Local Government Review.

Wiltshire CC had planned to externalise its property services department with 120 staff, and to retain another 10 in a client unit. Jones Lang Wootton and W.S. Atkins were included on the shortlist. However, uncertainties caused by the Local Government Review were cited as the main reason for abandoning the proposal. Councillors were reluctant to enter into contracts which would be binding on the new authorities and were also concerned about the potential cost of contractual disputes.

Bedfordshire County Council rejected externalisation of a range of services due to impending local government reorganisation. The companies rejected by the authority for property services were Jordan Salata, Jones Lang Wootton, Serco, Knight, Frank & Rutley, Ridge & partners, W.S. Atkins.

Political opposition to externalisation

In Sheffield and Sefton MDCs trade unions and councillors forced managers, intent on externalisation, to halt the process.

In Sheffield, the proposed sale of design and building services department, with over 500 staff in 1994, reached invitation to tender stage before externalisation was abandoned. Following an advertisement in the Financial Times more than 100 companies expressed an initial interest, 24 companies expressed more detailed interest and a shortlist of six companies was drawn up by the council. These were the Babtie Group, Brown & Root, Carl Bro Ltd, Mott MacDonald, Parkman, and Pell Frischmann Consulting.

UNISON was central to the campaign to stop externalisation. In addition to writing to and lobbying councillors, the union also commissioned the Centre for Public Services to carry out an independent investigation into the proposals and held a public meeting to discuss the implications of the report. Councillors finally voted to reject externalisation and stop the process being taken any further.

In Sefton, the UNISON branch took industrial action to increase pressure on the local authority which ultimately decided not to proceed with externalisation.

Chapter 4
TUPE and employment policies

Many externalisation proposals assume that the sale will benefit staff and protect terms and conditions of employment. This optimistic view is not borne out by the facts.

TUPE now applies to virtually all contracting out of council work and externalisation will not offer better protection than under CCT contracts.

In all the cases we considered, the TUPE application was never challenged by the companies.

What is transferred?

The application of TUPE in contracts has been a very important development. It has lessened competition based solely on the grounds of staffing levels, and terms and conditions of employment. It also provides staff, where contracts are won by private contractors, with protection at the time of transfer and to some extent during the contract.

The European Commission Acquired Rights Directive 77/187 protects the rights of employees in the event of a relevant transfer of an undertaking to a new employer. This was put into effect in Britain in 1981 through the Transfer of Undertakings (Protection of Employment) Regulations. Recent European and British court decisions have consolidated the application of TUPE to most cases of contracting out and externalisation in the public sector.

TUPE applies to permanent, casual and temporary workers, and trainees but not to the self-employed. All employed workers, contracts of employment and employment relationships automatically transfer to the new employer at the date of transfer.

Application of TUPE

There are a number of key areas which should apply under TUPE:

Jobs: Retention of the existing workforce—the new employer cannot pick and choose who will transfer.

Pay and conditions: Existing terms and conditions (including holiday and sick leave) must remain exactly the same with the new employer.

Pensions: Pensions are currently not transferable but the new employer must make alternative provision with broadly comparable benefits (see below).

Length of service: Time spent with the local authority counts towards length of service with the new employer. A transfer does not affect continuity of service.

Unfair dismissal: The new employer cannot 'fairly' dismiss staff unless they can prove that there is 'an economic, technical or organisational reason (ETO) entailing changes in the workforce' after the transfer.

Union recognition: All existing arrangements transfer to new employer.

Collective agreements: All local and national collective agreements including grievance and disciplinary procedures transfer to the new employer

Transfer of equality clause: Under the Equal Pay Act all employees have an equality clause implied in their contracts which should transfer with the employee to the new employer.

Staff also have consultation rights: They must be consulted about:

- Why the transfer is taking place.
- When it is likely to occur.
- What the implications are for employees.
- How the employees will be affected by measures taken by the present and new employer.

The present employer and new employer must receive and reply to representations from the trade union. Failure to consult could result in compensation being awarded to all affected employees by an Industrial Tribunal.

How redundancy terms are affected

The TUPE regulations ensure the transfer of continuous service to the new employer and, if any redundancies take place, the redundancy calculation is based on the total years of service from the local authority prior to transfer and the years of service with the private firm since transfer.

The local authority's redundancy terms also transfer to the new employer and apply if the private firm makes any staff redundant, unless any changes have been agreed by the staff. Transferred staff may be entitled to the enhanced early retirement scheme operated by the local authority but only if this is a contractual part of the local agreement. If the private firm has an enhanced redundancy scheme which has better terms than the local authority scheme it will not apply to transferred staff (unless of course the firm has agreed changes).

In the current budgetary and staffing situation in local authorities, it is relatively easy to volunteer for early retirement, in effect being made redundant. However, transferred staff have no right to be made redundant and will be employed by the firm until they either leave for another job, reach retirement age, or are made compulsorily redundant because of the lack of work.

Broadly comparable pensions

Contractors are now required to provide a broadly comparable pension where a TUPE transfer takes place. The Local Government Superannuation Scheme is one of the best performing pension funds and it is vital to ensure that the pensions offered by private companies are truly comparable. In most cases pensions were available to transferred staff, but there is evidence that private companies do not have equivalent pensions for part-time staff on low earnings. Women are clearly disadvantaged when transferred to the private sector from local government where all staff are now encouraged to join a pension scheme regardless of hours worked.

The Government Actuary has issued guidance on what is considered an acceptable scheme in the test of what is 'broadly comparable' as required under the TUPE regulations. A private contractor's scheme must include the following:

- A final salary scheme, with a spouse's pension.
- Provision of the same range of benefits, including tax-free lump sums on retirement (whether automatic or by commutation of pensions), death in service benefit and ill-health early retirement pensions.
- A pension which is as valuable as the current scheme, with no identifiable subject group suffering a material reduction in the overall value of future pension rights.
- Allowing no reduction in rights earned to date and offering reasonable security for those rights.
- In reorganisation or wind-up, the value of benefits to match transfer values or any higher reserve before surplus can be used by the employers.
- Members to make up a third of the trustee body.
- Full index linking of pensions is not required if it is outweighed by other more favourable elements in the overall package.
- Pensions in payment should increase each year by 5% or the level of prices if that is less.

A High Court judgment ruled that employees transferred under TUPE to private contractors do not have the right of access to a pension scheme. The case concerned 11 school meals workers working on a £17m a year BET contract for Lancashire County Council. BET refused to include them in the pension scheme because they earned less than £15,000 a year. The judgment directly affects 600 out of the 3000 catering staff who transferred and were previously covered by the local authority pension scheme. It also has serious implications for thousands of local authority workers affected by privatisation and externalisation. The trade unions, GMB, T&GWU and UNISON, who brought the case have lodged an appeal.

In Croydon's externalised contract, the Touche Ross pension scheme is only open to permanent staff working 15 hours or more.

Additional protection

Additional protection for staff under TUPE may be possible following a number of legal cases outlined below. However, it should be remembered that the legal route is long and arduous, the results of which are uncertain. Nevertheless, it is important to use the cases to argue for stronger application of TUPE prior to externalisation taking place and in negotiations once staff have transferred to a private contractor.

Wilson v St.Helens 1996

The Employment Appeals Tribunal stated that employees pay and conditions cannot be cut because of a transfer, even by agreement. This decision followed the case of Wilson v St. Helen's Borough Council involving the transfer of staff working in a community home from Lancashire County Council to St. Helens on less favourable terms and conditions of employment. The claims under the Wages Act 1986 succeeded in showing that the council breached TUPE regulations and constituted an unlawful deduction from their salaries. The tribunal ruled that employees cannot agree to vary their terms and conditions if the transfer of an undertaking is the reason for the variation.

Although the case affects staff subjected to variation in their contracts following a transfer, employers may attempt to avoid consultation with staff over changes and an 'economic, technical or organisational' argument can still be made for transfer redundancies which contractors may use as an alternative means of reducing costs.

Ball v BET Catering 1996

This case means that wherever terms and conditions are contractually linked to a collective agreement then, after a transfer, contractors are obliged to follow changes and increases made under that agreement. The case involved school meals workers in Richmond-upon-Thames winning their claim that their new employer, BET, has to give them the pay increases agreed under the local authorities national joint agreement. The company had not paid NJC increases and employees took a tribunal case under the Wages Act 1986. If the Industrial Tribunal decision is upheld, the case will form an important precedent since many staff affected by TUPE will be entitled to wage increases and possibly back pay.

Ratcliffe v North Yorkshire 1995

In 1995 The House of Lords found that North Yorkshire County Council had been guilty of sex discrimination under the 1970 Equal Pay Act when it cut women's wages to compete under CCT. In the case of Ratcliffe v. North Yorkshire County Council the women who had their wages cut in order to help the DSO win a tender were entitled to equal pay according to the pre-existing job evaluation even though the external competitor paid its female workforce less.

The key issue was that, in 1987, a national job evaluation exercise by the National Joint Council for manual workers, resulted in the catering staff being paid the same as male employees performing various manual jobs, since they were considered to work in jobs rated as equivalent under the Job Evaluation Scheme. The case should have implications for the implementation of TUPE. It may be possible to argue that an equality clause goes with staff on a relevant transfer, entitling them to continue to use local authority comparators.

The post-transfer experience: employment implications

Consultation

The majority of cases of externalisation involve fairly detailed consultation with the trade unions. This clearly has different types of results depending on the strength and organisation of trade unions, councillors and managers. In Bristol, for example, the trade unions were fully consulted on the externalisation proposals and involved in interviewing and selecting contractors. Promises were made by Sita in terms of doubling turnover over the next three years and exploiting economies of scale. Although the trade unions were highly involved, officials now realise that the council and the company made promises to the workforce they could not keep.

Job security

Evidence from cases of externalisation shows that sell offs usually lead to job loss and rarely to expansion. If the company does succeed in gaining other public sector work, these contracts are also likely to be covered by TUPE. This means more staff are taken on with the work, which will in turn have no benefits for existing staff and may increase pressure for rationalisation and job cuts. This has clearly occurred in companies who have gained a number of local authority CCT and externalised contracts within a region.

Employment loss has taken place in most cases of externalisation within the first year. For example in Bristol there were 79 voluntary redundancies amongst manual staff and several more among white-collar staff within weeks of the trade sale.

In Croydon's legal services, out of 30 staff transferred in April 1994, six legal executives and assistants were made compulsorily redundant in July 1994. UNISON members took their cases to industrial tribunal and settled out of court. In addition, in Croydon's financial services contract CSL made three payroll staff redundant and reorganised management and other staff to take on work from other contracts on the Croydon site. In the case of Croydon's building and architectural services externalisation which took place in June 1994, WSP made one architect, two technical and one other member of staff redundant in summer 1995.

In one of the largest examples of externalisation, 416 white-collar staff and 1,078 manual staff were transferred from the London Borough of Ealing to Brown and Root Ealing Technical Services (BRETs) in April 1994. The company has failed to expand as planned and has had problems meeting financial and service delivery targets. BRETs response to financial problems has been to cut staffing and worsen the conditions of the workforce.

Within months of winning the work and staff transferring under TUPE, BRETs announced the need to make redundancies. By July 1995 BRETs employed around 350 APT&C staff, of whom about 45 had been brought in by Brown and Root. Of the 416 London Borough of Ealing white-collar staff who transferred, some 110 (26%) were no longer with the company. Further white-collar redundancies were announced in November 1996. In addition, 300 manual staff have been transferred to another contractor, Swanlux, and it has been estimated that BRETs now has only 600-700 employees.

In Croydon, CSL invited the workforce to compete for new employment contracts stating that some members of the workforce who fail to secure such a contract 'may not have a job'. Middle management posts were advertised and job descriptions contained the statement 'Hours of work: Normally 36, but must be prepared to work longer hours as required'. This clearly contravenes CSL's own equal opportunities policy, since for example, women with care responsibilities may be unable to meet such demands.

Trade union organisation

The transfer of staff under TUPE undermines the employment framework council staff are currently entitled to, including trade union recognition and collective bargaining. Under TUPE, recognition is transferred but, under UK law, the contractor may derecognise the trade union.

The benefits of national and local bargaining arrangements in local government are often lost when externalisation occurs. This covers pay bargaining and other employment conditions. Once bargaining structures have been weakened, private companies can undermine the effects of TUPE by seeking to change terms and conditions of employment. The extent to which this has occurred varies and often depends on the strength of trade union organisation prior to the transfer.

In the case of Croydon's externalised contracts, the position of staff has been severely weakened by externalisation and the pressure on staff has substantially increased. For example, in the legal services contract the company derecognised the trade union three months after a TUPE transfer.

CSL's financial services contract in Croydon employs over 350 staff. UNISON members are concerned that the company is intending to introduce a management restructuring process 'Business Process Reengineering' which could have implications for staffing levels. The company does not recognise UNISON for collective bargaining purposes, although it has confirmed in writing that representation for disciplinary, grievance, and individual matters is permitted. CSL has refused to allow staff to hold trade union meetings on the premises, even in their own time. Touche Ross staff in Croydon can remain in union membership but UNISON is not recognised for pay bargaining purposes.

In Woodspring's CSL contract, the trade union has maintained recognition, but the company does not recognise UNISON for collective bargaining. Time-off is given to the shop steward for trade union duties. A staff forum is held once a month and the shop steward meets with the regional negotiator on a quarterly basis.

In Ealing a staff committee was set up which includes management, trade union representatives and directly elected staff representatives. The trade unions have monitored BRETs activities closely and have been involved in taking a number of industrial tribunal cases on unfair selection for redundancy. Information on the financial problems facing BRETs has been restricted, but the trade union fears that without further contracts the company may no longer be financially viable.

Downsizing

TUPE will not necessarily protect staff affected by externalisation in the long term. The pressure on the sector generally, with restructuring and rationalisation is not going to take the pressure off staff moving to the private sector. TUPE cannot prevent major changes taking place if the service is externalised:

- Contractors can use 'economic, technical or organisational' reasons to cut jobs and alter conditions of employment.
- A dual staffing structure can arise with externalisation. Any new staff are likely to be taken on at different rates thereby possibly undermining the rates transferred under TUPE.
- Conditions of employment can be altered with the consent of the workforce. Many contractors will seek to harmonise conditions between existing and transferred staff.

In Ealing BRETs has introduced a new contract which abolishes many local and national conditions of service. The altered terms and conditions of employment for all white-collar staff include:

- 2.5 hour increase in the working week.
- Introduction of individual performance related pay.
- Overtime at plain time.
- Removal of five fixed days leave.
- Imposing maximum of 25 days annual leave for staff not currently entitled to more (previous maximum 28).
- Requirement to work from any of the company offices.
- Abolition of paternity leave.
- Bereavement leave to be discretionary.
- Consolidation of London Weighting and Ealing allowance and consolidation to a Brown and Root grade.

Major changes were also imposed on 480 manual staff during 1996, following industrial action and threats of dismissal from BRETs. Staff gave up pay and conditions including cuts in sick pay and holiday entitlement, overtime payments and bonuses worth £1,500 per annum, and new contracts were 'rewarded' with a lump sum payment of between £172 and £267. In addition, temporary staff have been recruited by BRETs to cover the work of permanent staff made redundant. As a result transferred staff are extremely demoralised. The company blames the need to make savings and increased costs for the changes.

Although terms and conditions were protected for ex-Bristol City Council employees for the first year, Sita wrote to 19 staff in cleansing who were reaching five years service and entitlement to a fifth weeks holiday, stating that they will not honour this increase. The trade unions argued that the company was in breach of its agreement and individual contracts.

On the engineering side, which includes vehicle maintenance, the bonus and call out schemes were downgraded and staff paid the rate for the job rather than by the hour. In addition, staff are not encouraged to take a mate with them since the mate receives a percentage of the call out. This clearly encourages risks and bad practice.

Existing local authority employees were transferred under TUPE to Woodspring's employee buy-out, Quadron. A number of changes were introduced following the transfer of Woodspring staff:

1. Overtime payments were negotiated by the hour rather than per job.
2. Annual pay increase—In 1993 staff gave up the pay award for the buyout. Increase of 1.5% in 1995, but further increases have been delayed. No performance related pay.
3. All staff lost 4% on existing salaries and wages in April 1996.
4. 20% of sick pay was cut—manual workers reduced to basic pay when off sick.
5. Normal increments have been paid but the unions fears plans to postpone payments.

These changes were blamed on the financial problems of the MEBO, which has since been taken over by French multinational, Sita.

In Devon, South West Highways proposed to cut terms and conditions of the former county council road maintenance staff, including changes to sickness and holiday entitlements. The company also wish to add five hours to the working week, payable at the basic rather than premium rate. The company argued that the protection under TUPE expires after 12 months, whilst the unions believed protection should last for the duration of the four year contract.

Annual pay increases

Companies are arguing that pay rates transfer on the day under TUPE, but that any further pay increases are subject to negotiation with the company and that they will not comply with national negotiations on pay for local government employees. This means that pay has to be renegotiated each year. It has proved to be a major source of savings for companies once contracts are externalised eg. Woodspring, Ealing, Bristol, Croydon.

In Bristol, Sita honoured the white-collar pay increase in July 1994 (the trade sale took place in August 1994), but not the manuals in September 1994. Eventually the council agreed to pay every ex-council employee a one-off payment for not receiving the pay increase. Pay negotiations between all the unions and Sita started in 1995 and have still not been resolved. The company wrote to all employees offering a 3% increase from 1st January 1996 which was rejected by the workforce. In effect, ex-Bristol employees are two years behind the NJC rate in local government. In January 1997 more than 500 employees were balloted on strike action following deadlock between Sita and the unions in pay talks.

In Croydon's building and architectural services contract, pay was frozen at the point of transfer and no increases were paid in 1994 or 1995. CSL has stated that pay increases will be determined by the company, rather than the Local Government Pay Award. In addition, Touche Ross stated that on new pay systems: 'Our pay system will be designed to reward individuals for their effort and dedication'.

In Ealing the trade unions argued that the NJC conditions should stay with the associated pay awards. The first pay award due in July 1994 was eventually paid very late and the second phase due in June 1995 had not been paid by December 1995. The company has since imposed new contracts and performance related pay.

Equal opportunities

Externalisation has major equal opportunities implications. Trade sales and externalisation are not constrained by the Local Government Act 1988 which means that authorities can determine equalities clauses and specify equal opportunities requirements in detail without fear of being deemed 'anti-competitive'.

However, equal opportunities has not been considered an important element in the cases of externalisation so far.

In the transfers we investigated male areas of employment have been dominant in the trade union negotiations over the employment implications of externalisation. Stronger trade union organisation has assisted in maintaining terms and conditions for smaller groups of male employees, whilst the particular needs of women, who tend to be less well represented have often been overlooked.

In Bristol for example externalisation was 'sold' to the male sections of the workforce—cleansing in particular— as an option to protect terms and conditions of employment. The organisation of staff in cleansing and the parks remains strong following the trade sale whereas in building cleaning, trade union organisation is poor.

It is clear that in some cases, little is known in terms of what has happened to low paid, part-time staff in areas such as building cleaning which has been externalised as part of a DSO trade sale.

Although CSL has an equal opportunities policy, the company is seeking to weaken existing arrangements in Croydon by trying to replace a contractual with a non-contractual equal opportunities policy. In addition, UNISON is concerned that although the local CSL workforce has 357 employees and there is a local ethnic minority population of 17%, there are no black managers employed in the contract. They are also issuing person specifications containing the essential requirement that employees are: 'willing to work long hours if necessary to ensure successful implementation of the project'. This could clearly be interpreted as a case of indirect sex discrimination since it particularly affects women with child care responsibilities. The company has been reluctant to discuss these matters with the union.

A senior client monitoring officer in Portsmouth admitted that equal opportunities was not monitored in the £17m contract with Amey FM. He wasn't sure whether there was an equal opportunities clause in the contract.

White-collar staff

Administrative and clerical staff, almost all women, have been severely affected in many cases of externalisation primarily because of the difference in pay and conditions of service between the public and private sectors.

Following Bristol's trade sale, white-collar staff have not been replaced when they have left the company and the contract is run on a minimal management structure. The white-collar staff who have remained were told to expect a pay cut of £2,500 a year. This follows two years of no national pay increase. Bonuses are inconsistent, being paid to certain staff and not others. The company also made proposals to buy out annual leave and cut it down to 20 days from 26 plus 3 additional days in return for £1,000 one-off payment. UNISON has very few members in the contract and as a result little involvement and influence. There is a climate of fear amongst members, particularly since some finance staff were made redundant within days of the trade sale and those that remain fear for their jobs.

New staff

CSL in Croydon has developed a two tier structure by recruiting new benefits officers on inferior terms and conditions. Some staff are on rolling three month contracts with pay of £10,000 per annum, no sick pay and no paid annual leave. In December 1995 CSL stated: 'There may be people whose present salaries are higher than the jobs they will be asked to do. We will have to balance the need to have motivated staff with the need to maintain our competitiveness'.

UNISON has argued that these new management techniques are producing insecurity, stress and anger amongst the workforce. The union is also concerned that the company is seeking to de-skill the existing workforce by separating out parts of the service into different functions.

In Woodspring, CSL staff who were not transferred from the council are on inferior terms and conditions—20 rather than 25 days holiday per annum, no sick pay and pay rates as low as £4.50 an hour.

In Bristol, Sita introduced a category of 'Grade B employees'. In order to protect existing employees, an agreement was reached between Sita and the trade unions that any new employees would be on lesser terms and conditions of employment. Sita agreed to pay the same wages, but employees would have:

- Less holidays: 15 days increased to 25 days after completion of five full years of continuous service—pro-rata for part-timers.
- Reduced sick pay: In addition to no sick pay for the first three days of any spell of sickness absence the sick pay provisions are inferior to the local authority. Statutory sick pay only in the first year, one month full pay and one month half pay in the second year to a maximum two months full pay and two months half pay in the fifth year of service.
- Inferior pension scheme: New employees have to complete one years service before being eligible to join Sita's company pension scheme. New employees are allowed to join a money purchase scheme in a matched 6% salaried staff/5% manual/weekly employees.

Temporary staff

One of the effects of contracting is the increase in casualisation and employment of temporary staff as the research for the Equal Opportunities Commission showed. This has also been a pattern in externalisation.

Following a wave of 78 voluntary redundancies in the first few weeks following the trade sale of Bristol Contract Services to Sita, there was a large increase in the use of temporary and agency labour. Sita stated that they would only use agency staff to cover extreme shortages relating to sickness and training. But the company does not have enough full-time staff to provide cover. The trade unions succeeded in arguing for one day's training on refuse for all agency staff prior to starting on the job. In some areas, street cleaning and refuse in particular, trade union officials reported that there is a large proportion of agency staff.

The following conditions apply to temporary staff:

- From the fourth week to the end of the temporary contract, either party is required to give one weeks notice of termination of contract.
- Holiday entitlement is accrued at the rate of one day per month of employment, but staff are not expected to take holidays within the period of employment.
- During the temporary contract and up to one years service, staff do not qualify for sick benefit.

Training

There was little evidence from the case studies of training programmes being implemented for staff once contracts were externalised. In Bristol, although Sita is an accredited training body, and the council had a manual workers training programme prior to externalisation, there has been no training for manual staff and any structured career progression has gone.

Chapter 5
Impact of externalisation on the local authority

Externalisation of one council service has implications for all departments. The demand for central services will decline and there could be a move to externalise other parts of the council. The sale of a service effectively means that work on wages, supplies, repairs, legal and financial advice previously obtained from other council departments has been privatised.

This chapter sets out the main areas for consideration when looking at the wider impact of externalisation on the local authority.

1. The cost of the externalisation process

Most cases of local government externalisation do not consider the real costs of the process or the longer term impact in terms of financing this form of privatisation. Any assessment of the costs and benefits of externalisation should take into account the full costs of the resources used to undertake the sale. These include:

- Management consultants fees in preparation for externalisation and in evaluation of tenders.
- Financial and legal advice.
- Management team time: this is very difficult to estimate but the equivalent of two officers full time for one year, inclusive of on-costs, would be about £75,000 per annum.
- Officer and support staff time.
- Officer time in other council departments.
- Large display advertisements in press.

Management will no doubt claim that the specific costs associated with externalisation have been relatively small and that most costs could be credited to CCT expenditure. However, we are confident a full audit of costs, assuming staff time has been correctly allocated between externalisation and CCT preparation, would prove otherwise.

Two examples provide an indication of some of the costs. Lincolnshire County Council agreed to spend over £300,000 on consultants to prepare the Lincway and Translinc DSOs for externalisation. Sheffield City Council spent several hundred thousand pounds in the failed attempt to externalise its design and building services division in 1994.

Identifiable costs of externalisation in Ealing were estimated to be £463,600, but the real figure was much higher. The immediate costs for the council have also increased. For example, 12 finance staff were transferred to BRETS and the council had to employ an additional member of staff to monitor the complex financial arrangements between BRETS and Ealing. The Council also allocated a further £25,000 to undertake the work of closing the 1993/94 accounts that would have been done by staff transferred to BRETS.

Management consultants

Most authorities pursuing externalisation employ private management consultants to assess the market and potential sale of the service. Management consultants often have vested interests in externalisation and will not adequately present alternative options.

The cost of employing consultants is very high. The London Borough of Lewisham paid KPMG £60,000 in 1994 to assess the potential sale of DIRECTeam, one of the largest direct service organisations in the country. The sale was never pursued, but a great deal of money, time and resources were expended on the proposal.

2. High costs of monitoring

Externalisation of a service, as opposed to tendering under CCT, places a greater responsibility on client officers. Authorities are more reliant on a few highly competent client officers to monitor, identify services needs, negotiate with contractors and impose any penalties incurred. Externalisation of key services has resulted in high monitoring costs in the majority of case study authorities.

In Ealing the authority produced a staffing schedule for the client side of the externalisation of TSG. It included 37 posts, of which eight were totally new and the remaining 29 were retitled, redesignated and regraded jobs already on the council's establishment. The additional cost of the new staffing structure was over £220,000 in the first year. The client side has a strict monitoring procedure which has identified a number of problems in terms of contract performance.

Bristol has a client side of 16 staff, a third of whose time is spent monitoring the contract, a third dealing with the public and a third developing service improvements. The monitoring cost to the council is considerable and contrasts with the company procedures. Sita has no formalised monitoring systems. The client officer stated that there were few strong sanctions he could use, unless the contract was in total chaos. The cost of retendering would be extremely high and politically very difficult for the council.

Increased client costs

Berkshire sold its highways, planning and design department to the Babtie Group and established a client staff of 20. However, this had to be increased by seven additional staff after it was discovered that Babtie had been charging twice for some work. This represented a 35% increase in client staffing costs.

Increased cost of services

'Savings' at the time of tendering usually turn into cost increases later in the contract, particularly if the contractor submits a low bid. In Portsmouth, Amey FM badly miscalculated the scope for reducing costs, particularly in street cleaning and leisure services. The City Council has been forced into making a series of additional payments in 1995/96 to Amey including £40,000 for street cleaning, £100,000 for leisure building maintenance, £168,070 for increased refuse collection, £9,040 for waste recycling.

3. The 'savings' claims

There has been little reference to potential 'savings' in many of the cases of externalisation although this has been a factor in some local authorities. 'Savings' associated with externalisation have not usually been accurately quantified.

In the case of the London Borough of Ealing, externalisation was politically motivated and there is evidence that it led to increased council spending, not less*. However, Ealing claimed savings of £9m (7%) over 5 years on a £130m contract. The council reported in November 1995 that the net cost of the BRETs services to the council had not yet fallen, although the efficiency savings provided by the contract were valued at 12% of the variable costs—achieved through reorganisation and workforce reduction. Problems are expected as the council aims to impose budget savings measures on the contract in addition to efficiency savings. Since the company has not won substantial further work as promised, the council has estimated the loss of 40% of cash flow in the next five years, threatening viability. The failure to win new business has directly cost jobs and conditions of employment.

Hereford and Worcester County Council selected private consultant Halcrow to acquire the engineering consultancy because it was the cheapest of eight bids and was said to offer the best value for money—claiming a 17% saving on the in-house benchmark bid.

The Government's own funded research by INLOGOV (University of Birmingham) DOE, 1993, and the Contractors Audit (Centre for Public Services for Manchester City Council, 1991) both concluded that savings were 6.5%—not accounting for the cost of officer time in CCT.

4. Service delivery

Very little work has been carried out on the effect of externalisation on service delivery. Some examples indicate that problems have arisen in a number of cases. For example, there were major problems on the Bristol contract soon after the trade sale. Sita had made over 60 staff redundant and the refuse service received many complaints. In the end, headlines in the local paper forced the company to improve the service. 'The council has very little power' (Bristol councillor).

Service delivery problems have arisen in relation to lower standards, old equipment and cheaper materials.

In Croydon's IT contract, the mainframe and help-desk have been moved to Birmingham. In addition, economies of scale are being sought by IT Net with redeployment of staff to Westminster and Wandsworth contracts.

Ealing has quarterly review meetings with BRETs which runs virtually all the DSO and technical services in the council. Particular problems have been highlighted in terms of:

Refuse collection	◆Disruption to the service due to a change in rounds ◆Protracted collection problems on Housing Estates ◆The urgent need for funding to replace worn out, ◆Unreliable and costly refuse vehicles.
Health and Safety	◆Continuing problems over the first 18 months of the contract.
Meals on Wheels	◆Where a cut in the number of vans means that the delivery time has been extended from 10.30 am to 3.30 pm.
Vehicle maintenance	◆Reduction in regularity of maintenance.
Building maintenance	◆New management procedures have increased the backlog of work.

*Ealing Council: Putting Public Services At Risk, UNISON, 1994

5. Equal opportunities

Any progress in equal opportunities for women, black and ethnic minority and disabled people will be eroded by externalisation. The effects of CCT on these groups have been severe and the difference between council and private sector practice is stark as EOC research illustrated. It found that private contractors had equal opportunities policies, but that evidence of their application was limited. It also found that in key areas of women's employment, contractors consistently paid well below the NJC rates, by as much as £1 an hour in many cases.

Local authorities pursuing externalisation have been extremely slack in terms of applying equalities to the process. Little consideration has been given to the equalities implications of the sale of council services.

In Sheffield for example, DBS produced a Joint Venture Partnership Business Questionnaire which interested companies had to complete. It consisted of seven sections, one of which required information about the firm's employment conditions. The questionnaire did not mention equal opportunities and no information was required on the gender of the proposed staff.

Most of the 24 companies provided details of their senior staff. Out of 194 senior staff only two were women. No details of the gender division of other staff were provided. No firm voluntarily provided details of any equal opportunity policies, yet many freely supplied volumes of information on projects, subsidiary companies and curriculum vitae.

There would clearly be major difficulties in getting any of these firms to recognise, but more importantly to implement, local authority equal opportunities policies for staff. There must also be a major reservation about the ability of private contractors to implement equal opportunities provisions in the specification and contract conditions with respect to service delivery.

In Ealing for example, the local authority has a comprehensive monitoring system for staff but BRETs does not supply information on the workforce to the council on a regular basis.

6. Health and safety

In Ealing UNISON examined in detail the health and safety implications of externalisation since technical services group carried out a range of health and safety work for the council. In spite of UNISON's arguments that all health and safety functions should remain with the council, fire officers and officers with safety responsibilities for buildings were transferred to Brown and Root. The council also created an additional post at a cost of £26,000 to 'undertake duties which are currently largely carried out within the TSG...to provide the necessary resourcing and expertise associated with monitoring asbestos work*'.

Outstanding issues of health and safety responsibilities remained unclear at the time of transfer and there were subsequent problems about how safety representatives should function and whether they report to contractor or client. The asbestos unit was included in the externalisation and Ealing now has to rely on the contractor for asbestos work on council premises being done safely. A number of health and safety incidents have arisen since the contract started on 1st April 1994. These have resulted in difficulties and confusion in respect of management responsibilities for particular pieces of work in the borough. BRETs has been forced to set up a safety committee covering the whole company.

7. Effects on other council services

Strategic service planning and economies of scale previously enjoyed by local authorities working corporately with a range of support services are immediately lost once externalisation takes place.

Selecting the profitable parts

The way in which some council's have advertised their services can mean that companies pick out the aspects of the service they are most interested in. These are also most likely to be the profitable areas, which could result in the less lucrative aspects of the service being left within the council. The knock-on effect could be that the dis-economies of scale would raise unit costs, affecting the quality and level of other council services.

Exposing other services

The externalisation of one service is unlikely to be the last, unless there is a clear corporate strategy given the interdependency of white-collar areas, DSOs and support services. Apart from providing a signal to managers in other departments, externalisation also places councils alongside other enabling local authorities which have externalised services where contractors and consultants are seeking to expand and diversify.

Implications for other departments

No detailed work appears to have been carried out in the local authorities we investigated to assess the implications of possible externalisation on other departments of the council. Externalisation of one department will have serious consequences

* 'The Gender Impact of CCT' Equal Opportunities Commission 1995

* 'Health and Safety: Post externalisation' Report to Alternative Provision Committee 23rd February 1994

for council planning and economic development roles. In addition, core professional services such as legal, financial, personnel and surveying will be affected by externalisation. Unit costs may rise in remaining council departments because of reduced economies of scale or because of a private contractor's charges for 'client' functions.

In the current budgetary context, externalisation could also result in greater financial cuts in other parts of local authorities since the loss of one department will mean increased overheads for other departments, with less flexibility to spread overheads throughout the authority.

The immediate effect of the externalisation of the DSOs and technical services on other departments in Ealing was that 20 posts from payroll, accountancy, and the chief executive's department were transferred to BRETs. In addition departments could face increased costs as economies of scale are lost.

In Sheffield where externalisation was rejected, the departments most likely to be affected by the sale of design and building services included:

- Housing: procurement of maintenance services for council housing.
- Education: surveyors and quantity surveyors.
- Works: DBS works in a tripartite relationship with Works and the Housing Department developing contract documentation for maintenance contracts. This special working relationship would have been severed by externalisation and could have threatened Works' ability to retain its contracts and thus the jobs of manual workers. This would also threaten the continued specification of Works windows and kitchens in City Council contracts, leading to further job loss.

Landscape services: contract managers, quantity surveyors and site managers

- Family and community services: procurement of maintenance of homes and facilities.
- Land and planning: landscape design for highways, transportation planning, and surveying could all be affected.
- Property services: land and estates surveyors, building surveyors

In Bristol the trade sale in August 1994 affected the following services:

- Refuse
- Street cleaning
- Building cleaning
- Toilet cleaning
- Grounds maintenance
- Civil engineering including highways, lighting and sewers.

Prior to the sale City Council had organised services into one DSO, 'Contract Services,' with a turnover of £18m per annum and employing approximately 700 staff. Financial and personnel services decentralised to Contract Services were included in the trade sale. Following the trade sale, certain functions had to be re-organised in central service departments, including payroll and personnel, and although there have not been any accurate calculations of the direct consequences for other services, UNISON fears that vacant posts have increased and that support services have been affected throughout the council.

8. Loss of democratic control through partnerships

Once services are externalised, local authorities are in a much weaker position. Although some authorities have councillors on the local board of the company, those councillors involved admit that democratic accountability is lost. ' We have lost any real power in terms of service delivery' (councillor). In addition, the point was made that local management becomes more distant and there are fewer managers directly responsible for particular contracts.

In the case of Ealing's externalisation, the transfer involved both client and contractor elements including both manual and professional staff. The private company is responsible for the detailed monitoring of its own performance and the council has a substantially reduced role. This has led to major problems in terms of access to information and democratic responsibility for the running of local services.

Chapter 6
Impact on the local economy

Impact in local labour market

Traditionally local authorities have been one of, if not the largest employers in the local economy with good pay, terms and conditions and have set a standard for other employers. Externalisation changes this situation. Once a DSO is transferred to the private sector the local authority is no longer able to set good employment standards since it will employ very few manual workers. The local authority cannot set a benchmark. It employs mainly white collar staff and retains some influence in this sector of the labour market.

This loss of influence in the local labour market is particularly important for women because of the large differentials in terms and conditions for women manual workers in local government and private contractors. Although, as the EOC study into the gender impact of CCT in local government revealed, there has been an erosion of terms and conditions in local government, they still remain substantially higher than private contractors.

Changes in staffing levels

Externalisation usually does not result in an immediate loss of employment but rather a gradual decline in staffing levels. However, there is evidence that externalisation has resulted in substantial job loss over a longer period, particularly in the largest cases of externalisation, for example, Ealing and Bristol (see chapter 3).

Within months of the externalisation of the DSO in Portsmouth to Amey FM, staff numbers had fallen from 694 to 635, a loss of 59 jobs. 34 staff left through voluntary early retirement at the time of externalisation leading to 634 jobs being transferred. Nine temporary staff did not have their contracts renewed by Amey. Six months into the contract 16 white collar staff were made redundant. Then the firm lost a cleaning contract with 21 staff being transferred to another employer.

Changes in terms and conditions

The accumulative effect of changes to terms and conditions in large scale externalisations will have a knock-on effect in the local economy. Research has shown that cuts in wages, conditions and loss of hours can result in job losses in the local economy and a loss of taxation income for the government. (Centre for Public Services, 1995).

The combined effect of several externalisations in the same local authority, for example, the sale of the DSO, the transfer of the council's housing stock and the formation of a leisure trust, could be substantial if all three adopted a job and wage cutting strategy.

Changes in local suppliers

Some authorities expressed the fear, although we have no evidence to support it, that firms winning externalised services will change the existing pattern of local suppliers, usually established after many years experience, in favour of their existing suppliers who are likely to be based elsewhere. Although this will not affect employment nationally, it could result in the loss of jobs and a weakening of some firms in the local economy.

Local offices

Consultants seeking the externalisation of white collar services usually make a commitment to open a local office which will win additional work, increase employment and so on. However, firms are regularly having to review their network of offices and workloads often leading to closures. Once externalisation occurs there is no guarantee, unless it is a condition of contract, that the firm will maintain a local office. Most white collar work is not place sensitive, in other words it can be carried out anywhere.

Export of profits

The sale of DSOs and white collar services to private contractors means that any surpluses previously created by in-house services will be exported to the company's headquarters. This represents a loss of income to the local economy assuming the surpluses were achieved other than by the cutting of terms and conditions which was a feature of many DSOs (EOC, 1995).

Regional impact

Externalisation in one authority will inevitably have an impact on other local authorities in the region. Since TUPE is likely to apply to these contracts the level of job losses will eventually be substantial if these contracts are won by one or a small group of firms. They are likely to rigorously apply economies of scale, which without a compensating large increase in private sector work, will result in an overall loss of jobs in the region.

These changes are unlikely to make the service any cheaper for local authorities because consultants will still be charging the same or higher rates—they will simply be carrying out more local government work. Some firms will develop a monopoly position.

Expansion fails to materialise

Many of the contractors and consultants bidding in cases of externalisation claim that major expansion will benefit the locality and protect transferred staff over the contract period. However, this claim has failed to protect staff as firms struggle to gain additional work in a climate of stiff competition in both the private and public sector.

In Ealing, Brown and Root's intention was to bid for other work and initially they brought in 15 of their own staff into BRETs with the aim of turning it into a 'commercial organisation'. '*'Winning new work will be an urgent and important task for BRETs in order to reduce reliance on work from one client, Ealing Council, to spread overhead costs over a larger workload and to provide work for any surplus staff.*''*

Expansion has not occurred and their projections have not been met; staff have suffered the consequences and BRETs was run by three different managing directors in the first year of the contract.

In addition, BRETs lost the Thames Water drainage contract in April 1995 which was held by the London Borough of Ealing and assigned to BRETs. Thames Water tendered the work but decided to set up an in-house service. In addition, the company lost the DOT Highways Agency trunk road work which affected staff from April 1996. This reduced the company's workload by £1m and 'destabilise the Highway Maintenance operation to the point where it becomes non-viable'**. There is also a possibility that the dis-economies of scale would knock onto the Winter Maintenance and Emergency Response services and raise unit costs.

There have been threats to the Ealing school cleaning contract; with the delegation of the budget to schools, many schools are expected to make their own, more reliable, arrangements for cleaning. In addition, in 1996 300 cleaners were sub-contracted from BRETs to another contractor, Swanlux. Although this is within the terms of the contract, another layer of management further removes the service from the council and creates greater uncertainty for the cleaners involved.

BRETs also tried to halve the workforce for meals on wheels by suggesting that one person, rather than two—a driver and attendant, deliver the meals. A fleet of 24 vans deliver over a 1,000 meals a day. The cuts would involve 29 staff. The trade union made major objections to this on the grounds of safety and inferior service delivery.

In Bristol, Sita is clearly seeking to expand in the South West, using Bristol as its flagship contract. The company has so far achieved this by taking over Quadron rather than winning major new contracts in the region.

Effect on trade union organisation

Externalisation clearly weakens public sector trade union organisation, and unless both membership and organisation are maintained after transfer, will result in staff being in a weaker bargaining position.

White collar services have been transferred to consultants and managed services contractors which have not recognised trade unions but have been forced to do so because of TUPE transfers. These firms have traditionally dealt with staff on an individual basis. Some made commitments to recognise trade unions before transfer but then refused once the transfer had taken place, for example, Brent and Bromley. Whether trade union membership and organisation remains intact in these firms is a moot point.

UNISON has national recognition agreements with some of the contractors acquiring DSOs. This provides a useful starting point but responsibility for maintaining local representation and organisation rests with the local membership.

Consequence of the enabling model

The loss of influence in the local labour market is another consequence of adopting the enabling model of local government. Many councillors will argue that local authorities should be purchasers but not necessarily providers. They are, in effect, relinquishing or abandoning their employment responsibilities to private contractors and voluntary organisations. It also means the local authority must increasingly rely on contracts to implement its corporate policies covering such issues as equal opportunities, health and safety, employment and the environment.

* Response by Brown and Root to staff questions, 1994
**Report to the Policy Committee, London Borough of Ealing 14th November 1995)

Chapter 7
The externalisation market

Companies are seeking to profit from the local authority market and externalisation is one easy way of gaining a strong position within the sector. There is no shortage of companies responding to advertisements inviting interest from host companies.

Why firms are interested in externalisation and trade sales

Many firms are clearly developing strategic positioning for CCT and Best Value. Some consultancies have the professional and technical experience but lack the specific local government experience and hence externalisation enables them to buy what they need.

Municipal engineering for example, is estimated to be a £4bn market and it has been suggested that CCT and externalisation could double the fee income of the UK's top engineering consultants. Smaller consultants may have more difficulty with insufficient financial resources, regional organisation and breadth of expertise.

Apart from acquiring additional work, private firms have other vested interests in externalisation and trade sales:

- The acquisition of experienced staff who have detailed knowledge of local government systems, processes and procedures as well as local knowledge. This experience and contacts means that consultants are in effect buying the 'goodwill' of local authority organisation.
- To strengthen and broaden technical expertise and the firm's ability to offer a multi-disciplinary approach, ensuring that it is better placed to compete for local authority construction and property services contracts.
- To establish a local or regional office to strengthen their position for tendering for CCT and Best Value work.
- To establish a foothold or bridgehead in the local authority which will enable the firm to identify additional work in other council departments for which it could tender.

*'Mega- consultants have already come out on top in the first waves of engineering service privatisation, ahead of CCT. By 'hosting' a local authority engineering department, they not only secure its workload but also skills that could be crucial in winning CCT contracts, trunk road agencies and DBFO (design, build, finance and operate) concessions'**.

*Surveyor 19/10/95

Privatisation experience

Many construction consultancy firms have expanded and profited from previous Conservative Government privatisation policies such as the closure of the Department of Transport's Road Construction Units in the early 1980s and the increasing contracting out of public service work by local government, the National Health Service and government departments. Privatisation of the Government's Property Services Agency in 1992/93 provided a new impetus for firms such as W.S.Atkins, Serco, Tarmac, Mowlem and Pell Frischmann who have all won multi-million pound contracts and transferred thousands of civil servants. These same firms are bidding to acquire local authority design, transportation and property services departments through externalisation. They are also likely to bid selectively for CCT contracts.

Most firms already operate in Europe and many on a worldwide basis. The construction industry recession in Britain, the privatisation of public services in Eastern Europe and major infrastructure projects in developing countries has fuelled expansion overseas. Pell Frischmann refer to the development of 'super consultancies'. Some firms are firmly set on the globalisation of design and engineering consultancy creating multi-disciplinary consultancies firms comparable to the transnational auditing and management consultancies.

Consultants in white collar services

Diversifying because of construction recession

Many firms have turned to externalisation because it represents new or additional contracts in a period of deep recession for the construction industry. Private sector contracts have declined sharply. Privatisation through externalisation and trade sales offers firms the opportunity not only for additional contracts but other services.

Economies of scale

In financial services, management consultants and IT companies are seeking new markets by building economies of scale through externalisation and voluntary competitive tendering. CSL and Capita have been particularly successful over the last three years.

The Capita group has moved rapidly into information technology and financial services in local government and other parts of the public sector. The principal subsidiary, Capita Managed Services, now has contracts worth £12.5m in financial services in local government, comprising 27% of the externalised market. In addition, Capita has at least six contracts in local government computing services, with an annual value of £9.6m representing 13% of the market.

The company is clearly expanding in London, with four major contracts, and is running Westminster's finance contract from Bromley. Bexley LBC externalised its revenue services to Capita affecting 70 staff. Capita already had the council's non-domestic rate and residual community charge collection services.

CSL, which is owned by Touche Ross, has ten contracts in local government financial services and includes three cases of externalisation— Croydon, City of London in 1994 and the company's most recent contract in local government—Woodspring DC. The contract, worth £9m over five years involving 100 staff transferring under TUPE, was awarded in April 1995.

DSO trade sales

The current market is dominated by contractors with an interest in a range of local authority services such as Sita, Serco, Serviceteam, and Ecovert. In addition, engineering companies such as Ringway and John Doyle have gained several contracts into highways DSOs.

Example of tendering

Three companies bid for the Bristol DSO—Ecovert in joint venture with Quadron, UK Waste and Sita. UK Waste's bid was reported to be £7,000 per employee per annum more than Sita's bid and existing costs. The council accepted Sita's bid as it was by far the lowest and nearest to existing service costs.

Sita is clearly aiming to become a municipal contractor covering a range of services. The company has expressed interest in running longer term contracts—of up to 25 years in, for example, waste disposal.

Sita sold themselves to the council in terms of quality, training, long term investment and expansion in the local economy. But in the end Sita's bid was the cheapest and the company is concerned to make a profit out of the trade sale. The trade unions suspect that Sita Bristol is being sustained by its parent company.

Multi-disciplinary approach

Most firms have adopted a corporate strategy to become multi-disciplinary by expanding their range of technical expertise and services. Externalisation is a very convenient way of strengthening and broadening technical expertise and the firm's ability to offer a multi-disciplinary approach.

Strengthening position for CCT and Best Value contracts

Externalisation enables consultants to be in a stronger position to compete for local authority construction and property services contracts. This occurs in two ways. Firstly, firms have a deeper knowledge of local authority work and can market this expertise to get onto tender lists and be invited to tender. Secondly, firms will have established a wider network of local or regional offices to strengthen their position for tendering for CCT work.

As noted previously, it enables them to establish a foothold or bridgehead in the authority which will enable the firm to identify additional work for which it could tender in other city council departments. A host consultant will want to achieve economies of scale by widening the range of services they provide.

There is clear evidence that private contractors are seeking the trade sale of DSOs at knock down prices and exploiting DSOs which are having difficulty meeting financial targets. One such example is Clwyd County Council. Clwyd Commercial Services, the DSO which had won the school meals and welfare catering, grounds maintenance, building cleaning, and vehicle maintenance contracts and employed 3,000 staff, had developed trading losses of £1.5m earlier in 1994.

Sita (GB) Ltd, a subsidiary of the French transnational Lyonnaise Dumez, submitted a bid for the entire DSO for a mere £150,000 plus they agreed to purchase all equipment and assets (excluding heavy kitchen equipment) at open market value and to purchase stock at an agreed valuation. However, they also wanted a five year extension to all current contracts and a catering subsidy of £300,000 per annum. They also demanded changes to terms and conditions including removal of the holiday retainer and amendments to the grounds maintenance bonus scheme.

Longer term strategy for Private Finance Initiative projects

The acquisition of local authority staff and contracts places contractors and consultants in a

stronger position in the preparation, tendering and negotiation of PFI projects. This will include:
◆ Design and planning process for public facilities
◆ Understanding and interpreting clients needs.
◆ Understanding attitudes and approaches to joint use and income generation proposals.

Specific example

One firm, W.S. Atkins, has taken advantage of the externalisation more widely than others. It has succeeded in establishing contracts in a number of local authorities in the South East as well as other parts of the public sector.

Table 9.1: W.S.Atkins: Growth by externalisation

Acquisition of public organisations organisations	No of staff
Local authority work	
Cambridgeshire	123
City of London	55
Essex	211
Oxfordshire	129
Somerset	500
Surrey	126
PSA Building Management	
Manchester	1,550
NHS Estates	
Scotland	104
Total	2,798

Source: Centre for Public Services, 1997.

Contractor's acquisition of DSOs

Market share

The most dominant company involved in DSO trade sales is Sita as the table below shows. The company has 17 local authority DSO contracts all awarded in a three year period and ranging from the largest which is Bristol worth £20m to smaller district councils such as Elmbridge which is worth £1.3m per annum.

The takeover of Quadron and Ringway, with four highways contracts in Berkshire, Cambridgeshire, Gloucestershire and a joint venture with Colas in Devon, has diversified Sita's base across further DSO services.

Local and regional base to bid for other work

Most companies are seeking to use the base gained through externalisation to bid for other work in the region. Amey bid for naval work in Portsmouth. Sita has bid for a number of contracts in the South West, following the Bristol trade sale and the acquisition of Quadron with several small district council contracts operating from its Weston Super Mare depot.

Table 9.2 : Sita (GB) DSO acquisitions

Local Authority	Service	No of staff	Value £m	Year
Barrow DC	All DSO services	235	2.5	1994
Berkshire CC	Highways DLO (Ringway)	n/a	n/a	n/a
Bristol DC	All manual	750	20.0	1994
Bromley LBC	Ground maintenance, building, cleaning, catering	550	3.0	1993
Cambridgeshire CC	Highways DLO (Ringway)	98	n/a	1995
Devon CC	Highways DLO (Ringway/Colas)	470	20.0	1995
Dover DC	Refuse collection, ground maintenance	n/a	n/a	1995
East Sussex CC	Highways DLO (Ringway)	143	5.0	1995
Elmbridge DC	Ground maintenance/Building & street cleaning	n/a	1.3	1993
Gillingham DC	All DSO services	n/a	n/a	1995
Gloucestershire CC	Highways DLO (Ringway)	350	n/a	1993
Hinkley & Bosworth DC	All DSO services	70	2.0	1995
Kingston LBC	All DSOs	180	4.0	1994
Mendip DC	Ground maintenance/Building cleaning	n/a	0.1	1995
Rushmoor DC	Refuse, ground maintenance, leisure (Quadron)	200	1.4	1994
Woking	All DSO services	n/a	n/a	1996
Woodspring DC	Range of services (Quadron)	370	11.0	1993
Total	3,346	65.3		

Source: Centre for Public Services, 1996

The key companies

The following section provides summaries of the key companies involved in externalisation.*

Amey FM: Originated from a 1989 management buy-out from Hanson Industries and has trebled its turnover in five years. Won the Brent property management contract and recently acquired Portsmouth City Council's DSOs.

Babtie Group: The firm is primarily an engineering consultancy and had a turnover of £47m in 1993 with £5.6m pre-tax profits (12.0%). It is wholly owned by its senior management. It has specialist subsidiaries with 1,300 staff dealing with geotechnical, electrical and mechanical, traffic, environmental and quantity surveying work.

Brown & Root: A subsidiary of US multinational Haliburton, based in Dallas, Texas, with a UK base in Wimbledon. Brown and Root provides engineering, design, project management, construction, operations, maintenance and facilities management services. The firm is involved in oil and gas, petroleum and chemical, civil, environmental and defence sectors and had no local government experience before acquiring Ealing's Technical Services Group. Brown and Root's turnover was £259m in 1993 and the firm employed 3,400 staff and 12,000 staff on management contracts.

Bullen Consultants: An independent engineering and scientific consultancy with nine partners and 440 staff operating from ten offices in the UK. The firm is owned by partners and has no external equity. Bullen is involved in civil, structural and environmental engineering. Two thirds of Bullen's work is for central government, 15% for the private sector and 10% for local government.

Capita Group: The Capita Group plc provides management and consultancy services, corporate finance, computing and marketing. Capita increased its pre-tax profits by 19% during 1995 to £9.4m. More than 60% of Capita's £87m sales came from the outsourcing division. Capita Property Services has a staff of 500 and provides project and contract management; architectural/interior design, mechanical and electrical engineering design; property condition surveys and estates advice; and health and safety advice. Other divisions include Capita Management Consultancy and Capita Resource Management (which provides temporary staff and will take on temporary management contracts). Capita merged its computer services subsidiary, Telecom Capita, with Capita Managed Services.

CSL: The company is a subsidiary of CSL Holdings which also has interests in IT services. CSL Managed Services is also bidding for local authority housing management services.The company was set up ten years ago as the commercial arm of CIPFA and provides a range of consultancy services to local government.

Touche Ross took over the company in 1993 for £5.8m. CSL has ten financial services contracts in local government including revenue and benefits, internal audit, collection NDR, community charge, payroll, debt collection. In 1996 these amounted to a total value of £15.4m.

Ecovert SAUR: Ecovert was originally established as an amalgamation of Stalwart Environmental Services and Cambrian Environmental Services. It was set up to develop the interests of the French municipal contractor SAUR, part of the French water company Bouguyes, in the UK. The company has bought four DSOs through trade sales, including Brighton which is worth £80m and involves 30 different contracts, and has been awarded a number of district council refuse and street cleaning contracts.

The company made a joint bid with the Woodspring EBO Quadron for Bristol DSO trade sale in 1994 (the intended joint venture would have given Ecovert 60% shareholding, Quadron 25% and employees 15%).

Halcrow: Subsidiary of Halcrow Holdings, a private limited company established in 1983. Mainly supplies services as consulting engineers worldwide. Won contract for Gloucestershire highways design contract in 1994 and in 1995 awarded engineering consultancy externalisation contract for neighbouring Hereford and Worcester County Council. This deal puts the consultant in a strong position to retain the Highways Agency workload, once the trunk road agency review is completed for the area.

ITNet: Founded in 1987, the company was originally a subsidiary of UK company Cadbury Schweppes employing staff at two Midlands' data centres. The company's first local authority contract was awarded by Birmingham City Council in 1987; this was retendered and again won by ITNet in 1993. This was followed by the Westminster FM contract, worth £3.6m (approx.) per annum, in 1992. Managers of ITNet bought the company from Cadbury Schweppes in a £32.5m buyout. Cadbury Schweppes retain 12.5%, staff 50.1% and 3i has the remainder of

*More detailed company profiles are available from PSPRU, 1, Mabledon Place, London WC1H 9AJ Tel: 0171-388-2366.

equity. ITNet has a turnover of £50.5m, more than half of which is in local government. 500 out of 1,000 staff have transferred from local authorities.

The company has four contracts in local government payroll services with a total value of £5.8m.

John Doyle: A UK based company with interests in building, construction, property investment and plant hire. Turnover of £28m in 1994, when it acquired Hertfordshire DSO and the highways and grounds maintenance contracts worth £9m. In May 1995 the company bought Shropshire County Council's highways, grounds maintenance and vehicle maintenance DSO with contracts worth £10m.

Mott Macdonald: A large consulting engineering practice operating across Europe with world-wide staff of 3,600, about half of whom are based in Britain (head office in Croydon). The firm's turnover (£174m in 1994) by sector was transportation (42%), water supply (13%), buildings (12%), sewerage (9%), power (8%), environment (8%) and manufacturing and waste accounting for the remaining share. Some 29% of turnover related to overseas contracts.

MRS: A management buy-out from Westminster City Council in 1988 to operate the refuse and street cleansing contract, since lost to Onyx.

Parkman Group: The Liverpool based firm has 850 staff, over 400 of whom have shares in the company. Some 56% of the group's work is in the transportation sector, 21% in buildings, and 10% in water supply. In 1994 Parkman acquired the property services section from the London Borough of Bexley involving 83 staff.

Quadron Services Ltd: Established as a management and employee buyout in October 1993 by staff in Woodspring District Council, the company was taken over by Sita following financial problems. Turnover before sale was reported to be £22m per annum. Under Quadron staff held a 45% stake and the remainder was split equally between management and a venture capital company. The company provided the following range of services—cleansing, construction and maintenance (capital works, public building, highways, street lighting etc), leisure management and catering, ground maintenance and horticulture. The transfer to Sita involved 1200 staff.

Ringway: Established in 1976, Ringway was a private company with a turnover of £40m in 1993/94, until taken over by French multinational Sita in 1996. Ringway provided highway construction and maintenance services. The company purchased Gloucestershire County Council's Highways DSO followed by Berkshire, Cambridgeshire, East Sussex and a joint venture with Colas in Devon CC.

Rust Consulting: A subsidiary of US owned Rust International Inc. based in Birmingham Alabama, which in turn is a subsidiary of WMX Technologies, the world's largest environmental services company. Rust International has over 20,000 employees including 8000 engineers and technicians. Rust International operates in north and central America whilst Rust Ltd. operates throughout the rest of the world. The group had a turnover of $1bn in 1993/4 and Rust Ltd. is one of the top ten construction consultancies in the UK. In April 1994, Rust took over Cheshire County Council's architect department, involving 140 staff.

Serco Group: Serco is a rapidly expanding group specialising in contract and facilities management. Overseas contracts in 29 countries, particularly in Asia/Pacific, account for 20% of £323m turnover in 1995. The firm was originally set by in the 1920s to service RCA's British cinemas. Rapid growth is directly related to the growth of market testing and competitive tendering in Government departments, particularly the Ministry of Defence where it recently won contracts worth £180m, and local authorities. It also has a joint venture with Wakenhut Corporation (USA) in Premier Prison Services which operates the new Doncaster jail.

Serviceteam: Established in 1995 by ex-officers from London Borough of Lewisham's DSO, backed by venture companies 3i and ECI. The company now has almost 150 council contracts and was awarded by far its largest contract, the Lambeth DSO sale, in January 1997. The Lambeth externalisation involves 2,000 staff and is worth £350m over ten years.

Sita (GB) Ltd. Group Turnover: £360m. Employees: 14,000 worldwide. Sita (GB) is part of the SITA Group and a subsidiary of a French owned multinational, Lyonnaise des Eaux-Dumez. Sita's UK base was specifically set up to tender for CCT services in local government and has a strategy for bidding for manual services rather than white-collar. Sita has refuse contracts in Doncaster, Leicester etc. and has bought up DSOs in Bristol, Bromley, Elmbridge and Barrow and Kingston-upon-Thames (see table 9.2). Sita appears to be very keen to acquire DSOs in order to establish regional bases. The company took over Ringway and Quadron services, operating DSO services in the South and South West of England, in 1996.

In the bid for the manual side of Ealing's technical services, Sita stated that all staff would be transferred under TUPE but that they '.......will seek changes to terms and conditions over time' but have described this as a process of 'evolution not revolution' '.

Although Sita was Lambeth's first choice in the sale of its technical services department involving 2,000 employees, the company decided to raise its price to cover any liability arising from changes to the protection of employment legislation. The council rejected the notion of setting up a joint fund with Sita to cover any potential costs and the work was awarded to Serviceteam.

W.S.Atkins: Atkins is a UK owned international firm of engineering, planning, architectural and management consultants with an annual turnover of over £200m and 4,500 staff in 40 countries. Atkins has acquired technical services departments in six local authorities in addition to acquiring the Building Management section of the Government's Property Services Agency and NHS Estates in Scotland. A total of 2,800 staff have transferred to Atkins (see table 9.1).

Chapter 8
Conclusion and future trends

For some years the focus has been on CCT but the recent growth of externalisation has even greater implications for local government.

There has been a recent decline in the externalisation of white collar services but the sale of DSOs, the transfer of council housing and the formation of leisure trusts continues unabated.

The scale of future externalisation depends on a number of factors. Firstly, it depends on the impact of the Best Value regime and the timetabling of new legislation to replace CCT. Changes to the CCT Regulations and Guidance with increased credits for Voluntary Competitive Tendering, could also influence moves towards externalisation. Highway DSOs are likely to continue to face difficult circumstances.

Secondly, it depends on whether tenants approve further transfers of council housing either to housing associations or to local housing companies. It also depends on the level of the capital spending programme.

Thirdly, continued budget cuts could force more local authorities to consider transferring a range of services similar, for example, to the Hounslow model which includes libraries, arts and cultural services and ground maintenance in addition to sports and leisure management.

Fourthly, the increasing use of PFI in local government will be another vehicle for the transfer of services to the private and voluntary sectors. The design, build, finance and operate nature of PFI projects requires new privately owned or partnership companies to operate services. Whilst some sub-contracting may be possible to in-house services, this can only be small scale under the current regulations. The promotion of partnerships such as Public Sector PLCs also involve the transfer of services and assets to arms length or private companies.

It is vital to examine all externalisation proposals as soon as they are suggested. Experience shows that the sooner that proposals are assessed the greater are branches' prospects of stopping their implementation and/or strengthening UNISON's bargaining position. A separate report, Trade Union Strategies for Opposing Externalisation provides guidance on assessing proposals and campaigning to retain in-house services.

References

Audit Commission, *'Management Buy-outs: public interest or private gain'*, 1990

Centre for Public Services, *'Calculation of the national costs and savings of CCT,'* 1995.

Centre for Public Services for Lincolnshire County Council, *'Study of Alternatives to the Externalisation of Translinc and Lincway Public Service Units'*, March 1996.

Centre for Public Services for UNISON, *'Externalisation of Design and Building Services: Sheffield City Council,'* 1994.

Centre for Public Services for Coventry and West Midlands UNISON, *'Assessment of Externalisation Proposal: City Engineers, City of Coventry'* 1994.

Centre for Public Services for Ealing UNISON, *'Putting Public Services at Risk'* 1994.

Department of Environment Press Release, *'New scope for local councils to harness private finance'* 21st October 1995.

Equal Opportunities Commission, *'The Gender Impact of CCT'* 1995.
GMB, *'Brown and Root in Ealing–externalisation in crisis' 1997.*

Hereford and Worcester UNISON, 'A report on the proposed externalisation of the Civil Engineering Consultancy' 1995.
Highways Agency, *'Trunk Roads and Motorways: Review of Agency Arrangements'* Consultation Document 1995.

National Coordinating Committee on CCT, *'Externalisation under scrutiny' 1995.*

Newcastle City UNISON, *'Potential Impact of Externalisation of Leisure Services'*, 1996.

Surveyor, *'Fight for survival: Engineering Consultancies'* 19th October 1995.

UNISON, *'Construction and Property Services'* Sector Analysis 1995.

Westminster City Council, *'Encouraging DSOs and Business Units to Externalise' Contracts Committee 11 February* 1997.