
MONITORING PUBLIC SERVICES

**A practical guide to monitoring council services
under enforced competition**

Researched by

CENTRE for PUBLIC SERVICES

Research • Strategy • Planning • Training

for



MONITORING PUBLIC SERVICES

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THE PRACTICE & POLITICS OF MONITORING

Introduction

Monitoring of public services is essential to ensure services are delivered effectively to the agreed standards. It is also an integral part of the strategy to minimise the adverse effects of compulsory competitive tendering in local government.

This report has been prepared to assist local authorities deal with the practicalities of organising the monitoring of contracts let under the Local Government Act 1988. It covers the defined services — refuse collection, street cleansing, catering, cleaning of buildings, vehicle maintenance, sports and leisure management, and grounds maintenance — and is applicable to other manual and white collar services which may be included in the Government's planned extension of Compulsory Competitive Tendering (CCT).

There has been no substantive guidance on monitoring issued by the Department of the Environment and only general policy advice from a number of local government organisations. Hence this report explains the need for monitoring, examines different local authority approaches to organising and staffing monitoring, provides advice on the use of differential monitoring, and suggests how various monitoring systems and complaints procedures can be drawn together in a monitoring and quality control plan.

Our evidence has come from many sources. Several local authorities co-operated with the research for this report. We also obtained information from the local authority associations such as the AMA, ALA, LGIU, ADLO, COSLA, the Competition Advice Consultancy, the trade unions Public Services Privatisation Research Unit, conferences and seminars, and our own research. We did not carry out a national survey but instead concentrated on specific case studies reflecting good and bad practice.

The positive role of monitoring

Monitoring has a key role in ensuring that the DSO or private contractor delivers the specified service and is paid according to the amount and quality of the work completed, that defaults are corrected or liquidated damages incurred, and that health and safety and equal opportunities regulations are implemented on behalf of workers and service users. But monitoring must not be constrained by the narrow confines of what is defined in contracts or by the emerging 'contract culture'. The principles and practice of monitoring should apply to all services and should extend beyond the legal requirements of particular contracts. Monitoring should not be determined solely by the contractual obligations and constraints imposed on local authorities by CCT. For example, monitoring can make an important contribution to the Service Planning process and the development of more effective performance indicators.

This wider role can encompass the following:

- Monitoring should contribute to the **preparation and evaluation of Service/Business Plans** for both client and DSO. This should include the development of performance and quality indicators.
- Monitoring must play a key role in the process of **improving the quality of public services**. This must encompass the production of services as well as the quality at the point of consumption by users. It can assist in the identification of problems in the organisation and management of services.
- Monitoring should also be contributing to **innovation**. This will include identifying the need for new or expanded services, improving specifications, identifying the need for new equipment and/or working methods, and helping to evaluate workers ideas for service improvements.
- Monitoring should also be used to **identify and expose the shortcomings of competitive tendering**. This could include the limitations of tendering for the supply of quality public services, identifying the full cost of the tendering process, and highlighting practical alternatives.

However, the best and most comprehensive monitoring system cannot make up for or substitute fundamentally flawed and/or inadequately financed bids. Local authorities tempted to make 'savings' by either accepting very low bids with some form of 'enhanced' monitoring or reducing monitoring staff by shifting most of the responsibility for monitoring onto the DSO, need to consider the longer term implications of such moves.

Achieving the desired performance is the primary objective. Whilst the DSO or contractor can be penalised financially for not fulfilling the terms of the contract, the local authority's prime consideration should be the delivery of the specified service. The 'value' of full performance, for example, clean schools and streets, good quality meals, is usually far greater than the relatively small financial liquidated damages imposed.

The relationship between the client and contractor is vital if the service objectives are to be achieved. Monitoring must always search for a degree of co-operation between client and DSO or contractor. Monitoring must not be allowed to become a vehicle for settling old scores nor wielding power for its own sake. Local authorities should be seeking a management partnership between the client and DSO rather than a potentially conflictual complete separation of client and contractual responsibilities. No contract documentation is foolproof, it can always be improved. *'If you are always pulling the contract out of the draw to examine the fine print this is bound to lead to problems'* stated one monitoring officer.

Local authorities have established a variety of working relationships between client and contractor. This depends heavily on the extent of the client-contractor separation, internal working relationships, whether DSOs or private contractors won contracts, and corporate policies. Equally different ways of organising monitoring have been set up. However, our research highlights the need to ensure, irrespective of the organisational arrangements and monitoring systems, that the client has control over the nature of the service provided. Retaining political control of

service planning and delivery is essential. Monitoring should be seen as a means of achieving political accountability as well as an important part of contract management.

Many DSOs and private contractors are seeking Quality Assurance registration for parts of their services. However, QA is not a substitute for monitoring, nor should monitoring be restricted within the limitations of QA. It will reduce, not eliminate, the need for client side monitoring.

Role of monitoring in Enforced Tendering Strategy

A comprehensive strategy for enforced tendering has been promoted by the National Coordinating Committee on Competitive Tendering. It can be summarised briefly as follows:

Service Profiles: Building up a clear picture of the existing service including staffing, use of resources and equipment, service standards, financial systems, organisation and management systems.

Joint Working: Establishment of local joint working arrangements between councillors, officers and trade unions for the tendering process which includes the monitoring of services after the contract is awarded.

Investigation of companies and sector analysis: Improving understanding of trends and developments in each sector and drawing up profiles of the track record and financial standing of companies seeking contracts.

Quality Specifications: Drawing up comprehensive specifications detailing the required level, standard and where necessary, the method of service delivery.

Stringent Contract Conditions: Ensuring services are delivered according to the specification and users' needs.

Comprehensive Tender Evaluation: Full technical and financial analysis of tenders. This should also help to identify the intensity of monitoring which is likely to be required.

Rigorous Monitoring: Ensuring users receive the specified service, defaults reported and remedied and, if necessary, liquidated damages imposed. The full monitoring process should be set out clearly in the tender documents so that contractors are aware of the proposed system.

Each one of these elements of the strategy is highly dependent on each other. For example, failure to implement a planned monitoring system could lead to the specification not being fully implemented nor the desired standards achieved.

Political control of monitoring

Political control of monitoring is very important. This must mean more than simply reporting defaults to the relevant Committee.

One authority has already had to bear the cost of retendering and the DSO losing the contract partly as a result of strident monitoring by ex-DSO supervisors adopting high-handed tactics. Issues that were relevant in this case were a poorly written specification, lack of training

of both monitoring officers and DSO supervisors, and a DSO reluctant to operate as a contractor. The DSO consequently bore the brunt of what were clearly client failures. The client worked against the DSO instead of working with it to address problems as they arose.

The wider role of monitoring outlined above requires a political input from councillors. There is minimum reporting of contract performance in some authorities. Many stated that councillors had requested such information. Improved reporting of performance must be a prerequisite for greater involvement of councillors in examining the **implications** of performance and the use of monitoring to improve the quality of public services beyond contractual considerations.

Councillors and officers need to avoid the fragmentation of local authorities as a result of taking the client-contractor split to the extreme. This can only hasten the commercialisation of services and claims by DSOs that they should not have to implement corporate policies such as equal opportunities, conditions of service, and so on. Tameside MDC have run a series of client-contractor residential courses aimed at '*emphasising the congruity of objectives and shared responsibilities*'. They also aimed to '*mitigate the destructive influence of a structure which sets up potential conflicts*'.

The threat of and actual Poll Tax Capping has forced many local authorities into difficult decisions about prioritising between different services and allocating available resources into service delivery but reducing certain client activities such as monitoring. These pressures lie behind moves to substantially reduce client monitoring by transferring responsibility to DSOs. This can at best be a short term strategy because fully resourced client monitoring will have to be budgeted for prior to retendering.

These financial pressures make it all the more important to cost different levels of monitoring and to assess the risks associated for each of these levels.

Monitoring is a trade union issue

Monitoring of contracts held by DSOs (particularly those enthusiastically adopting commercial practices) and private contractors is vitally important for the following reasons:

- ensuring the effective implementation of the enforced tendering strategy in full and that lessons learnt are fed back into the tendering process including tender invitation assessments, evaluation of tenders, references requested by other local authorities and so on.
- implementation of health and safety and equal opportunities policies. Given the restrictions on equal opportunities monitoring imposed by the 1988 Local Government Act, trade unions have a key role in keeping this issue on the political agenda and pressurising local authorities to maximise the use of their limited powers.
- employment practices including pay and conditions of service, working conditions, and grievance procedures.
- scope for recruitment of the contractors workforce.
- ensure contract defaults and failures are fully reported to councillors, trade unions, and other organisations monitoring privatisation.

- development of more effective DSO bids in subsequent rounds of tendering.
- overall progress of the contract, as an 'early warning system' to identify overspending and/or mismanagement which could lead to closure of the DSO.

Trade union concern is often focused on the start of contracts, particularly where private contractors have won contracts. Many contract failures have been exposed by the trade unions. However, although a contract may incur serious problems during the start-up period, this does not necessarily justify its classification as a 'contract failure' if the remainder of the contract period is relatively free of major defaults. Problems on some contracts are fully documented but there is usually a substantial information gap on the vast bulk of contracts.

Information on contract performance is often difficult to obtain and this places additional responsibility on trade unionists. Some authorities seek maximum publicity when they contract-out/privatise the service but then effectively also privatise contract monitoring by failing to produce or refusing to release details of contract performance. The Public Services Privatisation Unit, the Centre for Public Services (formerly SCAT), and other organisations are monitoring the performance of contractors nationally. In the absence of this information branch officials, shop stewards, and full-time officers must be regularly encouraged to pass on information which they often consider 'unimportant' or which they believe is already known by others. It is often not given sufficient priority due to competing demands and limited resources.

Part 6 examines user and trade union monitoring in more detail.

THE NEED FOR MONITORING

The importance of effective monitoring

Monitoring of services and contracts performs a number of functions. Its importance should not be underestimated.

- It should ensure that comprehensive specifications and contract conditions are implemented to achieve the required level and quality of service. Monitoring is equally as important as the content of the specification and contract conditions. It plays a key role in helping to ensure the implementation of the local authorities corporate policies and its statutory responsibilities.
- It should ensure that contractors are paid only for the work they complete to the required standard.
- It should ensure that the method of delivering the service complies with the contract conditions particularly with regard to health and safety, equal opportunities, and the use of subcontractors.
- Disputes over standards, frequencies, and timing of work are inevitable and the monitoring system should contribute to achieving a consistent level of service.
- It should help to identify the causes of any problems and the need for changes in the specification once the contract has started. The evaluation of monitoring should be an important part of developing Service Plans.
- It can reduce opportunities for contractors to submit loss leader bids with the intent of recouping initial losses by cutting corners and reducing standards later in the contract.
- It is a vital part of the financial control system and helps to limit the use of variation orders, and hence cost increases, to those which are essential to service delivery.
- It is an important means of safeguarding the local authority's own staff who may be working alongside or in the same building/area as the private contractor's staff.
- It is a mechanism to help safeguard users and the public generally as well as the local authority's own staff who may be working alongside or in the same building as the contractor's staff.
- It enables the local authority to respond quickly and effectively to DOE complaints regarding whether the DSO is performing to specification.
- Monitoring is essential to safeguard the interests of the local authority should legal action be taken by the contractor over contractual disputes or by users for non-performance or injuries.

Finally, rigorous but fair monitoring systems, fully resourced, will act as a disincentive to those private contractors unable or unwilling to meet specifications in full.

Why failures arise

'Monitoring standards requires constant attention: the contractors are not angels.'

(Using Private Enterprise in Government, HM Treasury, HMSO 1986)

Contractors failures to meet the required standards and/or to complete all the specified work is usually the result of one or more of the following:

- employing insufficient staff to complete all the tasks
- paying poor wages with inferior conditions of service, poor working conditions, and demands for high productivity levels which lead to a high turnover of staff or employment of untrained staff.
- poor contract management and supervision.
- hire and fire management practices reducing the number of experienced staff.
- the contractor's working methods proving inadequate for the task in hand.
- the contractor having insufficient resources to respond to complaints and to liaise with the local authority's monitoring staff making it more difficult to get work rectified and the causes of poor performance identified.
- cutting corners attempting to recover 'losses' due to loss leader bids and/or lower than expected profit margins.
- problems during contract start-up are usually due to new working methods, untrained staff, or new staff unfamiliar with the locality.
- contractors in financial difficulties may seek to withdraw, demand higher payments, or have the contract terminated, all of which are likely to result in reduced standards.

Failures may also arise because of shortcomings on the client side. These may include:

- a poorly written specification.
- poor tender evaluation.
- changes or cuts in standards in the specification which are different to those operating before the contract started. These are sometimes imposed following decisions by councillors but are frequently a result of decisions solely by officers because they lack a detailed understanding of service delivery and/or under pressure to cut spending.
- a hostile client-contractor relationship.
- inadequate monitoring system and/or insufficient monitoring staff.
- poor information and lack of communication between client and contractor.

Company strategies

Monitoring systems and staffing levels should be devised from experience, not on the basis of corporate marketing about a firm's commitment to 'quality' and its implementation of 'quality assurance'. Transnational companies have a number of key characteristics. Firstly, there is often a large gap between corporate marketing and

the extent to which policies are implemented on particular contracts. The glossy images of staff training, uniforms, high-tech equipment and so on are often far removed from reality on some contracts.

Secondly, transnational companies are adept at adopting operational and managerial strategies to suit local markets. Experience has shown that it does not follow that companies which adopt particular operating techniques and labour relations policies such as union recognition in other parts of Europe will use them on contracts in Britain.

Thirdly, transnational companies are more likely to obtain BS 5750 and meet European standards for particular parts of their operations on certain contracts or specific services and then claim their application for all contracts.

Company strategies may also change over the life of a contract, particularly those running four to five years. Economic conditions cannot be predicted and are unlikely to remain constant. Firms may change their corporate priorities in response to prevailing economic conditions. Recessionary conditions will inevitably increase pressure on those contracts operating with low profit margins or already loss-making. This may result in some contractors reducing their own monitoring, adopting a more aggressive managerial and operational attitude to the contract, and/or increasing claims for variations in order to improve their financial position.

Private contractors are quick to identify weak monitoring systems. They will often:

- quickly identify the highly visible areas and locations and concentrate effort in these areas at the expense of 'backroom' areas.
- assess the strengths and weaknesses of monitoring, particularly its timing, so that they can amend schedules to show their work in the most favourable light.
- claim that uncompleted work was caused by interference or non-co-operation from council employees or by trade union action. Misuse by users, the weather, and 'vandals' are often cited.
- claim that certain aspects of the work are not included in the contract and not their responsibility
- engage in lengthy disputes over the interpretation of standards.

Larger contractors have wide experience of different types of monitoring to draw on. Equally they can take greater risks in allocating resources to a given contract knowing that if forced to increase these at a later date they can, at least in theory, do so.

Contractors are not enthusiastic about comprehensive, rigorous monitoring of a contract. They will assess the likelihood of monitoring policies written into contract documents being implemented in full once the contract is operational. Contractors will also assess the financial implications of different levels of defaults and liquidated damages. There are several examples where it has clearly been in the company's financial interest to bear a certain level of defaults because the liquidated damages incurred were lower than the cost of employing sufficient staff to complete the work fully in the first place.

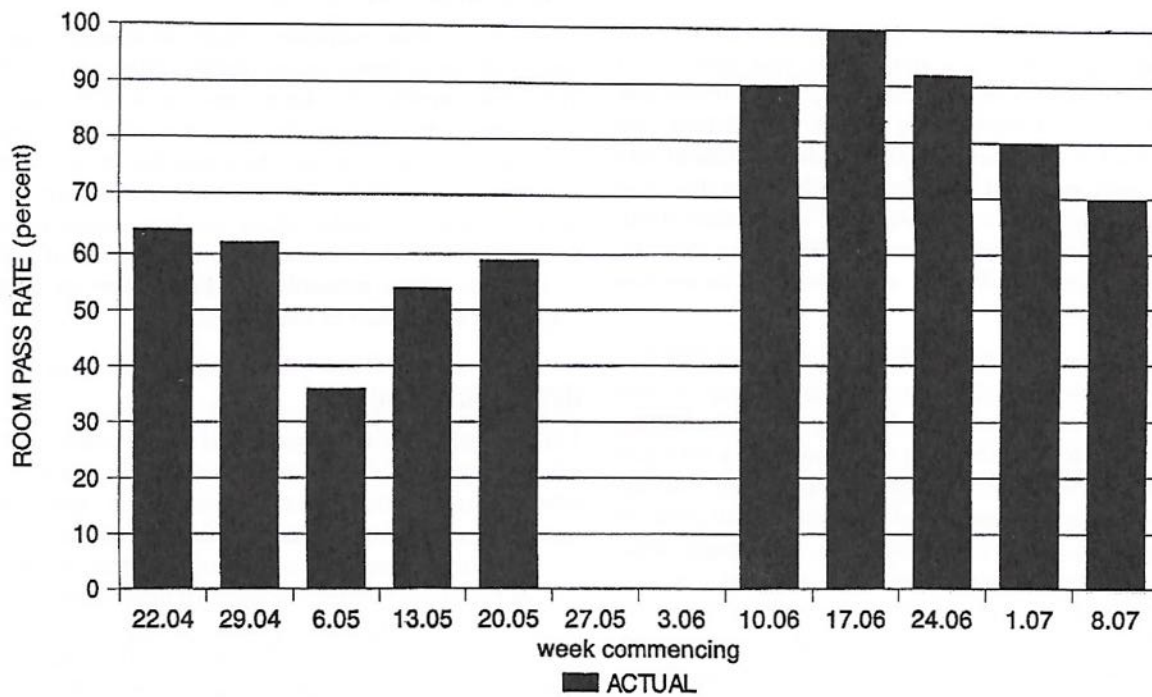
Some contractors will rely on local authority monitoring

staff as a substitute for their own inadequate managerial and supervisory resources. Where this occurs the local authority's monitoring operation is in effect subsidising the contractor.

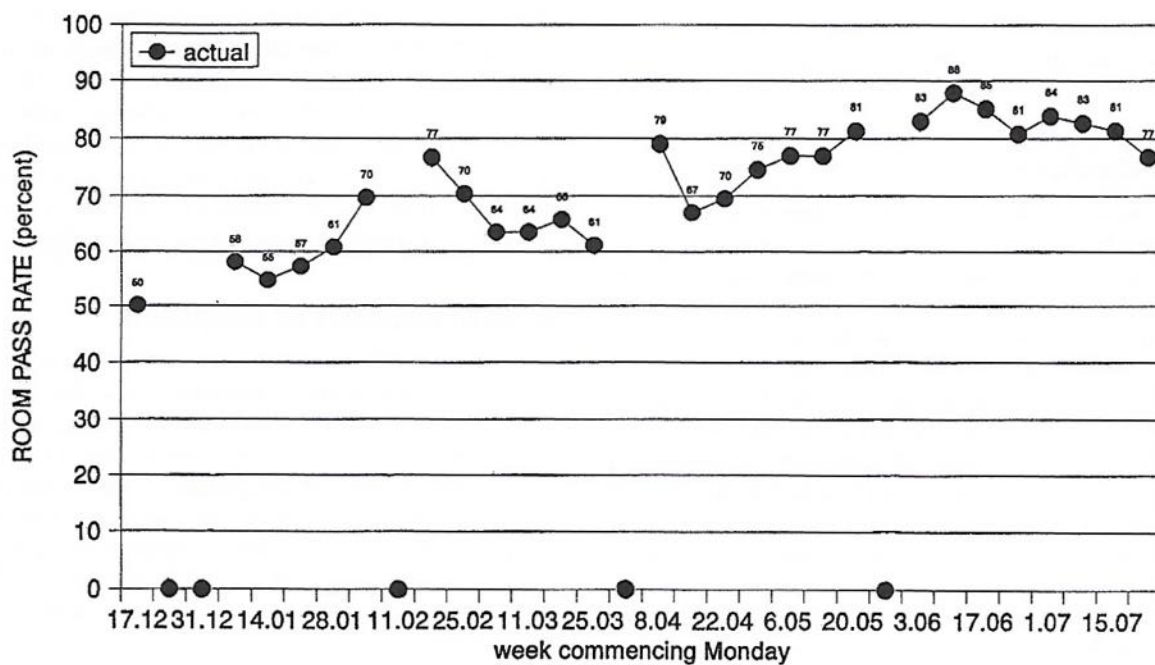
An example of this occurred in a London borough which undertook considerable pre-contract work with a private contractor identifying sites and the requirements of the contract. The firm's contract manager then left soon after the contract started and was not immediately replaced. The client reported that *'the contractor is operating on a crisis management basis, awaiting warnings of default before carrying out some work. The client is therefore effectively both supervising the contract for the authority and managing the contract for the contractor.'* The contractor responded to warnings in time to avoid defaults.

In these situations the authority should demand that the contractor allocate additional supervisory resources to the contract or contribute towards the council's costs, and/or ensure monitoring is carried out as rigorously as possible within the terms of the contract.

Building Cleaning Performance Monitoring



Building Cleaning Performance Monitoring Education Department



LESSONS FOR IMPROVEMENT

Monitoring of services has traditionally been carried out as an integral part of the management and delivery of services. Supervisors, area managers, and other line managers combined monitoring of the completion and quality of work with other managerial duties. Client and contractor were one and the same. Authorities also had established channels for dealing with complaints from users. It is only with the advent of contracting that the need for separate and distinct monitoring systems has arisen.

Enforced tendering has imposed a new set of responsibilities on councillors and officers as well as new demands on trade unions. It has forced further reorganisation of local authorities at a time when a period of stability was a pressing requirement. Coming after a decade of substantial policy changes and financial constraints on local government it is understandable that many local authorities concentrated almost solely on winning contracts whilst monitoring was pushed on to the back burner to be dealt with later. It is not surprising that contract monitoring has been uneven and fragmented. Examples of good practice have to be contrasted with examples where monitoring clearly needs to be given a higher political and technical priority.

It has been difficult for DSO workers to get accustomed to dual monitoring ie being supervised by their own management but also being monitored by the client. This has been difficult where monitoring has been inconsistent, for example, monitoring officers operating individually using different standards, or where client/contractor reorganisation has afforded the opportunity to settle 'old scores'.

The research carried out for this report concluded that experience in the first two years of CCT can be summarised as follows:

Too little monitoring

Although monitoring systems were drawn up for and included in the tender documents, many local authorities were not ready to start effective monitoring on the first day of the contract. This includes contracts operated by both private contractors and DSOs. Whilst the situation has improved since August 1989 there is evidence that monitoring remains a weak link in the CCT strategy. Monitoring staff have been reduced or the planned staffing level never achieved because of spending constraints in many authorities — some have been 50% below the planned level. One authority decided on cost grounds not to employ a monitoring officer on a £350,000 four year grounds maintenance contract awarded to Community Leisure Management (now part of SERCO). Within weeks some councillors were encouraging residents to cut grass verges near their homes.

One client officer reported:

'If there is a lesson to be learnt, it is that the private contractors are

always ready to dispute matters which appear to be to their detriment, and officers responsible for monitoring need to be very much aware of contract terms and conditions and the reasoning behind them.'

Inconsistent monitoring

There have been examples where local authorities have started off monitoring quite strictly only to relax after the first few weeks. At least one authority started off monitoring a private refuse contractor fairly rigorously only to let up after eight weeks. There has also been inconsistent monitoring of contracts within the same authority. There have also been examples where the local authority did not detail the method of monitoring at the time of tendering which has led to misunderstandings between client and contractor at the start of the contract.

Over monitoring

This was not very widespread and where it has occurred it has mainly been due to monitoring being used to settle other matters rather than a systematic application of rigorous monitoring. It has sometimes been due to the fall-out resulting from job opportunities missed or gained during the client-contractor split. In other cases it is due to personality conflicts and the absence of corporate monitoring policies. Some contracts, particularly catering and street cleansing, enable monitoring staff to interpret standards in minute detail. The temperature, weight, nutritional value, and presentation of meals is vitally important but can be monitored with such rigour which leaves the client little room to manoeuvre. Over monitoring can also arise from political interests keen to put pressure on the DSO.

Placing too much responsibility for monitoring on the contractor

Some local authorities, where DSOs have won most or all of the contracts, are shifting the responsibility for monitoring onto the DSO with the client merely checking work, in effect, checking the DSO's monitoring system. The success of this depends heavily on the internal relationships between client and contractor and corporate policies. It is essential that the DSO or contractor has a clear system and resources to supervise and control the quality of their work irrespective of client side monitoring responsibilities.

Too much emphasis on complaints

Whilst monitoring the quality of services at the point of delivery is crucial there is some evidence that some local authorities rely too heavily on monitoring the consumption of services. Having a proper complaints procedure is essential and the level of complaints is one indicator of the performance level. But there are numerous reasons why some people will not complain irrespective of the resources put into the complaints procedure. Complaints are rarely indicative of the performance of other aspects of the specification.

This can lead to the extremes of complacency or over zealous reaction depending on 'consumer' reaction. Only by monitoring the production process as well as user complaints

can the real causes of problems be identified and improvements made in the organisation, management, and delivery of services.

Lack of planning and management of monitoring

Many local authorities clearly downgraded the importance of monitoring after DSOs had won the bulk of contracts. With the threat of Poll Tax Capping and other financial controls many local authorities have sought to minimise costs absorbed by monitoring. But monitoring cannot be hurriedly organised immediately prior to or once a contract commences. Monitoring staff must be trained and the monitoring system ideally tested before the contract starts. Very few local authorities had fully tested monitoring procedures and techniques before the start of the contract.

Lack of training of monitoring staff

Many local authorities did carry out some training of monitoring staff but this was usually limited to 'on the job' training. The lack of training contributed to many of the points raised in this report. It also reinforced the view that monitoring lacks a clear career structure and is too often seen as a 'dead end job'.

Lack of corporate monitoring policy

Very few authorities could claim that they had developed a comprehensive strategy for monitoring which had actually been implemented and which included training, adequate monitoring teams, tested systems, agreed performance targets, and evaluation and review of monitoring fed back into service plans and future tendering.

Lack of integration of health and safety monitoring

Liaison between monitoring service provision and health and safety monitoring has sometimes been uncoordinated. Preparation of comprehensive health and safety policies and their technical assessment during tender evaluation must be followed up by systematic monitoring. There is evidence that the importance attached to health and safety in the tendering process is not always matched once the contract is operational.

Inadequate equal opportunities monitoring

We have few examples where monitoring of equal opportunities has been carried out. More often than not it is the responsibility of Personnel and separated from client monitoring of service standards. Whilst the 1988 Local Government Act severely restricts equal opportunities monitoring of a contractor's staff there is still scope to monitor equal opportunities in service delivery.

Disputes over standards

These inevitably arose when there were changes in the level and standard of service under the contract which differed from those which operated beforehand.

Varied reporting to committees

Many authorities have only recently compiled reports covering the progress of contracts for council committees. The overall impression is that councillors were not sufficiently informed about the progress of contracts.

Client-contractor split: varying treatment of DSOs

In some cases DSOs have been virtually regarded as private contractors by the client, or in some cases by both client and DSO management. This has led to conflicts over monitoring, standards, and financial matters which are often not in the interests of the local authority or service users.

The need for method statements

Detailed quality and method statements have proved to be an essential and legitimate requirement of contractors. Circular 1/91 suggests that a prescription of existing practices and procedures can be 'counter-productive' and that it denies contractors the opportunity to put forward their own ideas for improving services. It asks local authorities to 'consider carefully how far it is necessary — or defensible — to require contractors to provide information in minute detail about their proposals for the operation of the service'. This suggests that only those requiring 'minute' detail may be considered unreasonable. Detailed quality and method statements are needed to fully and properly evaluate tenders and to assess the required level of monitoring prior to the start of the contract.

Inadequate financial monitoring

This is both a client and contractor responsibility. Some councils have been forced to retender contracts because of losses incurred by DSOs. This is due primarily to inadequate tender pricing rather than any lack of financial monitoring. However, some local authorities were initially not fully prepared to carry out the detailed financial monitoring required by the contracting system.

District Auditors review contract supervision

District Auditors have been examining local authorities monitoring arrangements as part of a wider review of managing CCT. An audit review of one authority in April 1990 which had private contractors in grounds maintenance, street cleansing, and office cleaning, concluded 'that the Council's arrangements had the following weaknesses:

a) the contracted Bills of Quantities did not always reflect the level of service that had been provided previously, although that had been the Council's intention.

b) inspectors were poorly trained for the work that was expected of them, and failed to identify poor performance on at least one contract.

c) procedures for certifying payments due on contracts were not properly established and resulted in an inappropriate degree of reliance being placed on a very junior officer.

d) the system for issuing default notices and deducting liquidated

Table 2:1 Contract Terminations and Defaults

Service	Terminations No of contracts				Liquidated damages No of contracts				
	DSO		Private firms		DSO		Private firms		
	No	%	No	%	No	%	No	%	
Building	3	1.4	6	4.3	17	7.9	18	12.8	
Cleaning									
Refuse					major	8	4.0	12	16.7
Collection					minor	16	7.9	5	6.9
Street					major	15	8.7	3	5.2
Cleansing					minor	12	7.0	3	5.2
Vehicle			1	3.4		2	1.8		
Maintenance									
Catering:									
Education									
Other catering					major	1	1.0	3	10.0
					minor	2	2.0	1	3.3
Grounds	1	0.2	4	3.5	major	16	3.7	5	4.4
Maintenance					minor	24	5.6	5	4.4
Total	4	0.3	11	2.8	113	8.5	55	12.4	

Source: LACSAB

Table 2:2 Contracts with Problems

Service	Terminations				Problems with standards of service			
	DSO		Private Firms		DSO		Private firms	
	No	%	No	%	No	%	No	%
Building								
Cleaning	5	3.3	10	10.3	31	20.6	29	29.9
Refuse Coll.	7	2.6	1	1.3	23	8.7	30	40.5
Street Cleansing	1	0.5	1	1.6	5	2.6	12	19.7
Vehicle Maint	-	-	1	3.3	-	-	2	6.7
Catering	2	1.3	4	15.4	6	3.9	8	30.8
Grounds Maint.	-	-	6	6.4	3	1.0	13	13.8
Sports & Leisure	-	-	5	17.2	-	-	4	13.8
Total	15	1.2	28	6.8	68	5.7	98	23.8

Source: Privatisation News No 13, Public Services Privatisation Unit.

damages from contract payments had not been properly established.

Since April 1990 effective action has been taken to remedy these weaknesses. Contracts have been re-negotiated, contractor performance has greatly improved, and liquidated damages have been applied where performance is still less than satisfactory.'

Department of the Environment research findings

'There is little evidence that authorities treat external contractors differently from DSOs' stated the report Competition for Local Government Services carried out by the Institute of Local Government Studies for the Department of the Environment. Default notices and financial deductions 'have been commonly used by authorities following competition in dealing with both DSOs and contractors'. It reported the very

limited role of Members in monitoring contracts noting that *'the formalisation of the contract management process is that it has become an officer responsibility'*.

The report also refers to changes in monitoring arrangements with wider involvement of users (see Part 6). It concluded that *'there was no variation in the pattern of monitoring in relation to political control or type of authority. The determining factor was the nature of the service involved.'*

Performance record

Tables 2:1 and 2:2 indicate the relative performance of DSOs and private contractors using information supplied to the LACSAB and Public Services Privatisation Unit databases based on 1,772 and 1,609 recorded contracts respectively.

The evidence from these two databases highlights two important points:

1. that private contractors are between 5.7 and 9.3 times more likely to have a contract terminated than a DSO;
2. that contracts awarded to private contractors are between 1.5 and 4.2 times more likely to have problems and/or incur liquidated damages than those let to a DSO.

Lessons from the NHS

A review of monitoring NHS domestic services and catering contracts identified several difficulties which are also applicable to local government.

- the general absence of a clearly defined physical product which can be measured objectively and quantitatively.
- the reliance which has to be placed on qualitative measures and subjective judgment.
- the importance of time in the service and particularly of the time at which monitoring takes place.
- the participation of a number of different departments in the provision of service with difficulty in defining who is responsible for problems.

(Management and Monitoring of Contracts for Domestic, Catering and Laundry Services, Nuffield Provincial Hospitals Trust, 1987)

The National Audit Office report on competitive tendering in the NHS found *'some weaknesses in monitoring and quality control arrangements'*. Eleven out of 29 case studies were criticised on monitoring and inspection. One of the health authorities which experienced difficulties with private contractors decided to include quality control requirements as an essential part of the tender. But the NAO found that *'this change is not popular with contractors and has led to withdrawals from tender exercises'*.

(National Audit Office, HC 318, HMSO, 1987)

DIFFERENTIAL MONITORING

Differential monitoring, that is, the monitoring of private contractors in a different way to that of the Council's own DSO, has been undertaken by a number of authorities. This is a sensitive area and councils will need to justify why such arrangements are needed. It should be carried out where it can be justified and quantified based on technical evidence and professional opinion. This section examines the need for differential monitoring in certain circumstances.

Differential monitoring or supervision is based on the technical assessment of contractors staffing, management, experience, and operational proposals set against the clients planned monitoring system. If the local authority believes that a contractor(s) will require additional supervision and monitoring over and above that already planned by the authority then the additional cost of monitoring should be quantified and included in the financial assessment of tenders during tender evaluation.

The assessment of the need for differential monitoring is good public service practice. It clearly falls within the fiduciary duty of a public body. Several local authorities which contracted out services before the Local Government Act 1988 found that they had to increase monitoring staff once the contract had started. It is clearly good 'business practice' to assess the need for and the cost of monitoring before awarding the contract. It is therefore a valid and vital test for a local authority to undertake.

However, the application of differential supervision has sometimes been categorised as 'anti-competitive' by the Government. It has, wrongly, been viewed more as a means of contributing additional costs to contracting out thus 'penalising' private contractors. This has encouraged the view that it is primarily a financial matter when in fact it equally concerns the quality of service delivery. It is fundamentally about client control to ensure delivery of the specified service.

Information was obtained from fourteen local authorities where differential monitoring has been used. To date, in only one case has the Secretary of State issued a Section 13 notice around differential monitoring.

Differential monitoring must be one of the criteria which is assessed in the evaluation of all tenders. It should be an integral part of tender evaluation checklists. It would be wrong to assume that differential monitoring will be necessary in all services or for all tenders but it is clearly common sense that it is a factor which is considered in each evaluation. A two stage process is recommended.

Firstly, local authorities should assess the NEED for differential monitoring for all tenders including the DSO. This may result in different monitoring requirements for each tender depending on the relative strengths and weaknesses of each bid. It could therefore vary between contractors. Simply adding increased monitoring costs to all bids from private contractors would clearly be deemed unacceptable.

Secondly, the COST of differential monitoring should be calculated and a decision taken on whether this should be included in the financial assessment of tenders. In some cases it may involve only marginal additional costs but in others, where a contractor's management and supervision of a large contract is deemed deficient, the costs may be substantial.

Justification for differential monitoring

The Government remains to be convinced that differential monitoring should be automatically applied.

'The Secretary of State sees no reason why the cost to the authority of supervising work carried out by outside contractors should be any higher than for the supervision of work carried out by the DSO. He does not therefore believe that it is consistent with the requirements of Section 7(7) for authorities to apply higher supervision costs when assessing bids received from outside contractors, unless these costs are based on specific quantified evidence.'

(para 14, DOE Circular 1/91)

However, the CIPFA Code of Practice maintains that circumstances exist where differential monitoring should be justified.

'We remain convinced that, if an authority believes that any tenderer would for any reason need more supervision than others, it would be imprudent not to provide for such supervision, and unbusinesslike not to take its cost into account.'

(CIPFA Circular on revised Code of Practice, February 1991)

In theory, differential monitoring is not only applicable to private contractors but also to DSOs. The performance of some DSOs since 1989 has reinforced the need to assess the required level of client monitoring during tender evaluation. In practice, private contractors incur defaults and liquidated damages far more frequently and it is therefore reasonable to expect differential monitoring to be applied more frequently to their bids than to DSOs.

At the tender evaluation stage some question marks may be raised which on their own are not sufficient to rule out a tenderer but could be used for choosing to opt for differential monitoring:

1. If the tender evaluation team believes that a contractor has too few operatives/vehicles to deliver the required standard of service which will result in additional vigilance by the client.
2. If a contractor submits a very low bid in comparison to other bids which is likely to result in 'abnormal pressure on them to restrict the resources put into the work' (CIPFA Code of Practice). A contractor putting in a very low bid is clearly more likely to cut corners, reduce standards, and/or employ insufficient staff to fully complete all the tasks thus requiring a higher level of monitoring.
3. If the contractor has a proven record of defaults on other similar contracts.
4. If there are doubts about the contractor's ability to manage and supervise the contract adequately, is inexperienced, and/or its quality control system is considered weak. The CIPFA Code states additional monitoring may be necessary where 'tenderers make

different arrangements for quality assurance'.

One local authority concluded that a private contractor, which was already operating the first tranche of ground maintenance, had under-estimated managerial and supervisory staff in its tender for the second tranche. The tender evaluation panel concluded that the contractor's proposal for only one contract manager, without a deputy, and one supervisor for five mobile teams was insufficient for the proper performance of the contract. In these circumstances the council would be compelled to provide a senior supervisor. This was costed, together with car allowance and on-costs, at £25,000 per annum. Although the private contractor's tender remained the lowest the contract was awarded to the DSO. This was an example of the local authority having to substitute for the contractor's lack of management resources.

There is evidence that some local authorities are very reluctant to refer to differential monitoring as such but will plan and cost additional supervision where they believe the contractor's management and supervision arrangements are deemed inadequate.

5. If the contractor has little or no experience of the range of work and/or has not undertaken contracts of a similar size.

6. Where contractors 'use methods for paying their workforce which make payment wholly dependent on clearance of the work by clerk of works' (CIPFA Code).

7. If a contractor's administrative system is poorly resourced and cannot have access to local authority computer networks because of Data Protection Act provisions. For example, a local authority has to restrict a private contractor's access to computerised housing records which could result in substantial additional administrative work in contrast to the DSO which would have direct access. At least one local authority calculated the additional workload and included the cost of one administrative worker plus on-costs in the financial analysis.

Another example of the need for differential monitoring concerns security of buildings and equipment. At least two authorities have calculated the cost of additional security for a six month period for building cleaning contracts on the grounds that the contractor's staff would be unfamiliar with the locking up and security procedures.

The revised CIPFA Code of Practice refers to points 2, 4, and 6 above. It also suggests that differential monitoring may be necessary where groups of small tenders are compared with large tenders. Some of these points are sufficient grounds for not awarding a contract to a particular firm but in the current political climate contracts are being awarded in these circumstances.

If a contractor has Quality Assurance certification this in theory should reduce the need for differential monitoring. However, it will be important to check precisely which part of a service has been certified. QA is being exploited commercially by some contractors making exaggerated claims. QA is no guarantee — it may not cover the type, scale, complexity of specification, in question nor the subsidiary which has tendered.

Evidence of the need for differential monitoring

Other studies have highlighted the need for additional supervision for private contractors.

The Audit Commission's Quality Exchange was set up to report on quality standards and performance providing comparative information and a 'contact' service for authorities sharing information, and initially covered 198 local authorities. Its first report shows clearly that local authorities 'inspect more of the work carried out by private contractors compared to the inspection of work carried out by DSOs'. It also reported 'some local authorities carrying out a high level of inspection at the start of the contract, but hope to reduce the level once the contract is running smoothly'. The level of inspection in vehicle maintenance was 50% for private contractors compared to 20% for DSOs, in street cleansing it was 30% for private contractors compared to 10% for DSOs, and about 10% for both private contractors and DSOs in refuse collection.

The case for differential monitoring for the implementation of health and safety policies has been clearly stated:

'In the HSE view the situation is comparable to that of local authorities where experience has shown that the management of a function carried out by a third party is far more onerous even in a monopoly situation. In addition, standards of Health and Safety have been seen to be reduced.'

The introduction of competition in the view of the HSE not only increases the proliferation of equipment, but also poses even more onerous duties for the management of the function, and can be likened to the situation on a building site where there is a multiplicity of contractors. Very complex guidance procedures are necessary in such circumstances as is a very active policing role. Moreover, there is a clear deterioration in standards of Health and Safety practices according to the HSE.'

(Review of Corporate Handling Policy, Chief Executive, Manchester Airport, July 1990)

Five out of eight local authorities who privatised refuse collection prior to the 1988 Local Government Act found that 'contractors needed greater pressure and higher levels of inspection'. (Securing Further Improvements in Refuse Collection, Audit Commission, HMSO, 1984)

'Authorities have found that, initially, they require an increased supervisory force to monitor the level of performance of the private contractor.'

(Managing Competition, SOLACE/LGTB, 1988)

Under-estimating monitoring resources can prove costly once the contract is under way. Here is one such example:

'Experience... shows that a high level of supervision on the Council's part is essential in order to inspect thoroughly and on a daily basis.' (Report to Establishment Committee, Wandsworth Borough Council, 1985, concerning the Town Hall cleaning contract with Executive Cleaning Services). The Council had to employ a temporary contract supervisor. The report goes on to state:

'The high level of defaults being recorded requires a greater administrative input into the Council's management of the contract than was originally foreseen: the same applies to the recording of default points, the issue of rectification notices, and the monitoring of the contractor's workforce. At the moment, these additional duties are being performed on the basis of overtime arrangements.'

Examples of the application of differential monitoring are detailed in Table 4:1. The highest known differential is the Westminster refuse/street cleansing contract in which the council applied a 40.4% higher staffing level (41.2% in

financial terms) to the MRS bid. We have not found any examples where the cost of differential monitoring was significantly high to effect the financial evaluation although it obviously contributed to technical evaluation.

Table 4:1 Examples of Differential Monitoring

Authority	Service	Date	£	DSO No FTE	Contractor £	No FTE	% £	% No
Westminster (MRS)	Refuse/street cleansing	1988	177,100	10.33	250,000	14.5	41.2	40.4
Kirklees (BRS)	Vehicle Maint	1989			52,000	4.0		
York (Cory)	Street cleansing	1989			12,577	1.0		
N. Tyneside (Town & Country)	Refuse/street cleansing	1989			81,300			
Easington	Refuse	1989			26,702			
Hackney	Grounds Maintenance	1989			45,000 (over 3 months)	10.0		
Camden (Brophy)	Grounds Maintenance	1991			25,000	1.0		
Oldham	Building repair	1990			12,000	1.0		
Nuneaton & Bedworth	Grounds maintenance							
Knowsley (Sitaclean)	Refuse	1989						
Delyn DC	Accepted principle based on assessment of contractors quality control system							
Chesterfield	Street Cl	1989	Evaluated additional monitoring costs but not decided not to apply them					
Rochdale (Charlesplant)	Street Cl	1989	Evaluated but not used.					

MONITORING & QUALITY CONTROL PLANS

A ten point Monitoring and Quality Control Plan should be drawn up to cover the following:

1. The organisation and management of monitoring
2. Monitoring techniques, methods and frequencies
3. Staffing requirements together with transport and other resource needs fully costed.
4. Training of monitoring staff and testing of the monitoring system
5. The recording, analysis, reporting and publicity of performance and standards
6. A complaints procedure to receive, record and process complaints from other local authority client departments, users, trade unions, council workers and the public generally.
7. Contract start-up proposals
8. Criteria for evaluating the contractors own quality control, management, and supervisory arrangements to ensure that they are not simply going to rely on the local authority to identify defaults.
9. An appeals system for contractors disputing monitoring findings
10. Periodic evaluation of the monitoring system and procedures

The elements of this plan are described in more detail.

1. The organisation and management of monitoring

Local authorities have set up various organisational arrangements to deal with monitoring. Different options are available and each authority needs to assess these options and adopt the one most appropriate for its particular circumstances.

Central or departmental monitoring units: Monitoring is carried out by client departments in most local authorities. Each department has their own monitoring staff as part of the client side operation.

However, some have set up central monitoring units. One London Borough established a Contract Management Unit (CMU) in the Personnel Department which 'provides a centralised objective contract management and administrative service to client departments in the operation of building cleaning and catering contracts' — this rôle is separate from policy decisions and liaison with users.

The CMU has a number of functions:

- checking that the Council receives the specified service from the contractor.
- as the 'holder' of the contracts it records changes to

buildings and translates the effects of client policy decisions to the contractor.

- coordinates Quality Assurance plans including monitoring, variations, and contract review
- compiles a database to assist future bids, client policies, and ensure the Equal Opportunity Policy on service delivery is being met.

There are clearly advantages and disadvantages to both systems. Many authorities will envisage departmental monitoring being more directly linked to client policies and feedback into the development of the specification and contract conditions, believing this can be diluted through central units. There is clearly a case for each department to having the knowledge, expertise and resources to fully monitor its own contracts. Others welcome the advantages of a more corporate approach to monitoring and the development of service delivery.

Team approach: Building cleaning and ground maintenance contracts are usually divided into geographic areas. In some cases local authorities allocate monitoring staff on a similar basis. Each monitoring officer is allocated one or two contract areas. However, one authority which had four separate building cleaning contracts strongly advised against a 'patch' system. In this authority the monitoring officers worked as a team covering all four contracts. A different officer would follow up defaults identified during an inspection. Operating as a team led to greater consistency in the application of standards.

Community Inspectors: Harlow DC has been carrying out a pilot scheme of four Community Inspectors monitoring the refuse collection and grounds maintenance contracts. They report findings directly to client officers. Each inspector was allocated to a neighbourhood in which they were responsible for monitoring both services.

They also act as a 'eyes and ears' resource identifying abandoned vehicles, broken paving, damaged or missing street and road signs, and dumped rubbish reporting these to the Neighbourhood/Area manager.

Community Inspectors were expected to build up a relationship with the public in their 'patch' in order to improve the flow of information from and to the Council and to 'lessen the detrimental effects of what had become a complaints led service'. The initial phase was judged to be a success with regard to the two contracted services but liaison with other departments over the wider environmental role was more problematic.

Environmental Inspectors in Tameside operate on a similar basis being responsible for monitoring highway, grounds maintenance, and cleansing contracts on a patch basis and liaise with community organisations. They can also authorise local one-off clean-ups and urgent highway repairs.

Site visits: Formal site inspections normally take place on a monthly or three monthly basis depending on the size of the contract. For example, every educational establishment once a term although those encountering problems are likely to have additional follow-up visits. Site inspections should be randomly selected and the contractor invited to accompany monitoring officers. It is essential that the selection of sites to be visited is kept confidential so that the

contractor cannot amend staffing levels and so on in the knowledge that some sites will be inspected and others not.

Regular client-contractor meetings: Formal meetings are essential on a weekly, fortnightly or monthly basis depending on the size and complexity of the service. They normally deal with contractual matters arising such as defaults, variations, complaints, payments and other problems and should be minuted. The frequency of meetings may decline after the first 6-12 months of the contract assuming the contract is running reasonably smoothly. There are also likely to be more informal meetings between monitoring officers and the contractor to deal with everyday matters.

Caretakers and other staff involved in monitoring: The role of caretakers and other staff in monitoring varies widely between authorities. In some cases caretakers have a responsibility to assist in the monitoring of the contract at their particular school as well as carrying out some cleaning duties themselves. This normally involves carrying out spot checks, identifying defaults, checking complaints from teaching staff, and ensuring these are logged in the monitoring book and referred to monitoring officers. This system can work well particularly where the caretaker and Head have a good working relationship.

However, this system can begin to breakdown where local authorities have imposed major cuts in cleaning hours, a more frequent occurrence. One local authority reported that defaults were not appearing on school monitoring sheets because caretakers believed that the one third cut in hours meant that cleaners did not have sufficient time to do the job properly. They were reported to have 'an in-built resentment to the system'. The caretakers were also mindful of the need to work as a team with the cleaners irrespective of whether they worked for a private contractor or the DSO (this particular contract was shared). In this situation the authority had to place greater reliance on its monitoring officers and subsequently had a higher monitoring staffing/cost ratio than many other authorities.

2. Monitoring techniques

The monitoring system must cover the following:

- what should be monitored, including the quality of service and method of delivery.
- the frequency of monitoring.
- how it is monitored.
- action to be taken on uncompleted and/or poor quality work.
- liquidated damages, warnings and contract termination.

What should be monitored

- completion of specified tasks at the specified times and frequencies.
- standard/quality of work achieved on the work completed.
- health and safety practices.
- working methods, for example, hygiene in catering contracts.

- staffing and equal opportunities in service delivery.
- standard of materials and supplies.
- social relations between staff and users.
- other conditions of the contract.
- financial monitoring.

Frequency of monitoring

This will vary from service to service and will include:

- daily, weekly or monthly inspections depending on the service.
- random sample inspection on a weekly or monthly basis (this can only be effective if the contractor, who will often accompany monitoring officers, has no prior knowledge of the sites to be visited).
- inspections in response to complaints from users
- specialist monitoring by health and safety officers or Environmental Health Officers.
- periodic reviews of overall performance

On larger contracts the normal procedure is for 10% of the contract locations to be monitored every four weeks — thus monitoring the whole contract once a year.

Defaults

Incomplete and/or poor quality work should be tackled in a number of ways:

- the contractor should be required to complete the work or undertake it again at his/her own expense within a specified time limit.
- payment delayed for uncompleted work.
- financial deductions from monthly payments.
- issue of warning notice if level of default notices continues to be high.
- termination of the contract.
- all or particular aspects of the contract is carried out by the local authority or another contractor at the original contractor's expense.

The procedure for defaults is normally as follows:

1. A Rectification Notice is issued by the monitoring officer as a result of their regular inspections or an inspection following a complaint from a user. This can only cover work which can actually be rectified or has not been carried out. The contractor is given a time limit of between normally 12-48 hours in which to rectify the work at their own expense although this will obviously vary according to the type of service.
2. Failure to rectify the work within the stated period and to the required standard will result in a Default Notice being issued stating the intention to deduct a sum from the monthly contract payment. If the work is substantial, the authority could arrange for the work in question to be carried out by another contractor.
3. Defaults which cannot be rectified accumulate penalty points which also relate to financial deductions.

The DOE study reported: *'Deductions are normally made from payments according to the number of notices issued. Some authorities operated a grading system for work done, with say, an assessment of 90 percent satisfactory performance. Deduction from payment would be made for performance below that level. The nature of failure to perform was normally left open, though some did detail typical failings, such as, for refuse collection, failure to replace receptacle lids or failure to clear spillages.'*

The difficulty of default notice system is ensuring that the amount of money deducted per notice can be clearly related to the "size" of the default.'

(Competition for Local Government Services. Research Report to the DOE by Kieron Walsh, Institute of Local Government Studies, Feb. 1991.)

Similar evidence has been highlighted by the trade unions.

'The deductions imposed on contractors must be geared to both immediately rectifying poor quality or uncompleted work and as an incentive to take steps to ensure failures do not recur. The financial deductions have to be greater than the gains made by the contractor in not paying sufficient staff to do the job properly in the first place.'

(Taken to the Cleaners: The Lincolnshire Experience, Centre for Public Services, NUPE/NALGO, 1988)

'Many contractors complete an overall bid on the assumption that certain aspects of the work will be too cost-effective to deliver — it is cheaper to lose through "penalty" than to fulfil the standards.'
(Cleaning Up in Ealing, Private Profiles No 2, LGIU, 1987)

One authority had awarded three out of four building cleaning contracts to a large private contractor. The contractor was receiving 99% of the monthly contract payments yet the cleaning performance was only judged to be about 90%. Financial deductions were based on the contractor's prices in the bills of quantities which reflected the firm's costings but did not reflect the 'cost' to the authority of work not being carried out. Under this system the lower the tender bid (or the more extensive the loss leader) the smaller the liquidated damages for non-performance.

Financial deductions should not only reflect the non-completion of the work but how it affects the users enjoyment of the facilities.

One local authority developed a performance points system for a catering contract weighting the different elements. For example, health and safety performance was allocated 15% in contrast to 40% for service performance:

	% weighting
1. Financial controls	10
2. Health and safety practices	15
3. Hygiene/Catering practices	15
4. General contract compliance	5
5. Healthy eating, menu planning, food specification	5
6. Staff and personee	10
7. Service	40
	<u>100</u>

Another authority divides the monthly payments for its building cleaning contract:

- 80% payable for performing the cleaning service satisfactorily.

- 20% payable for achieving the related personnel and resource elements including meeting I.D. cards and uniform standards, health and safety requirements, material and equipment usage, supervisor attendance, employee induction training programme, meeting attendance by the contractor, and the contractors quality control adherence. The same authority applied a similar system for its catering contract.

Monitoring systems for sports and leisure management can vary between the defaults monitoring system and the percentage performance system — for details see the ADLO publication Sports and Leisure Management: Ensuring Contractor Performance.

The current situation with regard to financial deductions in relation to defaults has yet to be clarified. Some advice states that local authorities must restrict financial deductions strictly to the estimated financial cost of the default to the authority. Other advice states that a much wider interpretation is legally justified with financial deductions relating to all the elements which contribute to the quality of service.

Different systems operate and there has to date been no legal challenge from a contractor claiming that a monitoring system is unlawful.

In the past the Courts have upheld a system of graduated sums which increase in proportion to the seriousness of the breach, for example delays in completion of building contracts. A default payment which is tied to the seriousness of the breach and is payable on each occasion is classified as liquidated damages and not penalties. However, a very punitive system of liquidated damages may be judged by the Courts to be unreasonable and therefore a penalty system. The key is to ensure that liquidated damages reflect a genuine pre-estimate of the loss to the local authority and the full procedures for issuing default and warning notices are adhered to.

Advice from the DOE and CIPFA is as follows:

DOE Circular 1/91 (para 37) states :

'Any default clauses or default points system introduced by authorities should apply equally to contractors and the DSO and should be related to a genuine pre-estimate of the additional costs that will be incurred by the authority. It is unlawful to apply default clauses or default points as if they were fines.'

The CIPFA Code of Practice states:

'Authorities should in addition ensure that they can show that the amounts of liquidated damages which contracts provide for non-performance, and deductions for partial performance, represent realistic pre-tender estimates of their likely costs and losses.'

Costs to the authority also include the administrative cost of issuing a default notice as an additional administrative cost which would not otherwise have been borne. Evidence from local authorities shows that additional administrative costs of default notices vary between £11.80 and £40.00 per notice.

The quality of domestic refuse collection can be assessed by applying the following defaults observed from a percentage sample of premises visited as soon as practicable after collection

Aspect of Service Monitored	percentage default point
Collection not made according to programme	1.0
Part collection only	0.5
Bins not replaced	0.1
Spillage on street	0.5
Spillage on property	0.5
Excess not collected	0.5
Lids/closures replaced/closed	0.1
Gates left open	0.1

A maximum of 1.00 per property inspected. These are then expressed as a percentage of the properties inspected and applied to the total contract.

Warning notices and contract termination

These are issued when a certain level of defaults are reached which empowers the authority to terminate the contract. It is essential that the contractor is made aware that the performance level is either at or approaching the level at which contract termination could be considered and is given a clear statement of the local authority's intentions. These steps provide vital evidence should the contractor later claim 'unfair or unreasonable' termination of the contract.

Performance bonuses

At least one local authority has devised a Performance Bonus on its Building Cleaning contract operated by the DSO. The bonus is paid if the contractor achieves a 95% or more performance level for three consecutive payment periods. The bonus is 4% of the value of the routine and periodic work done during those periods. The bonus is not paid if any second or third stage rectification notices have been issued during any of the three payment periods. No further bonus is payable until the contractor has achieved a 95% or more performance level for a further three consecutive periods commencing at the end of the last payment period for which the last bonus was paid, ie, a maximum of 4 bonus payments annually if the contractor achieved a 95% performance level throughout a 12 month period.

3. Staffing requirements and costings

It is essential that monitoring systems and resources are matched. Detailed rigorous monitoring systems on paper are virtually useless in practice if they are badly resourced. Private contractors are adept at assessing the strengths and weaknesses of monitoring systems. It is more effective to have a less comprehensive monitoring system with adequate staff than one which can only be implemented fragmentally and/or irregularly.

Staffing levels for contract monitoring vary widely depending on the type of service and annual value of the contract. Councils have found problems accepting ratios for two reasons. Firstly, there is at present insufficient information on which to develop meaningful ratios. Secondly, the ratios reflect proposed staffing levels and do not indicate whether such staffing levels are in fact adequate.

Table 5:1 identifies monitoring staffing levels in several local authorities. It includes information from tender evaluation reports and an Audit Commission study on grounds maintenance. The Audit Commission's statement that 'no more than one full time equivalent inspector should be needed for each £0.5m of annual contract value' (based on only five examples) should be treated warily. These are crude ratios. There is no evidence to suggest that the monitoring of these contracts is 'successful'. Much will depend on the quality of service defined in the specification, the range of services undertaken, and the geographic distribution of parks and open spaces.

The table also excludes the role of caretakers and other staff who carry out some monitoring duties in addition to their main duties.

Providing a career structure for monitoring staff is crucial to avoid it being categorised as somewhat of a 'dead-end' job. This can be achieved in two ways. Firstly, by placing monitoring jobs within an overall management structure which permits promotion to other jobs in the client structure. Secondly, by developing monitoring job descriptions which include other duties such as promotion and marketing thus enhancing its attraction and status.

4. Training monitoring staff

It is essential that monitoring staff are trained in inspection techniques and procedures. In some authorities, monitoring officers had previously worked as, or alongside, DSO personnel. In the future councils may wish to ensure that the new monitoring officers are seconded into the DSO as part of their training to familiarise themselves with service delivery issues. The need for monitoring officers to work as a team, along with other client officers, is critical. Whilst many local authorities reported that they carried out very little training of monitoring staff, citing 'hands-on experience' and 'a learning curve' many stated their intention of being better prepared for future contracts. Much can be gained from pre-contract training of monitoring staff. Whilst involving some client costs the advantages are clearly substantial. Training should cover the following:

- basic understanding of the contract.
- the management and organisation of monitoring including the objectives, procedures, and reporting to be followed.
- technical inspections: for example samples for nutritional testing, temperature testing, vehicle maintenance assessment and so on.
- visual inspections: for street cleaning and cleaning of buildings which rely heavily on visual judgments and may involve the use of photographs.
- health and safety inspection. Whilst the local authority's Safety Officer is usually responsible for health and safety inspections, it is also useful for monitoring staff to be well versed in the broad safety requirements of the contract.
- negotiating and communications skills and relationships with the contractor's staff: this should cover dealing with conflictual situations, avoiding compromising or

Table 5:1 Monitoring Staffing Levels

Authority	Annual Value of contract	No of ins FTE	£m/ins	Annual cost of monitoring	Cost of monitoring as % of contract
Grounds Maintenance					
Hillingdon	£4.0m	6.0	0.7m		
Tower Hamlets	£1.0–£1.4m	1.5–2.0	0.6m–0.7m		
Bath	£1.2m	2.0	0.6m		
Shepway	£0.7m	1.2	0.6m		
Rochford	£0.7m	1.2	0.6m		
Westminster (1990)	£1.45m	4.0	0.36	£81,780	5.64%
A	£0.7m	0.73	1.0		
B	£0.4m	0.55	0.7		
Refuse Collection & Street Cleansing					
Westminster	£12.1m	14.5	0.84	£250,000	2.0%
A	£0.8m	1.0	0.8		
B	£0.6m	1.0	0.6		
C	£0.8m	0.6	1.3		
Building Cleaning					
Sandwell (schools) (1991)	£2.7m	2.4	1.12	£37,588	1.4%
Westminster	£0.6m	2.0	0.30	£20,000	3.3%
Lincolnshire (1988)	£1.5m	5.0	0.30		
Rotherham	£1.0m	5.5	0.18		
Birmingham (exc education & housing)	£2.3m	9.0	0.25		
School Meals					
Sandwell 1989	£3.8m	1.8	2.1	£31,363	0.85%
Other catering					
Westminster (1988)	£0.66m	2.0	0.33	£20,000	3.0%
Birmingham (welfare)	£0.65m	1.0	0.65		
Public Toilets					
Westminster	£0.22m	1.0	0.22		
Social Services Transport					
Westminster	£0.83m	3.0	0.27	£50,000	6.0%

Sources: *Preparing for Compulsory Competition, Audit Commission, Occasional Paper No 7, 1989: Tender Evaluation reports from local authorities.*

potentially corrupt practices, and ensuring that monitoring staff deal with matters in a fair and reasonable manner.

The testing of monitoring systems prior to the start of the contract should be negotiated with the trade unions. The contract start-up period can be used to refine the system.

If a contract is won by a private contractor, monitoring staff should be made aware of the prevailing practices in the particular sector.

Where a Management Buy-Out (MBOs) succeeds in winning a contract, monitoring staff should be briefed on ways of avoiding cosy relationships from developing.

Training should also be extended to caretakers and other

staff who have a monitoring role in addition to their main duties. This should include at the very minimum, a briefing session outlining their responsibilities and role in monitoring, the techniques to be used, and so on, together with clearly written advice. Some may have writing difficulties and will need additional support.

5. Recording, analysing, and reporting system

Systematic recording of monitoring information is essential in order to monitor standards and assess contract performance over the length of the contract. Monitoring sheets and reports should be collated at one point for each service. The design of monitoring sheets and questionnaires

varies according to service and the monitoring system. The design of any reporting system should include trial runs before the contract starts followed by an evaluation after a few months to make any necessary amendments to monitoring sheets.

Graphs and charts should be prepared to report the level of default notices/points. These should also indicate the level at which the contract is considered to be operating satisfactorily and the level at which written warnings would be issued and termination of the contract considered. Easy to read reports are an essential aid to assisting councillors, school governors, and others quickly assess the level of and changes in performance. Detailed tables should be avoided.

Use of computers

Many authorities are using computer based monitoring systems — some developed in-house and others using purchased packages. Areas for inspection are usually generated randomly on a regular basis to ensure at least 10% of the contract is monitored monthly. Whilst offering many advantages a number of authorities have reported problems with use of computers in monitoring, in particular the ability of the contractor to assess or dispute monthly performance levels and issuing default notices for trivial sums. Clearly the use of computers should be part of the local authority's Information Technology strategy. Further evaluation of the use of computers in monitoring is needed.

6. Complaints procedure

Each service should have a system for receiving, logging, and forwarding complaints from:

- users of the service.
- user organisations which could range from tenants associations to local firms.
- governing bodies.
- ethnic and community groups.
- other council departments.
- council staff working alongside contractors.
- trade unions.

Each site should have a complaints or monitoring record book in which all complaints at the site should be logged. This should include the nature of the complaint, date, name, address, and note of the action taken. These should be available for inspection by monitoring officers.

All complaints should be received by the client. The contract conditions should include a clause which requires the contractor to pass a record of all complaints they receive directly to the client.

Broad categories of complaints should be developed for each service and complaints from different sources, for example, telephone calls and postcards, and from different locations, for example, town hall, neighbourhood offices, can be recorded centrally to indicate one aspect of overall performance.

7. Contract start-up

Between 4-6 weeks is usually allowed for the 'settling-in period' to permit the contractor to sort out initial teething problems, become fully acquainted with buildings and rounds, and to allocate staff accordingly. However, the length of the start-up period should vary according to the size and complexity of the contract. Default notices are usually issued in this period but the financial deductions are not implemented.

This is a crucial period for the local authority. It is vital that the local authority monitors the contract from day one, in effect setting standards and procedures. The contractor should be informed of defaults and liquidated damages which would be incurred under normal circumstances once the start-up period has ended.

The contract conditions should clearly state that the start-up period is not negotiable. There are examples of at least two private contractors who have sought extensions to start-up periods even before they have begun the contract. Cory demanded a ten week start-up period on the Bromley refuse contract — the council eventually agreed a two week extension to the original four week period. BFI Wastecare started the Kensington & Chelsea refuse and street cleansing contract in April 1989 with a six week start-up period. By June the Council admitted 'serious problems' and extended the start-up period indefinitely. It continued until November 1989.

The settling-in period is likely to result in an increased level of user complaints particularly if new rounds or rotas are introduced. The start-up arrangements should anticipate a certain level of complaints and set up procedures for dealing with them.

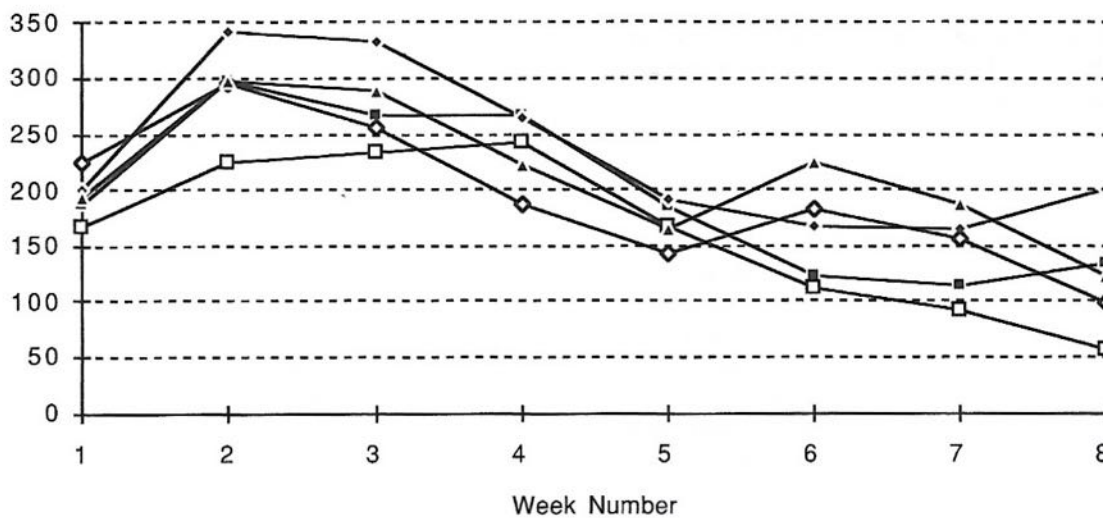
The lead-up to the start of the contract is equally important. Disputes have arisen because contractors believed that uncompleted work had been allowed to accumulate prior to the start of the contract. This occurred in some grounds maintenance contracts and led to immediate disputes and demands for additional payments. One alternative is to ask all tenderers to price for a certain level of additional work at the start of the contract which can be drawn upon depending on the monitoring officers assessment of conditions at the particular time. It is more likely to occur in the period between the time a decision is taken to award a contract to a private firm and the start of the contract, particularly when large job losses are involved and/or the contractor is offering much reduced terms and conditions.

Councils should ensure that the need to carry out a proper survey of the work to be carried out is part of, and explicit in, the contract specification. Evidence has shown that contractors who fail to do this have difficulties in meeting the terms of the contract in the start-up period. The first stage of tender evaluation should include assessment of the contractor's knowledge and understanding of the scale and scope of the contract and that this is reflected in their price.

8. Evaluating a contractor's quality control system

This must be carried out during the evaluation of tenders. It is vital in determining the contractors ability to deliver the required service and the need for and cost of differential monitoring. Failure to fully assess a contractor's

Chart 5:1 Recording User Complaints by Area and Comparison with Standards



management and supervision arrangements and experience could lead to service failures and monitoring problems. Contractors must be capable and willing to implement their own supervision and monitoring of the work. The increasing commercial use of QA claims by contractors and attempts to cross-subsidise management resources from other areas make this assessment increasingly important.

The assessment should include:

- the proposed management of the contract
 - the management structure
 - number of managers and their responsibilities (including duties on other contracts)
 - training and experience of similar work
 - location of staff.
- the supervision of the contract
 - number, hours, and qualification of supervisors.
- contractors quality control proposals and how they will be implemented.
- details of support staff ie clerical/administrative staff.
- training arrangements.
- comparison of total management and supervisory costs including local/head office breakdown.

This should enable the tender evaluation team to reach a decision on the relative merits of tenders and the adequacy or not of management, supervisory, support and training arrangements. Tenders have been rejected on technical grounds for failing to propose satisfactory arrangements after having been given the opportunity to respond at interview.

9. An appeals procedure

Procedures should be established to enable disputes between monitoring staff and the contractor to be resolved through an appeal to a senior officer. The procedure should be set out in the contract conditions. It should be viewed as

a means of last resort. Regular weekly or monthly meetings between monitoring staff and the contractor should be able to iron out the vast majority of difficulties and disputes.

There are two aspects to settling disputes. The first concerns disagreements and matters which have not been resolved between monitoring staff and the contract managers. These should be resolved between the senior monitoring officer/client manager. This should prevent issues being shifted from one level of management to another. One authority which had contracted out most of its building cleaning to a large private contractor reported that the firm were not happy with decisions resting with the Cleaning Services Manager. They wished to progress unresolved matters to a 'higher level' but this was firmly resisted.

The second concerns the use of arbitration. This should only be viewed as a option if all other means of settling disputes have been exhausted. Many authorities did not have arbitration written into their contracts in the belief that this could be exploited by some private contractors. Others were concerned that it set up an adversarial situation and the image of two sided rather than one local authority. One authority was setting up an internal arbitration procedure to provide its DSO with some recourse should a major dispute arise with the client.

10. Evaluation of monitoring

The monitoring system for each contract should be subjected to a thorough review and evaluation after 6 and 12 months and subsequently on an annual basis. These reviews should also contrast and compare the experience of monitoring different types of services and to assist the development of a corporate monitoring policy.

These reviews will be important in order to:

- identify the need for new monitoring techniques.
- maximise the use of resources consistent with corporate tendering and monitoring policies.

- ensure lessons learnt are fed back into the preparation of tenders for other services.
- provide feedback to assist the development of service plans.
- provide adequate and accurate information for references requested by other local authorities seeking references on particular contractors.

USER AND TRADE UNION MONITORING

Trade unions and user organisations such as Parent Teacher Associations (PTAs) and Tenants Associations have played a key role in exposing poor quality services and inadequate monitoring systems. It should be emphasised from the start that their involvement is not to strengthen 'complaints-led' monitoring but to be involved much more substantially in the development of specifications, service planning, generating ideas to improve and expand services, and monitoring the quality of service delivery. It is vital that local authorities recognise the valuable contribution that trade union and user organisations can make in addition to individual users. Unfortunately, most 'customer care' schemes focus on users as individuals, rather than collective groups.

User involvement in monitoring

The DOE research report on CCT Competition for Local Government Services found an increasing use of user panels, user surveys and user consultative committees. These are shown in Table 6:1 below.

Parent Teacher Associations in various local authorities have carried out surveys and monitored school cleaning and school meals. For example, PTAs in one County Council were instrumental in forcing the Council to terminate school cleaning contracts in 1985 with three contractors because of consistent failure to clean the schools properly.

Trade unions can also play a vital role in investigating the performance of contracts held by companies seeking contracts in their own authority. For example, the TGWU and GMB senior shop stewards in one authority visited three contracts held by one firm. They talked to monitoring officers, visited depots, observed the operation of the contract, and compiled a report setting their findings against quotes from the contractors quality control manual. The report was widely circulated and helped to expose the firm's inadequately resourced bid.

Trade union surveys

There have been several examples of PTAs, teaching unions such as the NUT, and local authority unions such as NALGO and NUPE carrying out separate and joint surveys of contracted out services. The East Midlands divisions of NALGO and NUPE funded a detailed investigation of the ISS school cleaning contract in Lincolnshire following separate surveys by the NUT and NUPE which revealed widespread concern of cleaning standards (Taken to the Cleaners: The Lincolnshire Experience, Centre for Public Services, NALGO/NUPE, 1988).

Newcastle Tenants Federation and the Newcastle City Council Joint Trade Unions carried out a survey of 25 tenants associations and held discussions between tenants and shop stewards in 1990 to recommend improvements to street cleansing (Clean Sweep, Newcastle Tenants Federation/Trade Union Anti-Privatisation Working Group, 1990). The report also proposed regular contact between tenants groups and monitoring officers with formal contact on a quarterly basis between councillors, trade unions, the tenants federation, and CityWorks (the DSO) operational manager to discuss strategies and policy issues relating to the service. Whilst these proposals have yet to be fully implemented, three pilot schemes are underway in which volunteers from community organisations monitor street cleansing, refuse and grounds maintenance frequencies, overall quality, and priorities. Detailed monitoring is still carried out by monitoring officers.

Sheffield Joint Works Group, composed of tenants and trade union delegates, meets monthly with councillors and officers to discuss housing repairs, improvement issues, and other matters concerning service delivery. Monitoring of contractors is a constant topic. A monitoring policy report was produced which informed tenants what to watch out for together with phone numbers to report defects, health and safety risks, and so on.

Trade unions in a Scottish Regional Council have carried out surveys of standards of school cleaning in 1990. A private company won two cleaning contracts from the Council in 1989 after undercutting the DSO by over £1m in each case. It did not bid for the other 10 contracts which were won by the in-house service. At the time the company had not bid for nor won any other local authority cleaning contracts. The firm cut wages and from £2.60 to £2.25 and eliminated holiday and sick pay.

Table 6:1 Increased User Involvement in Monitoring

Method	Number of authorities using method		
	Before CCT	post CCT	No reply
User Panels	4	10	2
Public Surveys	7	12	2
User Consultative Committees	9	12	2
User complaints	29	30	2
Public complaints	28	30	2

Source: *Competition for Local Government Services, Research Report by Kieron Walsh, INLOGOV for Department of the Environment, February 1991.*

The region's Joint Trade Union Council decided to carry out their own monitoring of the contract after many schools reported problems. They carried out two surveys of Heads of Establishments in 1990. A copy of the survey is included as Appendix 1. Both surveys reported poor standards. For example, the first survey revealed that two thirds of respondents reported a deterioration of cleaning standards, 55% reported an increase in complaints about cleanliness and hygiene, 75% reported a reduction in the number of areas cleaned, and 69% stated that cleaning materials had reduced in quantity and quality. These surveys provided further evidence to support their original case against the award of the contract. Media coverage can also lead to improved monitoring.

Trade union monitoring is also vitally important where DSOs have won contracts with very low bids or where the specification has been dramatically reduced. One authority was forced to return to 52 week cleaning after reducing the specification requirements for holiday cleaning leading to staff being employed for only 38 weeks. This led to recruitment problems, inadequately cleaned buildings, defaults and so on. The authority finally agreed to a £2m budget increase to meet changes to the specification.

APPENDIX 1

Strathclyde Joint Trade Union Council Questionnaire Cleaning Standards in all Establishments

In answering the following list of questions, will you please enter into the appropriate box the number from the choice of answers to each question that most closely reflects your views on the question asked.

1. Since privatisation, do you consider cleaning standards to have:

- (1) Improved
- (2) Remained the same
- (3) Slightly deteriorated
- (4) Significantly deteriorated

2. Since privatisation, have complaints from users or staff about standards of cleanliness/hygiene:

- (1) Decreased
- (2) Remained the same
- (3) Slightly increased
- (4) Significantly increased

3. Since privatisation, have the cleaning hours in your establishment:

- (1) Increased
- (2) Remained the same
- (3) Slightly decreased
- (4) Significantly decreased

4. Since privatisation, has the supply of cleaning materials (ie detergents, soaps, disinfectants etc)

- (1) Improved
- (2) Remained the same
- (3) Slightly deteriorated
- (4) Significantly deteriorated

5. Since privatisation, has the supply of necessary equipment to the cleaner (ie machines, mops, buckets, cloths etc)

- (1) Increased
- (2) Remained the same
- (3) Slightly decreased
- (4) Significantly decreased

Please tick the appropriate box in answering the next question.

6. Are the standards of cleanliness and hygiene being monitored?

YES ☐
NO ☐

The following questions ask for your written comments.

7. Have you any specific complaint(s) which you wish to draw to our attention?

8. Are there any other comments that you would wish to make concerning the privatised cleaning service which you are now experiencing?

Please return this completed questionnaire to:

APPENDIX 2

Local authorities and trade unions who supplied information and/or agreed to interviews with clients and contractors:

Barnet
Bradford
Bury
Camden
Darlington
Edinburgh
Greenwich
Harlow
Hounslow
Manchester
Norwich
Nuneaton and Bedworth
Redditch
Rotherham
Sandwell
Sheffield
Stoke on Trent
Strathclyde RC
Swansea
Tameside
Walsall
Wolverhampton
York

NUPE (Wales Division)
Public Services Privatisation Research Unit
TGWU (Luton)

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Competition for Local Government Services, Research report to the Department of Environment by Kieron Walsh, Institute of Local Government Studies, University of Birmingham, February 1991.

Privatisation News No. 13, Public Services Privatisation Unit

Management and Monitoring of Contracts for Domestic, Catering and Laundry Services, Nuffield Provincial Hospitals Trust, 1987

Competitive Tendering for Support Services in the NHS, National Audit Office HC318, HMSO 1987

Competition in the Provision of Local Authority Services, DOE Circular 1/91

Code of Practice for Compulsory Competition, CIPFA Circular, February 1991

Securing Further Improvements in Refuse Collection, Audit Commission, HMSO 1984

Managing Competition, SOLACE/LGTB 1988

Taken to the Cleaners: The Lincolnshire Experience, Centre for Public Services NUPE/NALGO 1988

Cleaning up in Ealing, Public Profiles No. 2, LGIU 1987

Sports and Leisure Management: Ensuring Contractor Performance, Association of Direct Labour Organisations, 1991

Preparing for Compulsory Competition, Audit Commission Occupational Paper No. 7

Clean Sweep, Newcastle Tenants Federation/Trade Union Anti-Privatisation Working Group, 1990

SOURCES OF FURTHER INFORMATION

Further details and reports on competitive tendering are available from:

Association of Direct Labour Organisations
6th Floor
Peter House
Oxford Street
Manchester M1 5AZ
Tel: 061-236 8433

Association of London Authorities
36 Old Queen St
London SW1H 9JE
Tel: 071- 222-7799

Association of Metropolitan Authorities
35 Great Smith St
London SW1P 3BJ
Tel: 071-222 8100

Centre for Public Services
1 Sidney St
Sheffield S1 4RG
Tel: 0742-726683